**TRANSMISSION AND PUBLIC ELECTRICITY SUPPLY**

 **LICENCE DOCUMENT**

 **granted to**

 **NORTHERN IRELAND ELECTRICITY PLC**

 **DEPARTMENT OF** **ECONOMIC DEVELOPMENT****ENTERPRISE, TRADE AND INVESTMENT**

 **Netherleigh**

 **Massey Avenue**

 **Belfast**

 **BT4 2JP**

 Note

The licence holder is subject to the environmental obligations set out in Schedule 9 (Preservation of Amenity and Fisheries) of the Electricity (Northern Ireland) Order 1992.

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**PART I** **TERMS OF THE LICENCES**

1. The Department, in exercise of the powers conferred by Articles 10(1), 10(6), 11 and 13 of the Electricity (Northern Ireland) Order 1992 (hereinafter referred to as the

 “**Order**") hereby grants to Northern Ireland Electricity plc:

(1) a licence to transmit electricity for the purpose of giving a supply to any premises or enabling a supply to be so given in the authorised transmission area designated in paragraph 1 of Schedule 1, during the period specified in paragraph 3, subject to the Conditions set out in Parts II and III and Schedules 4 and 5;

(2) a licence as public electricity supplier to supply electricity to any premises in the authorised supply area designated in paragraph 1 of Schedule 2, during the period specified in paragraph 3, subject to the Conditions set out in Parts II and IV and Schedules 4 and 6.

2. The Conditions referred to above are subject to modification or amendment in accordance with their terms or with Articles 14, 17, 17A or 18 of the Order and/or with any provision for the modification of the same in the Energy (Northern Ireland) Order 2003. Each of the licences hereby granted is further subject to the terms as to revocation specified in Schedule 3.

3. Each of the licences hereby granted shall come into force on the transfer date appointed under Article 69(3) of the Order and, unless revoked in accordance with the terms specified in Schedule 3, shall continue in force until determined by not less than 25 years' notice in writing given by the Department to the licensee in relation to that licence, such notice not to be served earlier than the tenth anniversary of the transfer date appointed under Article 69(3) of the Order.

31 March 1992

 Assistant Secretary

 Department of Economic Development

**PART II** **CONDITIONS APPLICABLE TO EACH LICENCE**

**Part II A**

**Condition 1: Scope of application of Part II**

1. Except as stated in paragraphs 2 and 3 below and subject as provided in paragraph 6 below, each of the licences granted by this Licence Document is subject to the Conditions in Part II (including where such Conditions relate to activities other than those authorised by such licences) and Schedule 4 but so that:

(a) where any provision in Part II or Schedule 4 is expressed as relating to each of such licences, it shall be construed as applying separately to each such licence and shall not impose any obligation on the licensee as holder of either licence to comply with that provision as it applies to the other licence; and

(b) (subject to paragraphs 2 and 3 below) to the extent that any provision in Part II or Schedule 4 is expressed as relating to any one licence specified in that provision, such provision shall be given effect in relation to that licence only.

2. The transmission licence only is subject to the following:

(a) Sub-paragraph (a) of paragraph 1 of Condition 14;

(b) Paragraph 4 of Condition 14;

(c) Paragraph 4 of Condition 15;

(d) Sub-paragraph (b) of paragraph 6 of Condition 16; and

(e) Sub-paragraph (b) of paragraph 1 of Condition 17.

3. The public electricity supply licence only is subject to the following:

(a) Sub-paragraphs (b) and (c) of paragraph 1 of Condition 14;

(b) Paragraphs 2, 3, 5, 9, 16 and 17 of Condition 14;

(c) Sub-paragraph (c) of paragraph 10 of Condition 14;

(d) Paragraph 4 of Condition 16;

(e) Sub-paragraph (c) of paragraph 6 of Condition 16; and

(f) Sub-paragraph (a)(i) of paragraph 1 of Condition 17.

4. For the purposes of applying the Conditions in Part II to the transmission licence and the public electricity supply licence respectively references to the licensee's system mean the licensee's transmission system and distribution system respectively.

5. For the purposes of Conditions 14, 15, 16 and 17, the expressions "**use of the licensee's system"** and **"use of the licensee's transmission system**" shall exclude the use of any plant or apparatus used to connect the licensee's distribution system or transmission system with any electric system outside Northern Ireland.

6. Subject as provided in paragraph 7, for as long as the licensee continues to be the holder of both of the licences granted by this Licence Document, and notwithstanding anything to the contrary in this Licence Document, the Conditions (other than the excluded provisions) of the licences granted by this Licence Document shall have effect as if:

(a) the Transmission Business of the licensee as transmission licensee and the Distribution Business of the licensee as public electricity supplier were a single Separate Business of the licensee; (b) all references to the Distribution Business of the licensee as public electricity supplier and all references to the Transmission Business of the licensee as transmission licensee were references to the Transmission and Distribution Business of the licensee in both capacities;

(cb) the distribution system of the licensee as public electricity supplier and the transmission system of the licensee as transmission licensee were a single system for the transmission and distribution of electricity;

(dc) all references to the transmission system and to the distribution system, insofar as such systems are the systems of the licensee as transmission licensee or public electricity supplier, were references to the total system;

(ed) for as long as the Authority shall not have issued any directions to the licensee under paragraph 14 of Condition 18 of Part II, all references to the Distribution Code were references to the Grid Code;

(fe) the following Conditions or (as the case may be) paragraphs or sub-paragraphs of Conditions were Conditions of Part II or (as the case may be) paragraphs or sub-paragraphs of Conditions of Part II which apply to both of the licences granted by this Licence Document:

(i) sub-paragraphs (a) and (b) of paragraph 1 of Condition 14 of Part II;

(ii) sub-paragraph (c) of paragraph 10 of Condition 14 of Part II;

(iii) paragraphs 4, 5, 9, 16, and 17 of Condition 14 of Part II;

(iv) paragraph 4 of Condition 15 of Part II;

(v) sub-paragraphs (b) and (c) of paragraph 6 of Condition 16 of Part II;

(vi) sub-paragraph (b) of paragraph 1 of Condition 17 of Part II;

(vii) Condition 2 of Part IV;

(viii) Condition 4 of Part IV; and

(ix) Condition 13 of Part IV.

In this paragraph, the excluded provisions are this paragraph, paragraphs 7 and 9, Condition 2 of Part II, Condition 8 of Part II, Condition 9 of Part II, Condition 18 of Part II, Condition 19 of Part II, and Condition 23 of Part III.

7. Notwithstanding the holding by the licensee of both the licences granted by this Licence Document, the Authority may issue to the licensee directions (which may be subject to appropriate conditions) disapplying in whole or in part the provisions of paragraph 6 if:

(a) it is necessary for it to do so in order to comply with a Community obligation; or

(b) there shall have been granted a subsequent licence under Articles 10(1)(b) or 10(1)(c) of the Order.

The licences granted by this Licence Document shall have effect in accordance with the terms of such directions.

8. The Authority may, at the same time as it shall exercise its cancellation powers, after consultation with the licensee and having taken into consideration any representations the licensee may make in that regard, issue directions to the licensee which provide that the licences granted by this Licence Document shall have effect as if any references therein to the power procurement manager were references to the licensee. The licences granted by this Licence Document shall have effect in accordance with the terms of such directions.

9. In this Condition:

"**appropriate conditions**" means conditions which, in the opinion of the Authority, are necessary or desirable in order to secure that the relevant provisions operate separately in relation to the transmission system of the licensee as transmission licensee and the distribution system of the licensee as public electricity supplier; and

"**relevant provisions**" means the Conditions in question, or, as the case may be, paragraphs or sub-paragraphs of the Conditions in question, or the Conditions or paragraphs or sub-paragraphs of the Conditions in which the relevant references referred to in paragraph 6 appear.

Part II A

**Condition 2: Interpretation and construction**

1. Unless the contrary intention appears:

(a) words and expressions used in this or any of the following Parts of this document or in the Schedules below shall be construed as if they were in an enactment and the Interpretation Act (Northern Ireland) 1954 applied to them; and

(b) references to an enactment shall include subordinate legislation and in both cases any statutory modification or re-enactment thereof after the date when the licences granted by this Licence Document come into force.

2. Any word or expression defined for the purposes of any provision of Part II of the Order or of the Energy Order shall, unless the contrary intention appears, have the same meaning when used in this or any of the following Parts of this document or in the Schedules below.

3. In this or any of the following Parts of this document and in the Schedules below, unless otherwise specified or the context otherwise requires:

**[****“Advanced Corporation Tax”[[1]](#footnote-1)1**  has the meaning given to that term in Section

 14 of the Income and Corporation Taxes Act 1988;][***tax position to be clarified***]

"**affiliate**" in relation to the licensee or any subsidiary of a holding company of the licensee, means any holding company of the licensee or any subsidiary of the licensee or any subsidiary of a holding company of the licensee, in each case within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986;

"**Auditors**" means the licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986;

"**authorised**" in relation to any business or activity means authorised by licence granted under Article 10 of the Order or exemption granted under Article 9 of the Order;

"**authorised electricity** means any person (other than the licensee)

**operator**" who is authorised to generate, transmit or supply electricity and any person transferring electricity to or from Northern Ireland across an interconnector or who has made application for use of interconnectors which has not been refused;

"**authorised supply area**" means the area from time to time comprised in paragraph 1 of Schedule 2;

"**authorised transmission** means the area from time to time

**area**" comprised in paragraph 1 of Schedule 1;

"**Authority**" means the Northern Ireland Authority for Energy Regulation;

"**bulk supply tariff**" means the tariff so called and provided for in Condition 3 of Part III;

"**buy-out agreement**"[[2]](#footnote-2)2 means the contract entitled "Availability payment buy-out contract" dated 6 December 2000 between the licensee and Premier Power Limited;

"**cancel**" in relation to the Authority, means the exercise of its cancellation powers;

"**cancellable generating** means a generating unit agreement which may

**unit agreement**" be the subject of a cancellation direction, being one of the generating unit agreements specified in Schedule 8 (as it may be modified pursuant to paragraph 12 of Condition 6 of Part III or paragraph 5 of Condition 7 of Part III);

"**cancellation direction**" means a direction issued by the Authority to cancel a cancellable generating unit agreement;

"**cancellation powers**" means the powers of the Authority under paragraph 4 of Condition 7 of Part III and paragraph 4 of Condition 20 of any generation licence;

 "**central despatch**" bears the meaning ascribed to it in paragraph 9 of Condition 10 of Part III;

**"CHP"[[3]](#footnote-3)3** means combined heat and power;

**"CHP Generation"[[4]](#footnote-4)4** means the generation of electricity solely by CHP generation sets;

**"CHP Generation Business"[[5]](#footnote-5)5** means any business of the licensee[[6]](#footnote-6)6 or of any affiliate or related undertaking of the licensee in CHP Generation;

**"CHP generation set"[[7]](#footnote-7)7** means a generation set used for the simultaneous generation of usable heat and power in a single process at high efficiency;

**"CHP Supply"[[8]](#footnote-8)8** means the supply of electricity generated principally by CHP generation sets;

**"CHP Supply Business"[[9]](#footnote-9)9** means any business of or any affiliate or related undertaking of the licensee in CHP Supply;

 "**Community obligation**" has the meaning ascribed to it in Part II of Schedule 1 to the European Communities Act 1972;

"**competent authority**" means the Department, the Authority and any local or national agency, authority, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Community;

"**connection charges**" means charges made or levied or to be made or levied for the carrying out (whether before or after the date on which the licences granted by this Licence Document come into force)of works and provision and installation of electrical plant, electric lines and ancillary meters in constructing or modifying entry and exit points on the licensee's transmission system or distribution system together with charges in respect of maintenance and repair of such items insofar as not otherwise recoverable as use of system charges and in respect of disconnection and the removal of electrical plant, electric lines and ancillary meters following disconnection, all as more fully described in paragraphs 7 and 8 of Condition 14 of Part II, whether or not such charges are annualised;

"**customer**" means any person supplied or entitled to be supplied with electricity by the licensee or, as the case may be, any affiliate or related undertaking of the licensee but shall not include any authorised electricity operator in its capacity as such;

"**Department**" means the Department of Enterprise, Trade and Investment, formerly known as the Department of Economic Development;

"**designated**" in relation to any agreement, arrangement, code, notice, proposal therefortherefore or other document, means designated by the Department or on its behalf by means of initialling or descriptive reference whether for the purposes of any Condition of either of the licences granted by this Licence Document or otherwise, but so that an agreement, arrangement, code, notice, proposal therefortherefore or other document so designated may at the discretion of the Department cease to be designated if amended or modified in any material respect;

**"diesel generation set"**1[[10]](#footnote-10)0 means a generation set which is fuelled by 35 second gas oil;

"**Distribution Business**" means the business of the licensee or any affiliate or related undertaking of the licensee in or ancillary to the transport (whether for its own account or that of third parties) of electricity through the licensee's distribution system and shall include any business in providing connections to the licensee's distribution system but shall not include any other business of the licensee or any affiliate or related undertaking of the licensee in the provision of services to or on behalf of any one or more persons;

"**Distribution Code**" means, in relation to the licensee, the Distribution Code required to be prepared pursuant to paragraph 14 of Condition 18 of Part II, and, in relation to any other public electricity supplier, the distribution code required to be prepared by such supplier, and in either case approved by the Authority, as from time to time revised with the approval of the Authority;

"**distribution system**" in relation to the licensee means all electric lines of the licensee within the licensee's authorised supply area (excepting lines forming part of the licensee's transmission system or any interconnector) and any other electric lines which the Authority may specify as forming part of the licensee's distribution system, and includes any electrical plant and meters of the licensee which are used in connection with distribution by the licensee;

"**electricity purchase** shall include any contract or arrangement

**contract**" under which provision is made for the making or receipt of payments by reference to the difference between:

(a) an amount specified or ascertainable under the terms of such contract or arrangement; and

(b) the price at which electricity is sold or purchased:

(i) under, pursuant to or as required or permitted by the Supply Competition Code; or

(ii) under the Pooling andInterim Settlement Agreement;

or any component of either of such prices;

and "**electricity sale contract**" shall be construed accordingly;

"**eligible customer**" has the meaning ascribed to it in paragraph 3.1 of the Supply Competition Code;

"**emissions**" means the discharge of substances into the air;

“**Energy Order**” means the Energy (Northern Ireland) Order 2003;

**"enforcement**

**matter"** means any matter in respect of which any functions of the Authority under Article 42 of the Energy Order are or may be exercisableexerciseable;

"**equivalent megawatt**" in circumstances where demand is only measured in megavolt amperes means megavolt amperes converted into megawatts using for this purpose a power factor of 0.9 megawatts per megavolt ampere or such other factor as may with the approval or by the direction of the Authority be taken as being appropriate having regard to electrical characteristics of the supply, and cognate expressions shall be construed accordingly;

"**financial year**" bears the meaning ascribed to it in paragraph 1 of Condition 3 of Part II;

"**gas conversion agreement**" means the agreement entitled "Agreement in respect of the Conversion to Gas Firing of Ballylumford Power Station" dated 1 April 1992 between the licensee and Ballylumford Power Limited and shall include any contract entered into or to be entered into resulting from the licensee's exercise of its rights under Schedule 3, Clause 5.6 (BG Option) thereof;

["**gas pipeline**" means a pipe or system of pipes for the conveyance of natural gas, together with any apparatus and works associated with such a pipe or system, not being a pipe or system of pipes wholly situate within the boundaries of any office premises or despatch control centre owned (and not leased) by or leased to the licensee or any affiliate or related undertaking of the licensee;]

**"General Consumer**

**Council"** means the General Consumer Council for Northern Ireland;

"**generating unit** means a power purchase agreement between a

**agreement**" generator and the power procurement manager in respect of a generation set or combination of generation sets;

"**Generation Business**"1[[11]](#footnote-11)1 means the authorised business of the licensee or any affiliate or related undertaking of the licensee in the generation of electricity or the provision of System Support Services being a business involving own-generation sets or in which there is an accountable interest in generation sets, as defined for the purposes of Condition 13 of Part II, but shall not include any CHP Generation Business1[[12]](#footnote-12)2;

"**generation licence**" means a licence granted under Article 10(1)(a) of the Order;

"**generation set**" means any plant or apparatus for the production of electricity;

"**generator**" means a person authorised by a licence granted under Article 10(1)(a) of the Order;

"**Grid Code**" means the Grid Code required to be prepared pursuant to Condition 18 of Part II and approved by the Authority as from time to time revised, amended, supplemented or replaced with the approval or at the instance of the Authority;

"**grid supply point**" means the point where electricity is delivered to any person from the total system;

**"high efficiency"1[[13]](#footnote-13)3** means achieving a year round total energy efficiency which would normally be in excess of 70% calculated on the basis of net calorific value;

“**holding company**” means a holding company within the meaning of Article 4 of the Companies (Northern Ireland Order 1986;

"**interconnector**" means electric lines and electrical plant and meters used solely for conveying electricity directly to or from a substation or converter station within Northern Ireland into or out of Northern Ireland1[[14]](#footnote-14)4;

 “**Interim Settlement**

**Agreement”** means the agreement of that title approved by the Authority under the provisions of Condition 24 of Part III;

**“Interim Settlement Code”** means the Code of that title approved by the Authority under the provisions of Condition 24 of Part III;

"**land**" includes any right, easement or other interest in land and any wayleave;

"**land bank**" means the land more fully described in Schedule 9 together with such additional land as shall be acquired by the licensee by virtue of any requirement that a generator shall transfer to the licensee a freehold interest in any land;

"**Land Bank Business**" means the business of the licensee as transmission licensee in the discharge of its obligations under Condition 17 of Part III;

"**lease**" includes an underlease and a sub-underlease;

"**Licence Document**" means this document (comprising Parts I to IV inclusive and Schedules 1 to 10 inclusive);

"**licensee**" means Northern Ireland Electricity plc and (where the context so requires) shall include any business in respect of which the licensee is a successor company;

"**megawatt**" or "**MW**" includes an equivalent megawatt;

"**modification**" includes any addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;

"**Moyle1[[15]](#footnote-15)5**" means Moyle Interconnector plc, an incorporated company registered in Northern Ireland under number NI036562;

"**Moyle Interconnector1[[16]](#footnote-16)6**" means the electrical interconnector between Scotland and Northern Ireland which is owned by Moyle and which comprises the converter stations at Ballycronan More, Co. Antrim, Northern Ireland and Auchencrosh, Ayrshire, Scotland and the undersea and underground electric lines which interconnect such converter stations, together with its connections to the transmission system and to the transmission system in the south west of Scotland;

"**Moyle Interconnector** means an agreement between Moyle and the

**Collection Agency Agreement1[[17]](#footnote-17)7**" licensee in a form approved by the Authority which, amongst other things, makes provision for the licensee to collect amounts in respect of the financing and other costs associated with the Moyle Interconnector and to account to Moyle for the amounts so collected;

"**natural gas**" means any gas derived from natural strata;

"**non-eligible customer**" means those customers who do not fall within the definition of eligible customer pursuant to paragraph 3.1 of the Supply Competition Code;

"**non-fossil generation** bears the meaning ascribed to it in paragraph

**set**" 12 of Condition 13 of Part II;

"**Northern Ireland Fuel** means the document of that title designated as

**Security Code**" such by the Department as from time to time amended in accordance with its provisions, dealing with the co-operation of licence holders in strategic contingency planning in respect of fuel stocks, the modification of the merit order and certain other systems and procedures under the Grid Code during periods when the Department has given and there is in force one or more directions under Article 37(4) of the Order, the entitlement of the licensee and authorised electricity operators to and the collection of certain payments in anticipation of, during and after the expiry of any such periods, and connected matters;

"**notice**" means (unless otherwise specified) notice given either in writing or by electronic data transfer;

"**operating security** means the standard of operational security

**standard**" described in paragraph 2 of Condition 16 of Part III;

"**Operation Agency Agreement1[[18]](#footnote-18)8**" means an agreement between Moyle and SONI Limited (acting as agent for the licensee during the initial period described therein and thereafter as principal) in a form approved by the Authority which, amongst other things, makes provision for the Moyle Interconnector to be operated by SONI Limited, in conjunction with its operation of the transmission system;

**"Order"** means the Electricity (Northern Ireland) Order 1992 SI 1992/231;

**“permitted purpose”1[[19]](#footnote-19)9** means the purpose of all or any of the following:

(a) the Supply Business, the Second-tier Supply Business, Transmission & Distribution Business or any business or activity within the limits of paragraph 11(e)of Part II Condition 20:

(b) the Generation Business:

(c) the Power Procurement Business

(d) the Land Bank Business:

(e) the Transmission System Operator Business

(f) any business conducted or activity carried on by the licensee or by an affiliate or related undertaking of the licensee on 8 February 1998:

(g) without prejudice to the generality of paragraphs (a) to (h), any payment or transaction lawfully made or undertaken by the licensee in relation to the disposal of or relinquishment of operational control over any relevant asset in accordance with Part II Condition 8; and

(h) without prejudice to the generality of paragraphs (a) to (h), any payment or transaction lawfully made or undertaken by the licensee for a purpose within sub-paragraphs (i) to (ix) of paragraph 5(b) of Part II Condition 82[[20]](#footnote-20)0.

["**Pooling and Settlement** means the agreement of that title approved by

**Agreement**" the Secretary of State for Energy or by the Authority as from time to time amended with the approval of the Authority where so required pursuant to its terms;]

"**Power Procurement Business**" means the business of the licensee as transmission licensee as power procurement manager;

"**power procurement manager**" means the licensee when it is performing or required to perform its obligations as power procurement manager under its transmission licence;

"**power purchase agreement**”means a contract for the provision to the licensee or any other authorised electricity operator of the whole or any part of the available capacity and/or the sale or other disposal to the licensee or any other authorised electricity operator of the whole or any part of the output of a generation set or combination of generation sets;

"**power station agreement**" means an agreement made with effect from 1 April 1992 between the licensee and any generator in relation to matters concerning a generating station and designated for the purposes of this licence;

"**public electricity** means the licence granted in paragraph 1(2)

**supply licence**" of Part I;

"**Regulated Business**"2[[21]](#footnote-21)1 means the Transmission Business, the Distribution Business, the Supply Business, the Power Procurement Business or the Generation Business.

"**related undertaking**" in relation to any person means any undertaking in which that person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986;

"**relevant exempt** means a relevant exempt self supplier within

 **self supplier**" the meaning of the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 19921999;

"**relevant interconnector**" means an interconnector to which the licensee or any affiliate or related undertaking of the licensee shall have access under any legally binding arrangement;

"**relevant lease**" means a lease of any land or building granted pursuant to the transfer scheme under Article 69(1) of the Order or granted or assigned pursuant to directions issued by the Authority pursuant to Condition 17 of Part III;

"**relevant licensed supplier**" means a person authorised by a licence granted under Article 10(1)(c) or 10(2) of the Order;

 "**relevant premises**" means any premises of or occupied by the licensee or any affiliate or related undertaking of the licensee open to customers in the normal course of the licensee's business;

"**relevant supplier**" means a relevant licensed supplier or a relevant exempt self supplier;

 **“renewable electricity”** means renewable source electricity as

 defined in Condition 27 of Part III and small renewable spill as defined in Condition 28 of Part III;

"**re-powering agreement**"2[[22]](#footnote-22)2 means the agreement entitled "Re-powering agreement in respect of the replacement of certain units at Ballylumford power station by CCGT plant" dated 12 October 2000 between the licensee and Premier Power Limited;

"**representation**" includes any objection or other proposal made in writing;

"**Retail Prices Index**" means the general index of retail prices published by the Department of Employment each month in respect of all items or:

(a) if the index for any month in any year shall not have been published on or before the last day of the third month after such month, such index for such month or months as the Authority may after consultation with the licensee determine to be appropriate in the circumstances; or

(b) if there is a material change in the basis of the index, such other index as the Authority may after consultation with the licensee determine to be appropriate in the circumstances;

**Second-tier Supply Business”2[[23]](#footnote-23)3**means the authorised business (if any) of the licensee or any affiliate or related undertaking by a licensee as a Second Tier Supplier;

"**Second Tier Supplier**" means a person authorised to supply electricity pursuant to Article 10(2) of the Order;

"**Separate Business**" means each of:

 the Generation Business,

 the Transmission Business (where paragraph 6 of Condition 1 of Part II does not apply),

 the Distribution Business (where paragraph 6 of Condition 1 of Part II does not apply),

 the Transmission and Distribution Business (where paragraph 6 of Condition 1 of Part II applies), the Power Procurement Business,

 the Transmission System Operation Business,

 the Supply Business,

 the Land Bank Business,

each taken separately from one another and from any other business of the licensee or any affiliate or related undertaking of the licensee, but so that where all or any part of such business is carried on by an affiliate or related undertaking of the licensee such part of the business as is carried on by that affiliate or related undertaking shall be consolidated with any other such business of the licensee (and of any other affiliate or related undertaking of the licensee) so as to form a single Separate Business2[[24]](#footnote-24)4;

"**standby**" means the periodic or intermittent supply or sale of electricity by the licensee as public electricity supplier to a customer of the licensee as public electricity supplier, to make good any shortfall between the customer's total supply requirements and that met either by its own generation or by electricity supplied by an authorised electricity operator, such standby supply or sale being provided at such point on the licensee's transmission system or distribution system as the operator or customer may request;

“**subsidiary**” means a subsidiary within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986;

"**successor company**" bears the meaning ascribed to it for the purposes of Part III of the Order;

"**Supply Business**" means the authorised business of the licensee as public electricity supplier in the licensee's authorised supply area, but excluding any activities forming part of the Distribution Business;

"**Supply Competition Code**" means the document of that title designated as such by the Department, as from time to time revised, amended, supplemented or replaced with the approval or at the instance of the Authority;

"**System Support Services**" means:

(a) spinning reserve, fast start, black start, reactive power, frequency control and such other services as any authorised electricity operator may be required to have available as system support services in association with any generation set pursuant to the Grid Code, including outage planning incentive arrangements either directly with a generator or which the power procurement manager makes available to the transmission system operator in respect of generation sets under contract to it; and

(b) such services as any authorised electricity operator may have agreed to have available as being system support services in association with any generation set or interconnector pursuant to an agreement made with the transmission system operator;

and which may be offered for sale to the transmission system operator for the purpose of securing stability of operation on the licensee's transmission system or distribution system and the distribution system of any authorised electricity operator or any system linked to the licensee's transmission system or distribution system by an interconnector;

"**top-up**" means the supply or sale of electricity by the licensee as public electricity supplier on a continuing or regular basis to a customer of the licensee as public electricity supplier, to make good any shortfall between the customer's total supply requirements and that met either by its own generation or by electricity supplied by an authorised electricity operator, such top-up supply or sale being provided at such point on the licensee's transmission system or distribution system as the operator or customer may request;

"**total system**" means the licensee's transmission system and distribution system taken together;

"**transfer date**" means the day appointed under Article 69(3) of the Order for the purposes of Article 69(4) of the Order;

"**transfer scheme**" means the transfer scheme made under Article 69(1) of the Order and approved by the Department (and whether or not it has modified it before approving it);

“**Transmission and** means the Transmission Business and the

**Distribution Business**" Distribution Business taken together;

"**Transmission Business**" means the business of the licensee or any affiliate or related undertaking of the licensee in or ancillary to the planning and development (in conjunction with the TSO Business) and the construction and maintenance of the licensee's transmission system and of any interconnectors2[[25]](#footnote-25)5 including providing connections to the licensee's transmission system but shall not include any other business (whether or not a Separate Business) of the licensee or any affiliate or related undertaking of the licensee in the provision of services to or on behalf of any one or more persons;

"**transmission licence**" means the licence granted in sub-paragraph 1(1) of Part I;

"**transmission licensee**" means the licensee or any other holder for the time being of a licence to transmit electricity in Northern Ireland under Article 10(1)(b) of the Order;

"**transmission system**" means the system of electric lines comprising the licensee's high voltage lines and electrical plant and meters used for conveying electricity from a generating station to a substation, from one generating station to another, and from one substation to another within the licensee's authorised transmission area (except any such lines which the Authority may approve as being part of the licensee's distribution system) and any other electric lines which the Authority may specify as forming part of the licensee's transmission system andbut shall not include any separately licensed interconnector;

"**transmission system operator**" means the licensee when it is performing or required to perform its obligations as transmission system operator under Part III, Section III C of its transmission licence, or, if the licensee is procuring the performance of such obligations as transmission system operator through a subsidiary in accordance with paragraph 1 of Condition 9 of Part III, that subsidiary;

"**Transmission System**

**Operation Business**" means the business of the licensee or any

**(or** "**TSO Business**"**)** affiliate or related undertaking of the licensee in or ancillary to the operation, in accordance with the operating security standard, ensuring the maintenance of, and (in conjunction with the Transmission Business) the planning and, if necessary, development of the licensee's transmission system and of any interconnectors2[[26]](#footnote-26)6 (whether or not pursuant to directions of the Department made under Articles 37 or 38 of the Order) which authorised business shall include the procurement of System Support Services, but shall not include any other business (whether or not a Separate Business) of the licensee or any affiliate or related undertaking of the licensee in the provision of services to or on behalf of any one or more persons;

"**undertaking**" bears the meaning ascribed to it by Article 267 of the Companies (Northern Ireland) Order 1986;

"**use of interconnectors**" means use of any interconnector for the transfer of electricity;

"**use of system**" in relation to the transmission licence, means: use of the licensee's transmission system for the transport of electricity provided by or for the licensee or any other person; and in relation to the public electricity supply licence, means: use of the licensee's distribution system for the transport of electricity provided by or for the licensee or any other person;

"**use of system charges**" in relation to the transmission licence, means: charges made or levied or to be made or levied for the provision of services as part of the Transmission Business to any person or to the licensee for the purposes of its Supply Business, as referred to at Condition 14 of Part II and at paragraph 5 of Schedule 4, but shall not include connection charges; and in relation to the public electricity supply licence, means charges made or levied or to be made or levied for the provision of services as part of the Distribution Business to any person or to the licensee for the purposes of its Supply Business, as referred to at Condition 14 of Part II and at paragraph 5 of Schedule 4, but shall not include connection charges;

|  |  |
| --- | --- |
| “**vesting cancellable****generating unit agreements**” | the cancellable generating unit agreementsentered into by the power procurement manager with effect from 1 April 1992; and  |
|  |  |

"**year**" means a period of 12 months commencing on 1st January.

4. Unless otherwise specified:

(a) any reference to a numbered Part or Schedule is a reference to the Part or Schedule bearing that number herein;

(b) any reference to a numbered Condition or to a numbered Schedule is respectively a reference to the Condition or the Schedule bearing that number in the Part in which the reference occurs;

(c) any reference to "the **Conditions**" in relation to either licence granted by this Licence Document means the Conditions to which that licence is subject under this Licence Document; and the references to "**any Conditions**" and to any cognate expression shall be construed accordingly;

(d) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Part, Condition or Schedule in which the reference occurs; and

(e) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than the licences granted by this Licence Document), code or other instrument shall include a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time;

5. The heading or title of any Part, Condition, Schedule or paragraph shall not affect the construction hereof.

6. Where any obligation of the licensee is expressed to require performance within a specified time limit that obligation shall continue to be binding and enforceable after that time limit if the licensee fails to perform that obligation within that time limit (but without prejudice to all rights and remedies available against the licensee by reason of the licensee's failure to perform within the time limit).

7. The provisions of section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply for the purposes of the delivery or service of any document, direction or notice to be delivered or served pursuant to either of the licences granted by this Licence Document, and directions issued by the Authority pursuant to either of such licences shall be delivered or served as aforesaid.

Part II B

**Condition 3: Separate Accounts for Separate Businesses**

1. The first financial year of the licensee shall run from 1 April 1992 to 31 March 1993 and thereafter each financial year of the licensee shall run from 1 April to the following 31 March.

2. The remaining paragraphs of this Condition apply for the purpose of ensuring that the licensee (and any affiliate or related undertaking of the licensee) maintains accounting and reporting arrangements which enable separate accounts to be prepared for each Separate Business and showing the financial affairs of each such Separate Business.

3. The licensee shall in respect of each Separate Business:

(a) keep or cause to be kept for the period referred to in Article 230(5)(b) of the Companies (Northern Ireland) Order 1986and in the manner referred to in that Article such accounting records in respect of each Separate Business as would by Article 229 of the Companies (Northern Ireland) Order 1986 be required to be kept in respect of each such business if it were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, each Separate Business are separately identifiable in the books of the licensee (and any affiliate or related undertaking of the licensee) from those of any other business; and

(b) 2[[27]](#footnote-27)7prepare on a consistent basis from such accounting records in respect of the financial year commencing on 1 April 1992 and each subsequent financial year, accounting statements comprising a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, and showing separately in respect of each Separate Business and in appropriate detail the amounts of any revenue, cost, asset, liability, reserve or provision which has been either:

(i) charged from or to any other business (whether or not a Separate Business) together with a description of the basis of that charge; or

(ii) determined by apportionment or allocation between any Separate Business and any other business (whether or not a Separate Business) together with a description of the basis of the apportionment or allocation; and

(c) procure, in respect of the accounting statements prepared in accordance with this Condition in respect of a financial year, a report by the Auditors and addressed to the Authority stating whether in their opinion those statements have been properly prepared in accordance with this Condition and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, the Separate Business to which the statements relate; and

1. (d) deliver to the Authority a copy of the Auditors' report referred to in sub-paragraph (c) above and the accounting statements referred to in sub-paragraph (b) above as soon as reasonably practicable, and in any event not later than six months after the end of the financial year to which they relate ***[***provided that in the case of the account, report and statements which, but for this proviso, would have been due on 31 December 1992, they shall instead be due on 31 January 19932[[28]](#footnote-28)8.***]***

3A. Until 1 July 2007, the licensee shall prepare separate accounts as set out in paragraph 3 above in respect of supplies of electricity to eligible customers (as defined in the Supply Competition Code) and supplies to customer who are not eligible customers (as defined in the Supply Competition Code).

4. The Authority shall consider the Auditors' report delivered to it by the licensee pursuant to sub-paragraph (c) paragraph 3 and will confirm within [ ] months whether in its opinion the report indicates that the licensee has complied with its obligations under the licence to avoid discrimination and cross subsidisation. If the Authority determines that the report indicates a breach of any of the licensee's obligations may have occurred or may arise then the Authority will investigate any such apprehended breach. If the Authority does not provide a statement within [ ] months the licensee shall be deemed to have complied with its obligations.

5. (a) The licensee shall not in relation to the accounting statements in respect of a financial year change the bases of charge, apportionment or allocation referred to in sub-paragraph (b)(i) and (b) (ii) of paragraph 3 from those applied in respect of the previous financial year, unless the Authority shall previously have issued directions for the purposes of this Condition directing the licensee to change such bases in a manner set out in the directions or the Authority gives its prior written approval to the change in such bases. The licensee shall comply with any directions issued for the purposes of this Condition.

(b) Where, in relation to the accounting statements in respect of a financial year, the licensee has changed such bases of charge, apportionment or allocation from those adopted for the immediately preceding financial year, the licensee shall, if so directed in directions issued by the Authority for the purposes of this Condition, in addition to preparing accounting statements on those bases which it has adopted, prepare such accounting statements on the bases which applied in respect of the immediately preceding financial year.

5.6. Accounting statements in respect of a financial year prepared under sub-paragraphparagraphs (b)(i) or (b) (ii) of paragraph 3 shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

(a) have the same content and format (in relation to each Separate Business) as the annual accounts of the licensee (and any affiliate or related undertaking of the licensee) prepared under Article 234 and, where appropriate, Article 235 of the Companies (Northern Ireland) Order 1986 and conform to the best commercial accounting practices including Statements of Accounting Practice issued or adopted by the Accounting Standards Board currently in force; and

(b) state the accounting policies adopted; and

(c) (with the exception of the part of such statements which shows separately the amounts charged, apportioned or allocated and describes the bases of charge or apportionment or allocation respectively), be published with the annual accounts of the licensee.

6.7. Unless the accounting statements prepared under sub-paragraphparagraphs (b)(i) and (b) (ii) of paragraph 3 are prepared on the current cost basis as provided by the alternative accounting rules, the licensee shall, unless otherwise agreed by the Authority, in addition to preparing those accounting statements under that paragraph, prepare accounting statements for each Separate Business covering the same period, which shall comprise and show separately:

(a) a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, which shall:

(i) include in respect of current cost assets amounts determined on the current cost basis as provided by the alternative accounting rules; and

(ii) show or disclose the information and other matters required by the alternative accounting rules to be shown or disclosed in accounts where the amounts included in respect of assets covered by any items shown in those accounts have been determined on any basis mentioned in paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986;

(b) in respect of each Separate Business the adjusted amount of any such provision for depreciation as is referred to in paragraph 32(2) of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986 and the items shown in the profit and loss account of the Separate Business for the relevant period which are affected by the determination of amounts on the current cost basis as provided by the alternative accounting rules, including the profit (or loss) before taxation; and

(c) such other current cost information as is referred to in the Handbook as the Authority may require;

and shall deliver the same, together with an Auditor's report prepared in relation to the current cost basis accounting statements in the form referred to in sub-paragraph (c) of paragraph 3, to the Authority within the time limit2[[29]](#footnote-29)9 referred to in sub-paragraph (d) of paragraph 3, and shall (with the exception of the part of such statements which shows separately the amounts charged, apportioned or allocated and describes the bases of charge or apportionment or allocation respectively) publish the same with the annual accounts of the licensee.

7.8. References in this Condition to costs or liabilities of, or reasonably attributable to, any Separate Business shall be construed as excluding taxation, capital liabilities which do not relate principally to a particular Separate Business, and interest thereon; and references to any accounting statement shall be construed accordingly.

8. For the purposes of paragraph 6:

"**alternative accounting rules**" means the rules set out in Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986;

"**current cost assets**" means assets of any description mentioned in paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986;

"**the Handbook**" means the handbook issued or adopted by the Accounting Standards Board or any successor body entitled "**Accounting for the effects of changing prices: a Handbook**" in its current edition for the time being or in the event that no such handbook shall be in issue such guidance or publication as may be issued in replacement or substitution therefor.

9. The licensee's obligations to comply with this Condition shall be deemed to arise and be enforceable as follows:

(a) under the transmission licence, to the extent that they relate to the Transmission Business, the Power Procurement Business, the Transmission System Operation Business, and the Land Bank Business3[[30]](#footnote-30)0; and

 (b) under the public electricity supply licence, in relation to all matters other than those referred to in sub-paragraph (a) above., and in relation to such matters, the licensee shall keep separate accounts for supply activities for eligible customers and supply activities for non-eligible customers until 1 July 2007.

10. For the purposes of paragraph 7:

"**alternative accounting rules**" means the rules set out in Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986;

"**current cost assets**" means assets of any description mentioned in paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986;

"**the Handbook**" means the handbook issued or adopted by the Accounting Standards Board or any successor body entitled "**Accounting for the effects of changing prices: a Handbook**" in its current edition for the time being or in the event that no such handbook shall be in issue such guidance or publication as may be issued in replacement or substitution therefore.

Part II B

**Condition 3A: Availability of resources**

1. The licensee shall at all times act in a manner calculated to secure that it has sufficient management resources and financial resources and financial facilities to enable it to:

(a) carry on the Separate Businesses; and

(b) comply with its obligations under the Order and the Energy Order

 and this licence.

1. The licensee shall submit a certificate addressed to the Authority, approved by a resolution of the Board of Directors of the licensee and signed by a director of the licensee pursuant to that resolution. Such certificate shall be submitted on 30 September 1999 and thereafter on 30 September of each subsequenteach year. Each certificate shall be in one of the following forms:
2. "After making enquiries, the directors of the licensee have a reasonable expectation that the licensee will have available to it, after taking into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid, sufficient financial resources and financial facilities to enable the licensee to carry on the Separate Businesses for a period of 12 months from the date of this certificate."
3. "After making enquiries, the directors of the licensee have a reasonable expectation, subject to the Termsterms of this certificate, that the licensee will have available to it, after taking into account in particular (but without limitation) any dividend or other distribution which might reasonably be expected to be declared or paid, sufficient financial resources and financial facilities to enable the licensee to carry on the Separate Businesses for a period of 12 months from the date of this certificate. However, they would like to draw attention to the following factors which may cast doubt on the ability of the licensee to carry on the Separate Businesses."
4. "In the opinion of the directors of the licensee, the licensee will not have available to it sufficient financial resources and financial facilities to enable the licensee to carry on the Separate Businesses for a period of 12 months from the date of this certificate."
5. The licensee shall submit to the Authority together with the certificate referred to in paragraph 2 of this Condition a statement of the main factors which the directors of the licensee have taken into account in giving that certificate.
6. The licensee shall inform the Authority in writing immediately if the directors of the licensee become aware of any circumstances which cause them no longer to have the reasonable expectation expressed in the most recent certificate given under paragraph 2.
7. The licensee shall use its best endeavours to obtain and submit to the Authority with each certificate provided for in paragraph 2 a report prepared by its auditors and addressed to the Authority stating whether or not the auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it and, on the other hand, any information which they obtained during their audit work.
8. The licensee shall procure from the holding company of the licensee a legally enforceable undertaking in favour of the licensee in a form specified by the Authority that the holding company will refrain from any action, and will procure that every subsidiary of the holding company (other than the licensee and its subsidiaries) will refrain from any action, which would then be likely to cause the licensee to breach any of its obligations under the Order or the Energy Order, or this licence. Such undertaking shall be obtained by no later than 7 days after the date when these modifications become effective;3[[31]](#footnote-31)1 and shall remain in force for as long as the licensee remains the holder of this licence and the giver of the undertaking remains the holding company of the licensee.
9. The licensee shall:
10. deliver to the Authority evidence (including a copy of such undertaking) that the licensee has complied with the obligation to procure an undertaking pursuant to paragraph 6; and
11. inform the Authority immediately in writing if the directors of the licensee become aware that the undertaking has ceased to be legally enforceable or that its terms have been breached.

Part II B

**Condition 4: Prohibition of cross-subsidies and of discrimination**

1. The licensee shall procure that no Separate Business gives any direct of indirect cross-subsidy to, or receives any direct or indirect cross-subsidy from, any other business of the licensee or of an affiliate or related undertaking of the licensee (whether or not a Separate Business).

2.3[[32]](#footnote-32)2 The licensee shall not, and shall procure that no affiliate or related undertaking of the licensee shall, supply or sell or offer to supply or sell electricity (including under any electricity sale contract) to any one purchaser or person seeking to become a purchaser on terms as to price or on other terms affecting the financial value of the supply which are materially more or less favourable than those on which it supplies or sells or offers to supply or sell electricity (including under any electricity sale contract) to comparable purchasers. For these purposes, due regard shall be had to the circumstances of supply or sale to such purchasers including (without limitation) volumes, voltages, load factors, conditions of interruptibility, location and number of premises being supplied and date and duration of the agreement. This paragraph shall not apply to any business as a Second Tier Supplier of any affiliate or related undertaking of the licensee and it shall not apply by reason of any sale of electricity to a participating supplier or a participating generator, (both as defined in Condition 24 of Part III of this Licence Document) in a form approved by the Authority for the purposes only of supply to eligible customers, or by reason of any supply or sale or offer to supply or sell electricity generated by CHP generation sets or renewable electricity made by the licensee or of any affiliate or related undertaking of the licensee3[[33]](#footnote-33)3, or any sale of electricity to a relevant supplier under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document or any sale under paragraph 12A of Condition 3 of Part III (Bulk supply tariff and PSO charge) of this Licence Document3[[34]](#footnote-34)4.

3. Nothing which the licensee is obliged to do or not do pursuant to this Licence Document or any other document which grants a licence to the licensee under the Order, shall be regarded as a cross-subsidy for the purposes of this Condition.

4. This Condition shall not apply to any cross-subsidy concerning the part of the Generation Business of the licensee or any affiliate or related undertaking of the licensee in respect of the generation sets located or to be located on Rathlin Island until such time as the licensee's system on Rathlin Island shall be interconnected with the licensee's system on the mainland of Northern Ireland.

5.3[[35]](#footnote-35)5 The licensee shall not, in relation to the Power Procurement Business, be in breach of its obligations under paragraph 1 by reason of the bulk supply tariff being at a level which is insufficient to cover the costs of the Power Procurement Business, if the licensee shall satisfy the Authority that, at the relevant time, the power procurement manager is using its best endeavours to ensure that in the relevant year the power procurement energy sales revenue shall not be less than the maximum regulated energy sales revenue calculated in accordance with the formula in paragraph 2 of Schedule 5A. Terms used in this paragraph shall have the meanings ascribed to them in Schedule 5A.

6. For the purposes of this Condition, a purchaser shall be treated as a single purchaser notwithstanding that the premises at which a supply of electricity is given to him may be located in more than one place.

Part II B

**Condition 5: Health and safety of employees**

It shall be the duty of the licensee to act together with other licence holders to consult with appropriate representatives of the employees for the purpose of establishing and maintaining an appropriate machinery or forum for the joint consideration of matters of mutual concern in respect of the health and safety of persons employed by those licence holders.

Part II B

**Condition 6: Provision of information to the Authority**

1. Subject to paragraphs 3 and 4, the licensee shall, in relation to each licence granted by this Licence Document, furnish to the Authority, in such manner and at such times as the Authority may require, such information and shall procure and furnish to the Authority such reports, as the Authority may consider necessary in the light of the Conditions or any Schedule applicable to that licence or as it may require for the purpose of performing:

(a) the functions assigned to it by or under the Order or the Energy Order; and

(b) any functions transferred to it under the Order or the Energy Order.

1A. The licensee shall by seven (7) days after the date when these modifications became effective3[[36]](#footnote-36)6 procure from the holding company of the licensee a legally enforceable undertaking in favour of the licensee in a form already specified by the Authority, which shall provide that the holding company will give to the licensee, and will procure that each subsidiary of that holding company (other than the licensee and its subsidiaries) will give to the licensee, all such information as may be necessary to enable the licensee to comply fully with paragraph 1 of this condition. Such undertaking shall remain in force for as long as the licensee remains the holder of this licence and the giver of the undertaking remains the holding company of the licensee.

1B. The licensee shall deliver to the Authority evidence (including a copy of such undertaking) that the licensee has complied with the obligation to procure any undertaking pursuant to paragraph 1A.

1C. The licensee shall not, save with the consent in writing of the Authority, enter (directly or indirectly) into any contract or arrangement with the holding company of the licensee or any of the subsidiaries of the holding company (other than the subsidiaries of the licensee) at a time when:

1. an undertaking complying with paragraph 1A is not in place; or
2. there is an unremedied breach of such undertaking.3[[37]](#footnote-37)7

2. Without prejudice to the generality of paragraph 1, the Authority may call for the furnishing of accounting information which is more extensive than or differs from that required to be prepared and supplied to the Authority under Condition 3.

1. The licensee may not be required by the Authority to furnish the Authority under this Condition with information for the purpose of the exercise of the Authority’s functions under Article 7 of the Energy Order.

4. The licensee may not be required by the Authority to furnish it under this Condition with any information in relation to an enforcement matterany matter in respect of which any functions of the Authority under Article 42 of the Energy Order are or may be exerciseable which the licensee could not be compelled to produce or give in evidence in civil proceedings in the High Court.

5. The power of the Authority to call for information under paragraph 1 is in addition to the power of the Authority to call for information under or pursuant to any other Condition or any Schedule.

6. The licensee shall, if so requested by the Authority, give reasoned comments on the accuracy and text of any information and advice (so far as relating to the Supply Business) which the Authority proposes to publish pursuant to Article 7 of the Energy Order.

7. In paragraphs 1 to 6, "**information**" shall include any documents, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Authority) of any description specified by the Authority.

Part II B

**Condition 7: Payment of fees**

1. The licensee shall, at the times stated hereunder, pay to the Department fees of the amount specified in or determined under the following paragraphs of this Condition.

2. Within 30 days after the grant of this Licence Document the licensee shall pay to the Department the following fees:

(a) in relation to the transmission licence, £300,000; and

(b) in relation to the public electricity supply licence, £308,000.

3. In respect of the year beginning on 1 April in 1993 and in each subsequent year, the licensee shall pay to the Department in relation to each licence granted by this Licence Document a fee which is the aggregate of the following amounts:

(a) an amount equal to the proportion which the Authority shall determine in relation to that licence of the amount estimated by the Authority, according to a method which has previously been disclosed in writing to the licensee, as likely to be its costs during the year in question (i) in the exercise of its functions under the Order and the Energy Order in relation to the holders of licences granted under Articles 10(1) and 10(2) of the Order but excluding any costs which are or are to be excluded power procurement costs under sub-paragraph (ix)(c) of paragraph 5.1 of Schedule 5A and (ii) in connection with the establishment of the Authority and the transfer to the Authority of the functions, property, rights and liabilities of the Director;

(b) in relation to the public electricity supply licence only, an amount notified to the Authority by the General Consumer Council and approved by the Department as being the General Consumer Council’s estimate of its likely costs during the year in question in the exercise of the functions relating to electricity assigned to it by or under the Order and the Energy Order and any other such functions as it has been or may be required to exercise by the Authority or, in the event that the Authority shall not have received such notification by 31 July in the year in question, an amount being the Authority’s estimate of such likely costs (having regard to any estimate of such costs in any forward work programme published by the General Consumer Council in respect of the year in question);

(c) an amount which is a proportion as determined by the Authority of the amount estimated by the Authority (in consultation with the Competition Commission) as having been incurred in the calendar year immediately preceding the 1 April in question by the Competition Commission in connection with references made to it under Article 15 of the Order, with respect:

(i) (in relation to the transmission licence only) to the transmission licence or any other licence granted under Article 10(1)(b) of the Order; and

1. (in relation to the public electricity supply licence only) the public electricity supply licence or any other licence granted under Article 10(1)(c) of the Order; and

(d) the difference (being a positive or negative amount), if any, between:

(i) the amount of the fee paid by the licensee in respect of the year immediately preceding the 1 April in question in relation to that licence less any refund paid to the licensee in respect of that year under paragraph 3A below; and

(ii) the amount which that fee would have been in respect of that year:

(aa) had the amount comprised therein under sub-paragraph (a) above been calculated by reference to the total costs of the Authority in connection with its functions under the Order and its functions in relation to electricity under the Energy Order (or, where that year commenced on 1 April 2002, the total costs of the Director including, without limitation, any costs incurred by the Director in preparation for the establishment of the Authority, the transfer to the Authority of the functions, property, rights and liabilities of the Director and the abolition of the office of the Director and the consumer committee) and the proportion thereof actually attributable to that licence; and

(bb) (in the case of the public electricity supply licence only) had the amount comprised therein under sub-paragraph (b) above been calculated by reference to the total costs of the General Consumer Council in connection with the functions referred to in sub-paragraph (b) above (or, where that year commenced on 1 April 2002, the total costs of the consumer committee) and, where appropriate, the proportion thereof actually attributable to that licence;

such total costs being apportioned in each case as determined by the Authority according to a method previously disclosed in writing to the licensee;

and the fee shall be paid by the licensee to the Department within one month of the Authority giving notice to the licensee of its amount if that notice is given within 6 months of the beginning of the year in respect of which the fee is payable.

3A. In respect of the year beginning on 1 April 1998 and for each subsequent year, the Authority may pay the licensee an amount ("**the refund**") calculated in accordance with the method previously disclosed in writing to the licensee and by reference to the difference between:

(a) the proportion of the licence fee for that year paid by the licensee which is attributable to the Authority's estimate in accordance with paragraph 3(a) and the estimate of the General Consumer Council or the Authority (as appropriate) in accordance with paragraph 3(b) above; and

(b) the Authority's reasonable revised estimate of those costs (taking account of any revised estimate of the costs referred to in paragraph 3(b) which is approved by the Department and notified to the Authority by the General Consumer Council);

provided that any such refund shall be paid to the licensee on or before 31 March in the year to which the licence fee relates.

4. The licensee's obligations to comply with this Condition shall be deemed to arise and be enforceable as follows:

(a) under the transmission licence, to the extent that this Condition relates to fees payable in relation to the transmission licence; and

(b) under the public electricity supply licence, in relation to all matters other than those referred to in sub-paragraph (a) above.

5. In this Condition:-

 **"Director"** means the Director General of Electricity Supply for Northern Ireland; and

 **"consumer**

 **committee"** meansthe committee appointed by the Director under Article 7 of the Order.

Part II B

**Condition 8: Disposal of relevant assets**

1. The licensee shall not dispose of or relinquish operational control over any relevant asset otherwise than in accordance with the following paragraphs of this Condition.

2. Save as provided in paragraph 3, the licensee shall give to the Authority not less than 2 months' prior written notice of its intention to dispose of or relinquish operational control over any relevant asset, together with such further information as the Authority may request relating to such asset or the circumstances of such intended disposal or relinquishment of control or to the intentions in regard thereto of the person proposing to acquire such asset or operational control over such asset.

3. Notwithstanding paragraphs 1 and 2, the licensee may dispose of or relinquish operational control over any relevant asset:

(a) where:

(i) the Authority has issued directions for the purposes of this Condition containing a general consent (whether or not subject to conditions) to:

(aa) transactions of a specified description; and/or

(bb) the disposal of or relinquishment of operational control over relevant assets of a specified description; and

(ii) the disposal or relinquishment of operational control in question is effected pursuant to a transaction of a description specified in the directions or the relevant asset in question is of a description so specified and the disposal or relinquishment of operational control is in accordance with any conditions to which the consent is subject; or

(b) where the disposal or relinquishment of operational control in question is required by or under any enactment or by or under the transfer scheme.

4. Notwithstanding paragraph 1, the licensee may dispose of or relinquish operational control over any relevant asset specified in any notice given under paragraph 2 in circumstances where:

(a) subject to paragraph 7, the Authority confirms in writing that it consents to such disposal or relinquishment (which consent may be made subject to the acceptance by the licensee or any third party in favour of whom the relevant asset is proposed to be disposed or operational control is proposed to be relinquished of such conditions as the Authority may specify); or

(b) the Authority does not inform the licensee in writing of any objection to such disposal or relinquishment of control within the notice period referred to in paragraph 2.

5.3[[38]](#footnote-38)8 Without prejudice to paragraphs 1 to 4, the licensee shall not after the date when these modifications became effective3[[39]](#footnote-39)9 without the written consent of the Authority after disclosure of all material facts by the licensee to the Authority:

1. create any mortgage, charge, pledge, lien or other form of security or encumbrance whatsoever, undertake any indebtedness to any other person or enter into any guarantee of any obligation otherwise than:
2. on an arm's length basis;
3. on normal commercial terms;
4. for a Permitted Purposepermitted purpose; and
5. (if the transaction is within the ambit of paragraph 1) in accordance with paragraphs 3 and 4.

Provided that nothing in this Condition shall prevent the licensee guaranteeing any obligations owed by an affiliate or related undertaking of the licensee which has been or is to be incurred for a Permitted Purposepermitted purpose;

1. transfer, lease, license or lend any sum or sums, asset, right or benefit to any affiliate or related undertaking of the licensee otherwise than by way of:
2. a dividend or other distribution out of distributable reserves;
3. repayment of capital;
4. payment properly due for any goods, services or assets provided on an arm's length basis and on normal commercial terms;
5. a transfer, lease, licence or loan of any asset, right or benefit on an arm's length basis and on normal commercial terms;
6. repayment of any loan or payment of any interest on such a loan on an arm's length basis and on normal commercial terms;
7. payments for group corporation tax relief or for the surrender of Advance Corporation Tax;
8. a transfer for the purpose of satisfying paragraph 11 of Part II Condition 20
9. an acquisition of shares in conformity with paragraph 10 of Part II Condition 20; or
10. a loan not prohibited by sub-paragraph (c);
11. make loans to any affiliate or related undertaking of the licensee, other than loans for a Permitted Purposepermitted purpose.

6.4[[40]](#footnote-40)0 In this Condition:

"Indebtedness" means all liabilities now or hereafter due, owing or incurred, whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing thereon and all costs, charges, penalties and expenses incurred in connection herewith.7. In relation to a material disposal, any consent of the Authority pursuant to paragraph 4 shall be given after the Authority shall have consulted and taken into consideration any representations timeously made by any authorised electricity operator liable to be materially affected by the disposal in question.

1. 8. In this Condition:

"**Indebtedness**" means all liabilities now or hereafter due, owing or incurred,  whether actual or contingent, whether solely or jointly with any other person and whether as principal or surety, together with any interest accruing thereon and all costs, charges, penalties and expenses incurred in connection herewith;

"**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 a third party, shall not include the termination or modification of a power purchase agreement, and "**dispose**" shall be construed accordingly; and

"**relevant asset**" means:

(a) any asset for the time being forming part of the licensee's transmission system or any control centre for use in conjunction therewith, including any asset for the time being employed or held for employment by the Transmission System Operator in the performance of any obligation;

(b) any asset for the time being forming part of the licensee's distribution system or any control centre for use in connection therewith;

(c) any legal or beneficial right, title or interest in land upon which any of the foregoing is situate other than an interest in land to which Condition 17 of Part III applies;

(d) any interest in an interconnector;

(e) the interest of the power procurement manager under any power purchase agreement; and

(f) any other asset for the time being employed or held for employment by the transmission system operator in the performance of any obligation.

Part II B

**Condition 9: Restriction on use of certain information**

1. The licensee shall procure:

(a)413[[41]](#footnote-41)9 that the licensee and the Second-tier Supply Business shall not obtain any unfair competitive advantage from the licensee's possession of protected information; and

(b)424[[42]](#footnote-42)0 that protected information is not used by any other person or the Second-tier Supply Business for the purpose of obtaining for that other person or the Second-tier Supply Business:

(i) any unfair commercial advantage from its possession of protected information;

(ii) any licence under Article 10 of the Order;

(iii) any right to purchase or otherwise acquire electricity;

(iv) any right to sell or otherwise supply electricity; or

(v) control of any body corporate which, directly or indirectly, has the benefit of any such licence or right.

2. The licensee shall implement such measures and procedures and take all such other steps as shall be specified in directions issued by the Authority from time to time for the purposes of this Condition to be in its opinion reasonably necessary for the purpose of securing compliance by the licensee with its obligations under paragraph 1.

3. The licensee shall:

(a) procure and furnish to the Authority, in such manner and at such times as the Authority may require, such information and reports as the Authority may consider necessary concerning the performance by the licensee of its obligations under paragraphs 1 and 2 and the effectiveness of the measures, procedures and steps specified in the directions referred to in paragraph 2 to secure compliance by the licensee with its obligations under paragraph 1;

(b) procure that access to any premises of the licensee shall be given at any time and from time to time to any nominated person(s) for the purpose of investigating whether the licensee has performed its obligations under paragraphs 1 and 2 and the effectiveness of the measures, procedures and steps specified in the directions referred to in paragraph 2 to secure compliance by the licensee with its obligations under paragraph 1 and the licensee and its employees shall co-operate in any such investigation to the extent requested by the nominated person(s); and

(c) procure that nominated person(s) shall be entitled to inspect and/or take copies of such records and data of the licensee as they shall consider to be reasonably necessary for the purpose referred to in sub-paragraph (b) above.

4.434[[43]](#footnote-43)1 Where the licensee or any affiliate or related undertaking of the licensee receives protected information, the licensee, in each of its capacities as transmission system operator, power procurement manager, systems manager and public electricity supplier, shall (and shall procure that such affiliate or related undertaking shall) secure that protected information is not:

(a) divulged by business personnel to any person unless that person is an authorised recipient;

(b) used by business personnel for the purposes of obtaining for the licensee or any affiliate or related undertaking of the licensee or the Second-tier Supply Business or for any other person:

(i) any licence under Article 10 of the Order; or

(ii) any right to purchase or otherwise acquire, or to distribute, electricity (including rights under any electricity purchase contract); or

(iii) any contract or arrangement for the sale or supply of electricity to any person; or

(iv) any contract for the use of any electric lines or electrical plant belonging to or under the control of a relevant supplier; or

(v) control of any body corporate which, whether directly or indirectly, has the benefit of any such licence, contract or arrangement; or

(c) used by business personnel for the purpose of carrying on any activities other than permitted activities;

except with the prior consent in writing of the relevant person to whose affairs such protected information relates.

5. Paragraph 4 shall not apply to:

(a) any protected information which, before it is furnished to business personnel, is in the public domain; or

(b) any protected information which, after it is furnished to business personnel:

(i) is acquired by the licensee or any affiliate or related undertaking of the licensee in circumstances in which this Condition does not apply; or

(ii) is acquired by the licensee or any affiliate or related undertaking of the licensee in circumstances in which this Condition does apply and thereafter ceases to be subject to the restrictions imposed by this Condition; or

(iii) enters the public domain;

and in any such case otherwise than as a result of (i) a breach by the licensee or any affiliate or related undertaking of the licensee of its obligations under this Condition or (ii) a breach by the person who disclosed that protected information of that person's confidentiality obligation and the licensee or any of its affiliates or related undertakings is aware of such breach; or

(c) the disclosure of any protected information to any person if the licensee or any affiliate or related undertaking of the licensee is required or expressly permitted to make such disclosure to such person or it is necessary for it to do so:

(i) in compliance with the duties of the licensee or any affiliate or related undertaking of the licensee under the Order or the Energy Order or any other requirement of a competent authority; or

(ii) in compliance with the conditions of the licences granted by this Licence Document or any document referred to in this Licence Document with which the licensee or any affiliate or related undertaking of the licensee is required by virtue of the Order or the Energy Order, or such licences to comply; or

(iii) in compliance with any other requirement of law; or

(iv) in response to a requirement of any stock exchange or regulatory authority or the Panel on Take-oversTakeovers and Mergers; or

(v) pursuant to the arbitration rules for the Electricity Arbitration Association or pursuant to any judicial or other arbitral process or tribunal of competent jurisdiction;

(d) any protected information to the extent that the licensee or any of its affiliates or related undertakings is expressly permitted or required to disclose that information under the terms of any agreement or arrangement (including the Grid Code, the Interim Settlement Agreement, the Interim Settlement Code, the Distribution Code, the Supply Competition Code and the Northern Ireland Fuel Security Code) with the relevant person to whose affairs such protected information relates.

6. The licensee and each of its affiliates and related undertakings may use all and any information or data supplied to or acquired by it from or in relation to any relevant person in performing permitted activities, including for the following purposes:

(a) the operation and planning of the licensee's transmission system or distribution system;

(b) the calculation of charges and preparation of offers of terms for connection to or use of the licensee's transmission system or distribution system; and

(c) the operation and planning of System Support Services and the calculation of charges therefor.

7. The licensee shall not (and shall procure that its affiliates and related undertakings shall not), having regard to the activities in which any business person is engaged and the nature and effective life of the protected information divulged to it by virtue of such activities, unreasonably continue (taking into account any industrial relations concerns reasonably held by it) to divulge protected information or permit protected information to be divulged by any affiliate or related undertaking of the licensee to any business person:

(a) who has notified the licensee or the relevant affiliate or related undertaking of his intention to become engaged as an employee or agent of any other person (other than of the licensee or any affiliate or related undertaking thereof) who is:

(i) authorised by licence or exemption to generate, transmit, or supply electricity; or

(ii) an electricity broker or who is known to be engaged in the writing of electricity purchase contracts; or

(iii) known to be retained as a consultant to any such person who is referred to in paragraph (i) or (ii) above; or

(b) who is to be transferred to the licensee's Generation Business or Supply Business;

(c) who is to become engaged by the Second-tier Supply Business,444[[44]](#footnote-44)2

save where the licensee or such affiliate or related undertaking could not, in all the circumstances, reasonably be expected to refrain from divulging to such business person protected information which is required for the proper performance of his duties.

8. Without prejudice to the other provisions of this Condition, the licensee shall procure that any additional copies made of the protected information, whether in hard copy or computerised form, will clearly identify the protected information as protected.

9. The licensee shall use all reasonable endeavours to procure that no employee is a corporate functions person unless the same is necessary for the proper performance of his duties.

10. The licensee shall take all reasonable steps to ensure that every authorised adviser to whom the licensee or any affiliate or related undertaking of the licensee discloses protected information does not use that protected information for any purpose other than that for which it was provided and does not disclose that protected information otherwise than in accordance with the provisions of this Condition.

11. This Condition is without prejudice to the duties at law of the licensee towards outside persons.

12. Where the licensee (or, if the licensee is carrying on the Transmission System Operation Business through a subsidiary in accordance with paragraph 1 of Condition 9 of Part III, its subsidiary) receives protected information in its capacity as transmission system operator, the licensee shall (and shall procure that is subsidiary shall) take all reasonable precautions against the risk of failure to comply with paragraph 4 above including:

(a) putting restrictions on the communication of such information to any person engaged in any business (whether or not a Separate Business) of the licensee or any affiliate or related undertaking of the licensee other than the Transmission System Operator Business;

(b) putting restrictions on the access by such persons referred to in paragraph (a) above to:

(i) premises or parts of premises occupied by persons engaged in the Transmission System Operation Business; and

(ii) recorded information relating to the Transmission System Operation Business;

(c) taking measures to prevent (so far as the licensee can so require) any person who has ceased to be engaged in the Transmission System Operation Business from being engaged in the licensee's Generation Business or Supply Business or Second-tier Supply Business until the expiry of the appropriate period.454[[45]](#footnote-45)3

13. In paragraph 12 above, the "**appropriate period**" means:

(a) a period of (3) months; or

(b) such shorter or longer period as the Authority may, by directions, direct in respect of any person or class of persons.

14. In this Condition:

"**authorised adviser**" means such professional advisers of the licensee, engaged and acting in that capacity, as require to have access to any protected information;

"**authorised recipient**" means, in relation to any protected information, any business person who, before the protected information had been divulged to him by the licensee, had been informed of the nature and effect of this Condition and who requires access to such protected information for the proper performance of his duties as a business person in the course of permitted activities;

"**business person**" means any person who is a main business person, a corporate functions person or an authorised adviser, and "**business personnel**" shall be construed accordingly;

"**corporate functions person**" means any person who:

(a) is a director of the licensee; or

(b) is an employee of the licensee carrying out any administrative, finance or other corporate services of any kind which in part relate to the main business; or

(c) is engaged as an agent of or an adviser to or performs work in relation to or services for the main business;

"**data"** has the same meaning as in the DataProtection Act 19841998;

"**dealings**" includes dealings entered into otherwise than for purposes connected with the transmission of electricity;

"**Electricity Arbitration** means the unincorporated members' club of

**Association**” that name formed inter alia to promote the efficient and economic operation of the procedure for the resolution of disputes within the electricity supply industry by means of arbitration or otherwise in accordance with its arbitration rules;

"**main business**" means any business of the licensee as at 1 April 1992 (other than the Generation Business or the Supply Business) which it is required to carry on under the licences granted by this Licence Document;

"**main business person**" means any employee of the licensee who is engaged solely in the main business, and "**main business personnel**" shall be construed accordingly;

"**nominated person(s)**" means the person(s) from time to time nominated by the Authority for the purposes of this Condition by notice to the licensee;

"**Panel on Takeovers and**

**Mergers**" means the regulatory body of that name which administers the City Code on Takeovers and Mergers;

"**permitted activities**" means activities carried on for the purposes of the main business;

"**protected information**" means:

(i) information relating to the affairs of a relevant person which has been furnished to or otherwise acquired by the licensee under or pursuant to, or in the course of any dealings with the relevant person under a power purchase agreement, the licences granted by this Licence Document, the Grid Code, the Northern Ireland Fuel Security Code, the Supply Competition Code, the Interim Settlement Agreement, the Interim Settlement Code, any agreement for use of or connection to or modification of a connection to the licensee's transmission system or distribution system or any agreement for use of interconnectors or in the course of any negotiations with (including any application made by) the relevant person for such; and

(ii) any other information in the possession of the licensee which relates to the affairs of a relevant person and would not reasonably be expected to be in the possession of the licensee if the licensee (or, where relevant, its subsidiary) were not the transmission system operator, the power procurement manager or the systems manager or the public electricity supplier;464[[46]](#footnote-46)4

other than (in each case):

(aa) any such information which, or any such information of a description which, is specified in directions issued by the Authority from time to time for the purposes of this Condition to be information, or (as the case may be) information of a description, which is not protected information for the purposes of this Condition; and

(bb) any such information which is in or enters into the public domain otherwise than as a consequence of unauthorised disclosure by the licensee or any affiliate or related undertaking of the licensee (or by any person to whom the same is disclosed or suffered to be disclosed by the licensee or such affiliate or related undertaking) and for this purpose the disclosure of information by its inclusion in a statement prepared under paragraph 1 of Condition 11 of Part III shall be deemed to be an authorised disclosure of that information if the Authority shall so specify in directions issued from time to time for the purposes of this Condition to the licensee and every authorised electricity operator and relevant exempt self supplier liable to be materially affected thereby, after consultation with such persons and having taken into consideration any representations made to him by such persons;

"**relevant person**" means any person who is not an affiliate or related undertaking of the licensee; and

"**systems manager**" means the licensee when it is performing or required to perform its functions as the operator of its distribution system.

[Part II B

**Condition 10: Requirement to enter into certain agreements, etc.**

1. If any proposed agreement relating to the generation, transmission or supply of electricity has (following consultation with the licensee) been designated by the Department for the purposes of this Condition, the Department may at any time require the licensee:

(a) to offer to enter into such proposed agreement; and

(b) upon that offer being accepted, forthwith to enter into such agreement.

2. In this Condition, "**agreement**" shall include any arrangement whether or not in writing and whether or not intended to be legally enforceable, and "**proposed agreement**" shall be construed accordingly.

3. This Condition shall cease to have effect on 31 March 1993 or such earlier date as the Department may specify in a notice given to the licensee for the purposes of this paragraph. ]

Part II C

**Condition 11: Compliance with Supply Competition Code**

1. The licensee shall comply with the provisions of the Supply Competition Code including any requirements thereunder for the Authority's approval or consent, for compliance with directions issued by the Authority or relating to determinations made by the Authority.

2. The provisions of the Supply Competition Code shall have effect as if they were set out in this Licence Document.

Part II C

**Condition 12: Security arrangements**

1. The licensee shall comply with the provisions of the Northern Ireland Fuel Security Code and such provisions shall have effect as if they were set out in this Licence Document.

2. The Northern Ireland Fuel Security Code may be amended in accordance with its provisions.

Part II D

**Condition 13: Restriction on own-generation and gas pipeline capacity**

1. The licensee shall procure that, not later than 6 months after the transfer date, the Generation Business of the licensee is held as a Separate Business by or through a wholly-owned subsidiary of the licensee474[[47]](#footnote-47)5.

2. The licensee shall at all times ensure that the sum of the amounts in megawatts (calculated as provided under paragraphs 4 and 5 below) represented by the declared net capacity of the own-generation sets in Northern Ireland of the licensee and any affiliate and any related undertaking of the licensee and the appropriate share of the declared net capacity of generation sets in Northern Ireland in which the licensee and any affiliate and any related undertaking of the licensee has an accountable interest shall not exceed:

(a) in the case of non-fossil generation sets, 5 MW or such greater amount as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition;

(b)484[[48]](#footnote-48)6 in the case of CHP generation sets, 50 MW;

(c) in the case of diesel generation sets, 50MW494[[49]](#footnote-49)7; and

 (d)504[[50]](#footnote-50)8 in the case of any other generation sets and except in the permitted circumstances or where the licensee is complying with a direction given to it under Article 58 of the Order or any other emergency legislation, zero MW.

Before exercising its cancellation powers, the Authority shall consider whether or not to increase the limit provided for in sub-paragraph (a) above.

2A514[[51]](#footnote-51)9 Paragraph 2 above shall not apply to mobile generation sets which are either own generation sets in Northern Ireland of the licensee or mobile generation sets in which the licensee has an accountable interest in Northern Ireland where such mobile generation sets are used solely for the purposes of the Transmission Business and the Distribution Business.

3. Where the licensee is in breach of paragraph 2 by reason of the acquisition of own-generation sets or an accountable interest in other generation sets in consequence of the occurrence of a specified event affecting the operator or any third party, the licensee shall forthwith notify the Authority for the purpose of applying to the Authority for retroactive directions under sub-paragraph (a) of paragraph 2.

4. For the purpose of calculating the limit under paragraph 2 and subject to paragraph 5, there shall be attributed to the licensee:

(a) the whole of the declared net capacity represented by own-generation sets; and

(b) the appropriate share (namely the share representing the licensee's economic interest therein) of the declared net capacity of generation sets in which it has an accountable interest, ascertained in such manner as the licensee, with the approval of the Authority, may determine.

5. Where the Authority is satisfied that by virtue of the licensee's economic interest (ascertained in such manner as the Authority may determine) therein:

(a) generation sets in which the licensee has only an accountable interest should more properly be treated as own-generation sets; or

(b) own-generation sets should more properly be treated as sets in which the licensee only has an accountable interest; or

(c) own-generation sets, or generation sets in which the licensee has an accountable interest, should not be treated as falling in either category; or

(d) generation sets not declared as sets in which the licensee has an accountable interest, should be treated as generation sets in which the licensee has an accountable interest;

the Authority may issue directions to that effect.

6. For the purposes of this Condition and subject to paragraphs 5, 7 and 10, the licensee shall have an accountable interest in a generation set in circumstances where (such generation set not being an own-generation set of the licensee):

(a) the operator is a related undertaking of the licensee or any affiliate of the licensee; or

(b) the licensee or any affiliate of the licensee is in partnership with or is party to any arrangement for sharing profits or cost-savings or any joint venture with the operator or with any third party with regard to the operator; or

(c) the licensee or any affiliate of the licensee has (directly or indirectly):

(i) any beneficial share holdingshareholding interest in the operator; or

(ii) any beneficial underlying interest in the generation set; or

(iii) provided or agreed to provide finance to the operator otherwise than on arm's length terms; or

(iv) provided or agreed to provide, or has determined or is responsible for determining the price (or other terms affecting the financial value) of, the fuel used in the generation sets;

other than by virtue only of the ownership of the licensee or any affiliate or related undertaking of the licensee of any land forming part of the land bank.

7. The licensee shall not be deemed to have an accountable interest in a generation set where:

(a) the licensee's interest arises wholly under the terms of a power purchase agreement, an agreement for the provision of System Support Services, the Supply Competition Code or under any electricity purchase or sale contract; or

(b) the licensee's interest arises solely by virtue of arrangements for the sharing with the operator of any generation set of the risks associated with changes in the price of fuel used by the generation set.

8. The licensee shall, on each such occasion as it provides to the Authority separate accounts for the Generation Business pursuant to paragraph 3(b)(i) of Condition 3 and at any other time upon request of the Authority, provide to the Authority a statement:

(a) confirming compliance with paragraphs 1, 2 and 3 above as at the date of the statement and throughout the period since the last such statement; and

(b) identifying (in such detail and with such supporting documents or information as the Authority may require) the amount of capacity in megawatts represented by the declared net capacity of own-generation sets attributable to the licensee and the appropriate share of the licensee in the declared net capacity of generation sets in which the licensee has an accountable interest, as at the date of the statement.

9. Where the Authority is satisfied that the basis of calculation used by the licensee is not in conformity with paragraphs 4 and 5 above, the Authority may issue directions specifying an alternative basis of calculation, and the basis of calculation by the licensee shall be adjusted accordingly with effect from the date of issue of the directions or such other date as may be specified in the directions.

10. In relation to gas pipelines:

(a) except as provided in sub-paragraph (b) below, this Condition shall apply mutatis mutandis to gas pipelines as it applies to generation sets other than non-fossil generation sets, and as if for references to the or any amount of capacity or declared net capacity of any own-generation set or generation set in which the licensee has an accountable interest there were substituted references to any capacity of a gas pipeline; and

(b) the licensee shall be permitted to hold its interest under the gas conversion agreement and shall exercise any rights which it shall have under Schedule 3, Clause 5.6 (BG Option) of the gas conversion agreement in accordance with such directions as the Authority shall from time to time issue to it. In this sub-paragraph, references to agreements are to those agreements in the forms in which they shall have been entered into.

11. (a) Before the Department authorises the licensee to operate or otherwise deal with a generating station in the permitted circumstances, or, having made such an authorisation, modifies it, the terms of such authorisation or modification shall first be made available to each generator and relevant licensed supplier and the Department shall take into consideration any representations timeously made by any such person.

(b) Where the Department has authorised the licensee to operate or otherwise deal with a generating station in the permitted circumstances, the licensee shall not unduly discriminate between:

(i) itself or any of its affiliates or related undertakings (including in its capacity as the operator of the generating station to which the authorisation relates); and

(ii) any other person or class or classes of persons.

12. In this Condition:

"**declared net capacity**" means in relation to a generation set, the highest generation of electricity, at the main alternator terminals, which can be maintained for an indefinite period of time without causing damage to the plant less so much of that capacity as is consumed by the plant;

**"mobile generation set****52****5[[52]](#footnote-52)0****"** means any generation set which is not affixed to land or to a building so as to be part of such land or building;

"**non-fossil generation set**" means a generation set which is (or may be) fuelled or driven otherwise than by a fossil fuel or natural gas;

"**operator**" means, in relation to any generation set, the authorised electricity operator or any person for the time being responsible (under contract or otherwise) for the generation or sale of electricity from such plant;

"**own-generation set**" means any generation set the majority of the beneficial ownership of which is vested in the licensee or an affiliate or related undertaking of the licensee (other than by virtue only of the ownership of the licensee or any affiliate or related undertaking of the licensee or the interest of the lessor under a relevant lease) or in respect of which the licensee or an affiliate or related undertaking of the licensee is the operator, and references to own-generation sets of an authorised electricity operator shall be construed as if the references herein to the licensee were replaced by references to that authorised electricity operator;

"**permitted circumstances**" means where the shares in the successor company owning a generating station have not been disposed of by the Department before 2 April 1992 and the Department has authorised the licensee to operate or otherwise deal with that generating station and for so long as the licensee acts in accordance with the conditions of that authorisation;

"**specified event**" means any such event as is described in paragraph (1)(f) of Schedule 3 but for this purpose as if references to the licensee were replaced by references to the operator or third party in question, or any revocation of any generation licence;

"**underlying interest**" in relation to any generation set means any interest arising by reason of the licensee or affiliate or any related undertaking of the licensee or affiliate (whether alone or with others):

(a) holding or being entitled to acquire an interest in the land on which the generation set, or any part thereof, is built;

(b) being in partnership with or party to any arrangement for sharing of profits or cost-savings or any joint venture with any person holding or entitled to acquire an interest in the land on which the generation set, or any part thereof, is built;

(c) owning any electrical plant situated on or operated as a unit with the generation set (and for such purpose, any electrical plant or equipment to the possession of which the licensee, affiliate or related undertaking is entitled under any agreement for hire, hire purchase, conditional sale or loan shall be deemed to be owned by such person) provided always that such electrical plant shall not be deemed to be operated as a unit with any generation set by reason only of connections with any other system for the transmission or distribution of electricity or with metering required pursuant to (and as defined in) the Grid Code; or

(d) having obtained any consent under Article 39 of the Order required for the construction or extension of the generation set or any part thereof;

in any such case other than by virtue only of having a beneficial interest in the interest of the lessor under a relevant lease.

Part II E

**Condition 14: Basis of charges for use of system, connection to system and top-up and standby: requirements for transparency**

1. **Preparation of statements on basis of charging**

The licensee shall as soon as practicable after the public electricity supply licence and the transmission licence 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, prepare:

(a) a statement approved by the Authority setting out the basis upon which charges will be made for use of the licensee's transmission system and for connection to the licensee's transmission system as part of the Transmission Business;

(b) a statement approved by the Authority setting out the basis upon which charges will be made for use of the licensee's distribution system and for connection to the licensee's distribution system as part of the Distribution Business; and

(c) a statement approved by the Authority setting out the basis upon which charges will be made for the provision of top-up and standby (as part of the Supply Business);

each of such statements to be in such form and to contain such detail as shall be necessary to enable any person to make a reasonable estimate of the charges to which it would become liable for the provision of such services, and (without prejudice to the foregoing) including such of the information set out in paragraphs 2, 4, 5 and 7 as is required by such paragraphs to be included in the relevant statement.

**Top-up and standby**

2. The statement referred to in sub-paragraph (c) of paragraph 1 shall set out the methods by which and the principles on which charges for the provision of each of top-up and standby will be made.

3. The basis on which charges for the provision of top-up and standby shall be set shall reflect the costs directly incurred in the provision thereof, together with a reasonable rate of return on the capital represented by such costs.

**Use of licensee's transmission system**

4. Except to the extent that the Authority shall otherwise specify, the statement referred to in sub-paragraph (a) of paragraph 1 shall in respect of use of system include:

(a) a schedule of charges for transport of electricity under use of system;

(b) a schedule of adjustment factors to be made (where appropriate) in respect of transmission losses;

(c) the methods by which and the principles on which charges (if any) for availability of transmission capacity on the licensee's transmission system will be made;

(d) a schedule of the charges (if any) which may be made for the provision and installation of any meters or electrical plant at entry or exit points, the provision and installation of which is ancillary to the grant of use of system, and for the maintenance of meters or electrical plant;

(e) the methods by which and the principles on which entry and exit charges for connections in operation before the date on which the transmission licence comes into force will be calculated; and

(f) such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of this Condition.

**Use of licensee's distribution system**

5. Except to the extent that the Authority shall otherwise specify, the statement referred to in sub-paragraph (b) of paragraph 1 shall in respect of use of system include:

(a) a schedule of charges for transport of electricity under use of system;

(b) a schedule of adjustment factors to be made (where appropriate) in respect of distribution losses;

(c) the methods by which and the principles on which charges (if any) for availability of distribution capacity on the licensee's distribution system will be made;

(d) a schedule of charges in respect of meter reading, accounting and administrative charges;

(e) a schedule of the charges (if any) which may be made for the provision and installation of any meters or electrical plant at entry or exit points, the provision and installation of which is ancillary to the grant of use of system, and for the maintenance of meters or electrical plant; and

(f) such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of this Condition.

6. Use of system charges for those items referred to in paragraphs 4 and 5 shall be determined on the same basis as is applied by the licensee when determining the use of system element of tariffs fixed pursuant to Article 21 of the Order and Condition 5 of Part IV.

**Connection to system**

7. The statements referred to in sub-paragraphs (a) and (b) of paragraph 1 shall in respect of connections to the licensee's system include:

(a) a schedule listing those items (including the carrying out of works and the provision and installation of electric lines or electrical plant or meters) of significant cost liable to be required for the purpose of connection (at entry or exit points) to the licensee's system for which connection charges may be made or levied and including (where practicable) indicative charges for each such item and (in other cases) an explanation of the methods by which and the principles on which such charges will be calculated;

(b) the methods by which and the principles on which any charges will be made in respect of extension or reinforcement of the licensee's system rendered necessary or appropriate by virtue of providing connection to or use of system to any person seeking connection;

(c) the methods by which and the principles on which connection charges will be made in circumstances where the electric lines or electrical plant to be installed are of greater size or capacity than that required for use of system by the person seeking connection;

(d) the methods by which and the principles on which any charges (including any capitalised charge) will be made for maintenance and repair required of electric lines, electrical plant or meters provided and installed for making a connection to the licensee's system;

(e) the methods by which and the principles on which any charges will be made for the provision of special metering or telemetry or data processing equipment by the licensee for the purposes of enabling any person which is bound to comply with the Grid Code to comply with its obligations in respect of metering thereunder, or for the performance by the licensee of any service in relation thereto;

(f) the methods by which and principles on which any charges will be made for disconnection from the licensee's system and the removal of electrical plant, electric lines and ancillary meters following disconnection; and

(g) such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of this Condition.

8. Connection charges for those items referred to in paragraph 7 shall be set at a level which will enable the licensee to recover:

(a) the appropriate proportion of the costs directly or indirectly incurred in carrying out any works, the extension or reinforcement of the licensee's system and the provision and installation, maintenance and repair and, following disconnection, removal of any electric lines, electrical plant, meters, special metering, telemetry, data processing equipment or other items; and

(b) a reasonable rate of return on the capital represented by such costs.

9. **Preparation of statement on distribution system capacity**

If so requested and subject to paragraphs 10 and 16, the licensee shall, as soon as practicable and in any event within 28 days (or where the Authority so approves such longer period as the licensee may reasonably require having regard to the nature and complexity of the request) after the date referred to in paragraph 17, give or send to any person making such request a statement showing present and future circuit capacity, forecast power flows and loading on the part or parts of its distribution system specified in the request and fault levels for each distribution node covered by the request and containing:

(a) such further information as shall be reasonably necessary to enable such person to identify and evaluate the opportunities available when connecting to and making use of the part or parts of the licensee's distribution system specified in the request; and

(b) if so requested, a commentary prepared by the licensee indicating its view as to the suitability of the part or parts of the licensee's distribution system specified in the request for new connections and transport of further quantities of electricity;

provided that the Authority may, upon application of the licensee, relieve the licensee from the obligation to prepare any such statement in respect of any period and any part or parts of the licensee's distribution system specified in directions issued to the licensee by the Authority from time to time for the purposes of this Condition.

10. (a) Except as provided in sub-paragraphs (b) and (c) below, the licensee shall include in every statement prepared or (as the case may be) given or sent under paragraph 9 the information required by such paragraph.

(b) The licensee may with the prior consent of the Authority omit from any such statement any details as to circuit capacity, power flows, loading or other information, disclosure of which would, in the view of the Authority, seriously and prejudicially affect the commercial interests of the licensee or any third party.

(c) The licensee may omit from any statement given or sent under paragraph 9 any information the disclosure of which would place the licensee in breach of Condition 9.

11. **Preparation of new statements, circulation and charging**

In addition to, and without prejudice to, the licensee's obligations under paragraph 1, the licensee shall, upon being directed to do so in directions issued by the Authority from time to time for the purposes of this Condition and within such period as shall be specified in the directions, prepare a statement or statements approved by the Authority providing that charges for the provision of top-up and standby, for use of the licensee's transmission system or distribution system and/or for connection to the licensee's transmission system or distribution system will be made on such basis as shall be specified in the directions and such statement or statements shall be in such form and contain such detail as shall be necessary to enable any person to make a reasonable estimate of the charges to which it would become liable for the provision of such services and (without prejudice to the foregoing) including such information as shall be specified in the directions. Each statement prepared in accordance with this paragraph shall, with effect from the date on which it is approved by the Authority or such later date as the Authority shall specify, replace the corresponding statement prepared by the licensee in accordance with paragraph 1 or, as the case may be, this paragraph (as from time to time revised in accordance with paragraph 12) which is in force at such date and the licensee shall, with effect from such date make charges in accordance with the statement (as from time to time revised in accordance with paragraph 12) which has replaced such corresponding statement.

12. The licensee may periodically revise the information set out in and, with the approval of the Authority, alter the form of the statements prepared in accordance with paragraphs 1 and 11 and shall, at least once in every year the transmission licence and/or (as the case may be) the public electricity supply licence is in force, revise such statements in order that the information set out in the statements shall continue to be accurate in all material respects.

13. The licensee shall send a copy of the statements prepared in accordance with paragraphs 1 and 11 and of each revision of such statements in accordance with paragraph 12 to the Authority. Each such revision shall require to be approved by the Authority and shall not become effective until approved by the Authority.

14. The licensee shall give or send a copy of the statements prepared in accordance with paragraphs 1 and 11 or (as the case may be) of the latest revision of such statements in accordance with paragraph 12 approved by the Authority pursuant to such paragraph to any person who requests a copy of such statement or statements.

15. The licensee may make a charge for any statement given or sent pursuant to paragraph 14 of an amount reflecting the licensee's reasonable costs of providing such a statement which shall not exceed the maximum amount specified in directions issued by the Authority from time to time for the purposes of this Condition.

16. The licensee may within 10 days after receipt of the request provide an estimate of its reasonable costs in the preparation of any statement referred to in paragraph 9, and its obligation to provide such statement shall be conditional on the person requesting such statement agreeing to pay the amount estimated or such other amount as the Authority may, upon the application of the licensee or the person requesting such statement, direct.

17. For the purposes of paragraph 9, the date referred to shall be the later of:

(a) the date of receipt of the request referred to in paragraph 9; or

(b) the date on which the licensee receives agreement from the person making the request to pay the amount estimated or on which an amount is determined by the Authority (as the case may be) under paragraph 16.

**Application of this Condition**

18. The following provisions apply only to the transmission licence:

(a) Sub-paragraph (a) of paragraph 1; and

(b) Paragraph 4.

19. The following provisions apply only to the public electricity supply licence:

(a) Sub-paragraphs (b) and (c) of paragraph 1;

(b) Paragraphs 2, 3, 5, 9, 16 and 17; and

(c) Sub-paragraph (c) of paragraph 10.

Part II E

**Condition 15: Non-discrimination in the provision of use of system, connection to system and top-up or standby**

1. This Condition applies in addition to, and without prejudice to, the licensee's obligation (in its capacity as holder of a public electricity supply licence) to comply with the provisions of paragraphs 4 and 5 of Condition 5 of Part IV.

2. In the provision of top-up or standby or use of system or in the carrying out of works for the purpose of connection to the licensee's system, the licensee shall not discriminate:

(a) as between any persons or class or classes of persons; or

(b)535[[53]](#footnote-53)1 as between the licensee (in the provision of use of system and connections by the licensee as part of the Distribution Business or Transmission Business to itself for the purpose of the Supply Business or any CHP Supply Business) and any person or any class or classes of persons;

except insofar as any difference in the amounts charged for or any other terms or conditions of such provision or carrying out of works reflects, to the satisfaction of the Authority, the difference between the costs or other circumstances of such provision or carrying out to one person or class of persons and another.

3. Without prejudice to paragraph 2, and subject to paragraphs 4 and 5, the licensee shall not make charges for the provision of top-up or standby or charges for use of system to any person or class or classes of persons which differ from the charges for such provision:

(a) (in the case of top-up or standby) to any other person or class or classes of persons; or

(b) (in the case of use of system):

(i) to any other person or class or classes of persons; or

(ii)545[[54]](#footnote-54)2 to the licensee (in the provision of use of system by the licensee as part of the Distribution Business or Transmission Business to itself for the purposes of the Supply Business or any CHP Supply Business);

except insofar as such differences reasonably reflect differences in the costs associated with such provision.

4. Notwithstanding paragraph 3 and subject to paragraph 5, the licensee shall not make or levy use of system charges in respect of any item of charge separately identified in the statement referred to at paragraph 1(a) of Condition 14 on any person whose contract does not provide for him to receive the service to which such item of charge refers.

5. The licensee shall make charges to all relevant licensed suppliers for the provision of use of system which are such as to secure that the element for use of system in the amounts payable for supplies of electricity by customers of relevant licensed suppliers whose maximum monthly demand in the 3 months of the highest maximum demand on the total system in each period of 12 consecutive months does not exceed 1 MW, shall be the same in that period, irrespective of where such customers are located or reside.

6. The licensee shall not in setting its charges for provision of top-up or standby or charges for use of system or connection restrict, distort or prevent competition in the generation, transmission, distribution or supply of electricity.

7. Paragraph 4 applies only to the transmission licence.

8. The licensee shall not be in breach of its obligations under this Condition only by reason of its establishing and performing its obligations under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document, or under Condition 28 of Part III (Small renewable spill arrangements) of this Licence Document or under paragraph 12A of Condition 3 of Part III (Bulk supply tariff and PSO charge) of this Licence Document555[[55]](#footnote-55)3.

Part II E

**Condition 16: Requirement to offer terms**

1. **Offer of terms for use of system**

On application made by any person, the licensee shall (subject to paragraph 6) offer to enter into an agreement for use of system:

(a) to accept into the licensee's system at such entry point or points and in such quantities as may be specified in the application, electricity to be provided by or on behalf of such person; and

(b) to deliver such quantities of electricity as are referred to in sub-paragraph (a) above (less any transmission or distribution losses) to such exit point or points on the licensee's system and to such person or persons as may be specified in the application; and

(c) specifying the use of system charges to be paid by the person seeking use of system, such charges (unless manifestly inappropriate) to be referrable to the statement prepared in accordance with sub-paragraph (a) or (b) (as appropriate) of paragraph 1 (or, as the case may be, paragraph 11) of Condition 14 or any revision thereof and to be in conformity with the requirements of paragraph 6 of that Condition; and

(d) containing such further terms as are or may be appropriate for the purposes of the agreement.

In this paragraph references to "**any person**" shall be construed as references to any authorised electricity operator or person who shall have applied for a licence under Article 10 of the Order and whose application has not been withdrawn or rejected.

2. **Offer of terms for connection**

On application made by any person the licensee shall (subject to paragraph 6) offer to enter into an agreement for connection to the licensee's system or for modification to an existing connection, and such offer shall make detailed provision regarding:

(a) the carrying out of works (if any) required to connect the licensee's system to any other system for the transmission or distribution of electricity and for the obtaining of any consents necessary for such purposes;

(b) the carrying out of works (if any) in connection with the extension or reinforcement of the licensee's system rendered necessary or appropriate by reason of making the connection or modification to an existing connection and for the obtaining of any consents necessary for such purposes;

(c) the installation of appropriate meters (if any) required to enable the licensee to measure electricity being accepted into the licensee's system at the specified entry point or points or leaving such system at the specified exit point or points;

(d) the installation of such switchgear or other apparatus (if any) as may be required for the interruption of supply where the person seeking connection or modification of an existing connection does not require the provision by the licensee as public electricity supplier of top-up or standby;

(e) the date by which any works required so as to permit access to the licensee's system (including for this purpose any works to reinforce or extend the licensee's system) shall be completed and so that, unless otherwise agreed by the person making the application, a failure to complete such works by such date shall be a material breach of the agreement entitling the person to rescind the agreement;

(f) the connection charges to be paid to the licensee, such charges (unless manifestly inappropriate):

(i) to be presented in such a way as to be referable to the statements prepared in accordance with sub-paragraph (a) or (b) (as appropriate) of paragraph 1 (or, as the case may be, paragraph 11) of Condition 14 or any revision thereof; and

(ii) to be set in conformity with the requirements of paragraph 8 of Condition 14 and (where relevant) of paragraph 3;

(g) the installation of special metering, telemetry or data processing equipment (if any) for the purpose of enabling any person who is bound to comply with the Grid Code to comply with its obligations in respect to metering thereunder or the performance by the licensee of any service in relation to such metering thereunder; and

(h) such further matters as are or may be appropriate for the purposes of the agreement.

3. For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works (or in relation to any of the other matters referred to in sub-paragraph (a) of paragraph 8 of Condition 14) under an agreement for making a connection or modification to an existing connection the licensee shall have regard to:

(a) the benefit (if any) to be obtained or likely in the future to be obtained by the licensee or any other person as a result of the carrying out of such works (or of such other matters) whether by reason of the reinforcement or extension of the licensee's system or the provision of additional entry or exit points on such system or otherwise; and

(b) the ability or likely future ability of the licensee to recoup a proportion of such costs from third parties.

4. **Offer of terms for top-up or standby**

The licensee as public electricity supplier shall (subject to paragraph 6) offer to enter into an agreement with any person who requests the same to provide top-up or standby, such offer to make provision for the charges to be made in respect of top-up or standby, such charges:

(a) to be presented in such a way as to be referable to the statement prepared in accordance with sub-paragraph (c) of paragraph 1 (or, as the case may be, paragraph 11) of Condition 14 or any revision of such statement; and

(b) to be set in conformity with the requirements of paragraph 3 of Condition 14.

5. **Offer of terms - general**

The licensee shall offer terms for agreements in accordance with paragraphs 1, 2 and 4 as soon as practicable and (save where the Authority consents to a longer period) in any event not more than the period specified in paragraph 7 after receipt by the licensee of an application containing all such information as the licensee may reasonably require for the purpose of formulating the terms of the offer.

6. The licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement:

(a) if to do so would involve the licensee:

(i) in breach of its duties under Article 12 of the Order; or

(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the Distribution Business or Transmission Business; or

(iii) in breach of the Conditions to which the public electricity supply licence or the transmission licence is subject; or

(iv) in breach of the Grid Code; or

(b) (in the case of an application for use of, or connection to, the licensee's transmission system) if the person making the application does not undertake to be bound by such parts of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition; or

(c) (in the case of any other application) if to do so would cause the licensee to be in breach of the Distribution Code or if the person making the application does not undertake to be bound by such parts of the Distribution Code and of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition.

7. For the purpose of paragraph 5, the period specified shall be:

(a) in the case of persons seeking use of system or top-up or standby only, 28 days; and

(b) in the case of persons seeking connection or modification to an existing connection or seeking use of system or top-up or standby in conjunction with connection, 3 months.

8. The licensee shall within 28 days following receipt of a request from any person, give or send to such person such information in the possession of the licensee as may be reasonably required by such person for the purpose of completing the appropriate paragraphs of the Electricity (Applications for Licences and Extensions of Licences) Regulations (Northern Ireland) 1992 or such provisions to like effect contained in any further regulations then in force made pursuant to Articles 10(3) and 64 of the Order.

9. Sub-paragraph (b) of paragraph 6 applies only to the transmission licence.

10. The following provisions apply only to the public electricity supply licence:

(a) paragraph 4; and

(b) sub-paragraph (c) of paragraph 6.

Part II E

**Condition 17: Functions of the Authority**

1. If, after a period which appears to the Authority to be reasonable for the purpose, the licensee has failed to enter into an agreement with any person entitled or claiming to be entitled thereto pursuant to a request under Condition 16 of this Part or Condition 3 of Part III, the Authority may, pursuant to Article 11(3)(c) of the Order, and on the application of that person or the licensee, settle any terms of the agreement in dispute between the licensee and that person in such manner as appears to the Authority to be reasonable having (insofar as relevant) regard in particular to the following considerations:

(a) that such person should pay to the licensee:

(i) in the case of the provision of top-up or standby, such sum as is determined in accordance with the provisions of paragraph 3 of Condition 14;

(ii) in the case of provision of use of system, the use of system charges determined in accordance with paragraph 6 of Condition 14;

(iii) in the case of provision of a connection, or a modification to an existing connection, to the licensee's system, the whole or an appropriate proportion (as determined in accordance with paragraph 3 of Condition 16) of the costs referred to in sub-paragraph (a) of paragraph 8 of Condition 14, together with a reasonable rate of return on the capital represented by such costs;

(iv) in the case of sales or supplies of electricity on the bulk supply tariff, the bulk supply tariff established under Condition 3 of Part III;

(b) that no such person should pay any charges such as are referred to in sub-paragraph (b) of paragraph 7 of Condition 14 in respect of any connection to the licensee's transmission system or any modification to an existing connection made prior to such date as shall be specified in a direction issued by the Authority for the purposes of this Condition and that no such charges should be paid in respect of any such connection or modification made after such date unless the Authority is satisfied that the extension or reinforcement in respect of which the charges are to be paid was rendered necessary or appropriate by virtue of providing connection to or use of system to the person or making such a modification;

(c) that the performance by the licensee of its obligations under the agreement should not involve the licensee in a breach such as is referred to in paragraph 6 of Condition 16 of this Part or paragraph 7 of Condition 3 of Part III;

(d) that any methods by which the licensee's system is connected to any other system for the transmission or distribution of electricity accord (insofar as applicable to the licensee) with the Grid Code and with the Distribution Code; and

1. (e) that the terms and conditions of the agreement so settled by the Authority and of any other agreements entered into by the licensee pursuant to an application under Condition 16 of this Part or Condition 3 of Part III should be, so far as circumstances allow, in as similar a form as is practicable.

2. The Authority shall issue a decision within two months after receipt of a complaint pursuant to paragraph 1 above. This two-month period may be extended by a further two months where additional information is sought by the Authority, and by more than two months with the agreement of the complainant.

3. If the person wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into and implement such agreement in accordance with its terms.

3.4. If either party to an agreement for connection to the licensee's system, for use of system or for sales or supplies of electricity on the bulk supply tariff entered into pursuant to Condition 16 of this Part or Condition 3 of Part III or this Condition proposes to vary the contractual terms of such agreement in any manner provided for under such agreement, the Authority may, at the request of the licensee or other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Authority to be reasonable.

4.5. Sub-paragraph (b) of paragraph 1 applies only to the transmission licence.

5.6. Sub-paragraph (a)(i) of paragraph 1 applies only to the public electricity supply licence.

Part II F

**Condition 18: Grid Code and, where applicable, Distribution Code**

1. The licensee shall in consultation with authorised electricity operators liable to be materially affected thereby prepare and at all times have in force and (subject to paragraph 12) shall implement and comply with a Grid Code:

(a) covering all material technical aspects relating to connections to and the operation and use of the total system or (insofar as relevant to the operation and use of either the licensee's transmission system or distribution system) the operation of electric lines and electrical plant connected to the total system or the system for the transmission or distribution of electricity of any other person and (without prejudice to the foregoing) making express provision as to the matters referred to in paragraph 6; and

(b) which is designed so as:

(i) in relation to the licensee's transmission system:

(aa) to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the transmission of electricity; and

(bb) to facilitate the licensee's transmission system being made available to persons authorised to supply or generate electricity, on terms which neither prevent nor restrict competition in the supply or generation of electricity; and

(cc) subject to sub-paragraphs (aa) and (bb) above, to promote the security and efficiency of the electricity generation, transmission and distribution system in Northern Ireland as a whole; and

(ii) in relation to the licensee's distribution system:

(aa) to permit the development, maintenance and operation of an efficient, co-ordinated and economical system for the distribution of electricity; and

(bb) to facilitate competition in the generation and supply of electricity.

2. The Grid Code in force at the date of the coming into force of the transmission licence shall have been approved by the Authority. Thereafter the licensee shall (in consultation with authorised electricity operators liable to be materially affected thereby) periodically review (including upon the request of the Authority) the Grid Code and its implementation. Following any such review, the licensee shall send to the Authority:

(a) a report on the outcome of such review; and

(b) any proposed revisions to the Grid Code from time to time as the licensee (having regard to the outcome of such review) reasonably thinks fit for the achievement of the objectives referred to in sub-paragraph (b) of paragraph 1; and

(c) any written representations or objections from any authorised electricity operators (including any proposals by such operators for revisions to the Grid Code not accepted by the licensee in the course of the review) arising during the consultation process and subsequently maintained.

3. Revisions to the Grid Code proposed by the licensee and sent to the Authority pursuant to paragraph 2 shall require to be approved by the Authority.

4. Having regard to any written representations or objections referred to in sub-paragraph (c) of paragraph 2, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise the Grid Code in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.

5. The Authority shall be entitled, in order to implement the requisite arrangements referred to in Condition 7 of Part III, to issue directions to the licensee requiring the licensee to revise the Grid Code in such manner and with effect from such date as may be specified in the directions, and the licensee shall comply with any such directions, provided that such revisions shall not:

(a) come into effect earlier than 1 November 1996; or

(b) affect the rights or obligations of any party to:

(i) a power purchase agreement which is not a cancellable generating unit agreement; or

(ii) a cancellable generating unit agreement which has not, at the relevant time, been the subject of a cancellation direction;

under that agreement beyond what may reasonably be regarded as de minimis in relation to that person.

6. The Grid Code shall include:

(a) connection conditions specifying the technical, design and operational criteria to be complied with by the licensee and by any person connected or seeking connection with the total system;

(b) a set of operating codes specifying conditions and procedures under or in accordance with which the licensee shall operate the licensee's transmission system, under which the licensee shall operate its plant and distribution system and under which other persons shall operate their plant and/or systems for the distribution of electricity in relation to the licensee's transmission system, including procedures and conditions relating to outages of generation sets and associated power station equipment, insofar as is necessary to protect the security and quality of supply and to ensure the proper and safe operation of the total system under both normal and abnormal operating conditions;

(c) a planning code specifying the requirements for the supply of information by persons connected or seeking connection with the total system in order for the licensee to undertake the planning and development of the total system and specifying the technical and design criteria and procedures to be applied by the licensee in the planning and development of the total system and to be complied with by the licensee and other persons connected or seeking connection with the total system in the planning and development of their own plant and systems;

(d) a set of scheduling and despatch codes specifying conditions and procedures for the scheduling and despatch of generation sets connected to the total system, which may include provisions relating to the management of emissions;

(e) a metering code setting out requirements and procedures for metering.

7. The licensee shall give or send a copy of the Grid Code to the Authority and the Department.

8. The licensee shall (subject to paragraph 9) give or send a copy of the Grid Code to any person requesting the same.

9. The licensee may make a charge for any copy of the Grid Code given or sent pursuant to paragraph 8 of an amount 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.

10. In preparing, implementing and complying with the Grid Code (including in respect of the scheduling of maintenance of the licensee's transmission system or distribution system and any generation set or associated power station equipment or combination of generation sets or associated power station equipment) the licensee shall not:

(a) unduly discriminate against or unduly prefer:

(i) any person or class or classes of persons; or

(ii) the licensee in the conduct of any business other than the Transmission Business, the Distribution Business or (for so long as paragraph 6 of Condition 1 of Part II applies), the Transmission andor the Distribution Business;

in favour of or as against any one other or any other group of persons; or

(b) restrict or prevent competition in generation or supply.

11. The licensee shall keep and maintain such records concerning its implementation of and compliance with the Grid Code as are in accordance with such guidelines as the Authority shall from time to time have given to the licensee and are, in the opinion of the Authority, sufficient to enable the Authority to assess whether the licensee is performing the obligation imposed upon it under paragraph 10 concerning these matters and the licensee shall furnish to the Authority such records (or such of these as the Authority may require) in such manner and at such times as the Authority may require.

12. The Authority may from time to time (following consultation with the licensee) issue directions relieving the licensee of its obligations to implement or comply with, or to enforce against any other person any provision of, the Grid Code in respect of such parts of the licensee's transmission system and/or distribution system to such extent as may be specified in the directions.

13. The Grid Code shall be reviewed in the manner provided for in paragraphs 2, 3 and 4 not later than 20 August 1992 and the Authority's approval of the Grid Code as revised shall be sought not later than 28 August 1992. Such dates may be extended by the Department in directions issued to the licensee for the purposes of this paragraph.

14. If:

(a) the licensee shall cease to be the holder of both of the licences granted by this Licence Document; or

(b) it is necessary for him to do so in order to comply with a Community obligation; or

(c) there shall have been granted a subsequent licence under Article 10(1)(b) or Article 10(1)(c) of the Order;

the Authority may issue to the licensee directions (which may be subject to appropriate conditions) requiring the licensee to prepare and at all times have in force and (subject to paragraph 12) to implement and comply with:

(i) a Grid Code:

(aa) covering the matters referred to in sub-paragraph (a) of paragraph 1; and

(bb) designed so as to achieve the objectives referred to in sub-paragraph (b)(i) of paragraph 1;

in relation to the licensee's transmission system and separately from the distribution system; and

(ii) a Distribution Code:

(aa) covering the matters referred to in paragraph (a) of paragraph 1; and

(bb) designed so as to achieve the objectives referred to in sub-paragraph (b)(ii) of paragraph 1;

in relation to the licensee's distribution system and separately from the transmission system;

each of which shall comply with and be subject to such parts of this Condition as shall be specified in the directions and with such appropriate modifications of such parts as shall be so specified. The licensee shall forthwith comply with any such directions.

15. In this Condition:

**"appropriate conditions"** means conditions which, in the opinion of the Authority, are necessary or desirable in order to secure that the Grid Code and Distribution Code which the licensee shall be required to prepare comply with the provisions of paragraph 14, and "**appropriate modifications**" shall be construed accordingly.

Part II F

**Condition 19: Transmission and distribution system security and planning standards and quality of service**

1. The licensee shall plan, develop, operate and maintain its transmission system and its distribution system in accordance with the document entitled "**Transmission and Distribution System Security and Planning Standards**" (such document being as submitted by or on behalf of the licensee to the Authority and approved by the Authority on or before the date of the grant of this Licence Document or such later date as the Authority shall agree), as appropriate to the purpose under consideration, and the Grid Code or such other standard of planning and operation as the licensee may, following consultation with any authorised electricity operator liable to be materially affected thereby and such other authorised electricity operators as the Authority shall consider appropriate and with the approval of the Authority, adopt from time to time.

2. 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.

3.565[[56]](#footnote-56)4 The licensee shall, in consultation with authorised electricity operators liable to be materially affected thereby, periodically review (including at the request of the Authority) the documents (other than the Grid Code) referred to in paragraph 1 and their implementation. Such review may relate to all or some of those documents. Following any such review, the licensee shall send to the Authority:

(a) a report on the outcome of such review; and

(b) any revision which the licensee proposes to make to such documents from time to time (having regard to the outcome of such review); and

(c) any written representations or objections from authorised electricity operators (including any proposals by such operators for revisions to such documents not accepted by the licensee in the course of the review) arising during the consultation process and subsequently maintained.

4. Revisions to the documents (other than the Grid Code) referred to in paragraph 1 proposed by the licensee and sent to the Authority pursuant to paragraph 3 shall require to be approved by the Authority.

5. Having regard to any written representations or objections referred to in sub-paragraph (c) of paragraph 3, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise the documents (other than the Grid Code) referred to in paragraph 1 in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.

6. The licensee shall within three months after the transmission licence and the public electricity supply licence come into force and thereafter*w*henever 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 transmission system security and distribution system security and availability and quality of service may be measured.

7. 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 6.

8. The Authority may from time to time (following consultation with the licensee, any authorised electricity operator liable to be materially affected thereby 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 transmission system or distribution system and to such extent as may be specified in the directions.

9. The licensee shall give or send a copy of the documents (other than the Grid Code) referred to in paragraph 1 and the written policy (and any modification thereof) referred to in paragraph 2 to the Authority.

10. The licensee shall (subject to paragraph 11) give or send a copy of such documents to any person requesting the same.

11. The licensee may make a charge for any copy given or sent pursuant to paragraph 10 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.

12. If:

(a) the licensee shall cease to be the holder of both of the licences granted by this Licence Document;

(b) it is necessary for him to do in order to comply with a Community obligation; or

(c) there shall have been granted a subsequent licence under Article 10(1)(b) or 10(1)(c) of the Order;

the Authority may issue to the licensee directions (which may be subject to appropriate conditions) requiring the licensee to comply separately in relation to the licensee's transmission system and distribution system with such parts of this Condition as shall be specified in the directions and with such appropriate modifications (other than of the standard provided for in paragraph 1) of such parts as shall be so specified. The licensee shall forthwith comply with any such directions.

13. In this Condition:

“**appropriate conditions**” means conditions which, in the opinion of the Authority, are necessary or desirable in order to secure that this Condition operates separately in relation to the transmission system of the licensee as transmission licensee and the distribution system of the licensee as public electricity supplier, and “**appropriate modifications**” shall be construed accordingly;

“**environmental laws**”means those laws which are from time to time in force whose purpose is the protection of the environment (as such term is defined in the Industrial Pollution Control (Northern Ireland) Order 1997 but including the protection of human health, flora, fauna and the eco-systems on which they depend) but the term environmental laws shall not include those laws whose purpose or effect is the provision of a safer place of work and/or the protection of human health at or about any place of work;

**“place of work**”means any place where any employee or contractor of the licensee is from time to time in the course of their employment.

Part II G

**Condition 20: Prohibited activities and ring-fencing**

1.575[[57]](#footnote-57)5 The licensee shall not and shall procure that any affiliate or related undertaking of the licensee shall not, on its own account (or that of the licensee or of any affiliate or related undertaking of the licensee as the case may be), purchase or otherwise acquire electricity (including by means of entry into an electricity purchase contract) for the purpose of sale or other disposition to third parties in Northern Ireland unless such purchase or other acquisition or sale or other disposition is made as part of the Power Procurement Business, the Transmission System Operation Business, the Generation Business any CHP Generation Business, the Supply Business of the licensee as public electricity supplier or of any CHP Supply Business or as part of any business as a Second Tier Supplier of any affiliate or related undertaking of the licensee.

2.585[[58]](#footnote-58)6 The licensee shall not and shall procure that any affiliate or related undertaking of the licensee shall not purchase or otherwise acquire for value any electricity which has been or is to be generated by any own-generation set or generation set in which the licensee has an accountable interest (whether or not located in Northern Ireland) except with the prior written consent of the Authority and in accordance with any conditions of that consent provided that the Authority’s consent shall not be required in relation to the purchase or acquisition for value of electricity generated principally by CHP generation sets or generated by diesel generation sets59 as set out in Condition 13 paragraph 2(b) and (c) only5[[59]](#footnote-59)7. This paragraph does not apply to any business as a Second Tier Supplier of any affiliate or related undertaking of the licensee.

3. No core business of the licensee shall be held by or carried on through any affiliate or related undertaking of the licensee, other than the Transmission System Operation Business which the licensee may carry on through a subsidiary of the licensee.

4. The licensee shall procure that all businesses of the licensee other than the core businesses shall be held by or through affiliates or related undertakings605[[60]](#footnote-60)8 of the licensee.

5. Save as permitted under paragraph 5(a) of Part II Condition 8615[[61]](#footnote-61)9, the licensee shall not guarantee the obligations of any subsidiary of the licensee carrying on a non-core activity.

6. Save as permitted under paragraph 5(a) of Part II Condition 8626[[62]](#footnote-62)0, the licensee shall not create or permit to subsist any encumbrance in favour of any other person over any asset used or to be used in carrying on any core business to secure any obligation to any other person or of the licensee in relation to any non-core activity.

7.636[[63]](#footnote-63)1 Paragraphs 5 and 6 shall not apply to any guarantees or encumbrances subsisting on 6 March 1992.

8.646[[64]](#footnote-64)2 Save as provided by paragraphs 10 and 11, the licensee shall not conduct any business or carry on any activity other than those falling within the definition of "core businesses".

9. The licensee shall not without the written consent of the Authority acquire shares in any affiliate or related undertaking after 8 February 1998 except:

1. shares in any body corporate which was a subsidiary of the licensee on the above date;
2. shares acquired in a body corporate to satisfy the obligation imposed by paragraph 10;
3. shares in a body corporate which conducts business only for a Permitted Purposepermitted purpose; or
4. shares acquired in order to avoid dilution of a shareholding in a body corporate in which the licensee holds shares in conformity with this licence.
5. Notwithstanding paragraph 8, the licensee may continue to conduct any business or carry on any activity otherwise prohibited by paragraph 8 which it was conducting or carrying on as at 8 February 1998 but by such later date as the Authority shall specify to the licensee in writing, shall transfer any such business or activity to an affiliate or related undertaking or otherwise cease to conduct or carry on any such other business or activity.
6. Nothing in this Condition shall prevent:
7. any affiliate or related undertaking from conducting any business or carrying on any activity which the licensee is prohibited from conducting or carrying on by virtue of paragraph 8 above;
8. the licensee from holding shares as, or performing the supervisory or management functions of, an investor in respect of any body corporate in which it holds an interest consistently with the provisions of this licence;
9. the licensee from performing the supervisory or management functions of a holding company in respect of any subsidiary conducting any business or carrying out any activity which the licensee is prohibited from conducting or carrying out by virtue of paragraph 8 above;
10. the licensee from carrying on any business or conducting any activity otherwise prohibited by paragraph 8 above to which the Authority has given his consent in writing; or
11. the licensee from carrying on any business or conducting any activity other than the Separate Businesses provided that the aggregate turnover of all such other businesses or activities does not in any financial year exceed 5% of the aggregate turnover of the Separate Businesses (excluding the turnover on transactions which the Separate Businesses make with each other) in the immediately preceding financial year.

12. In this Condition:

"**accountable interest**" has the meaning ascribed to it in paragraph 6 of Condition 13;

"**core business**" means each of:

 the Power Procurement Business;

 the Transmission Business (where paragraph 6 of Condition 1 of Part II does not apply);

 the Distribution Business (where paragraph 6 of Condition 1 of Part II does not apply);

 the Transmission and Distribution Business (where paragraph 6 of Condition 1 of Part II applies); the Land Bank Business;

 the Transmission System Operation Business; and

 the Supply Business;

of the licensee656[[65]](#footnote-65)3;

"**encumbrance**" means any mortgage, charge, right of possession, assignment by way of security, right of possession or other form of security interest;

"**non-core activity**" means any activity other than that carried on as part of a core business; and

"**own-generation set**" has the meaning ascribed to it in paragraph 12 of Condition 13.

Part II G

**Condition 20A: Separation of Second-tier Supply Business****66****6[[66]](#footnote-66)4**

1. This Condition 20A applies where the licensee (or any affiliate or related undertaking of the licensee) also carries on a Second-tier Supply Business.

2. The licensee shall make arrangements in accordance with paragraph 4 to secure the complete and effective separation of its Regulated Businesses from the Second-tier Supply Business.

3. The arrangements referred to in paragraph 2 shall be subject to the approval of the Authority, who may from time to time direct the Licensee to take such reasonable steps or desist from such action as the Authority considers appropriate to secure compliance with the arrangements referred to in paragraph 2.

4. The licensee shall:

(a) nominate an officer of adequate seniority to monitor compliance with the provisions of this Condition and Condition 9 of Part IIB (who shall not be a member of the board of the licensee or any affiliate or related undertaking of the licensee) who will report at regular intervals to the Authority;

(b) without prejudice to Condition 9 of Part IIB, not and shall procure that any employees (whether part or full time) or officers shall not (and require that any agents or consultants of the Regulated Business shall not) disclose any information relating to the Regulated Business to the Second-tier Supply Business which could give the Second-tier Supply Business any unfair commercial advantage from its possession of such information, other than information which:

(i) the Regulated Business is required to disclose pursuant to any legislative or regulatory requirement;

(ii) is in or enters the public domain (other than as a result of a breach by the licensee or any affiliate or related undertaking of the licensee of its obligations under this Condition); or

(iii) which may be disclosed pursuant to arrangements or agreements approved in writing by the Authority;

(c) take measures to prevent (so far as the licensee can so require) any person who is engaged by or was previously engaged by a Regulated Business from being engaged by the Second-tier Supply Business until the expiry of a period of (3) months, or such shorter period as the Authority, having due regard to considerations of seniority and involvement in commercially sensitive activities, may permit in respect of any person or class of persons;

(d) establish and maintain an up-to-date register of all persons engaged by Regulated Business, confirming that the provisions of paragraphs (b) and (c) have been complied with in respect of each person engaged by the licensee;

(e) not enter into any contracts with the Second-tier Supply Business other than on arms length basis on normal commercial terms;

(f) not, save as required pursuant to any legislative or regulatory requirement, or as provided for by this licence, or may be permitted pursuant to arrangements or agreements approved in writing by the Authority (including the Use of System Agreement), permit the Second-tier Supply Business to use any assets of (or obtained from)a Regulated Business, for any purpose whatsoever;

(g) not permit the Second-tier Supply Business to use a name, brand or trade name associated with a Regulated Business in the Second-tier Supply Business' name, brand, trade name or advertising; and

(h) prepare for approval by the Authority and comply with a code of conduct on ring fencing provisions in relation to the transfer and/or movement of employees, either full time or part time, between the licensee and the Second-tier Supply Business.

In this Condition:

'asset' includes (without limitation) any premises, offices, information systems, software, hardware, electronic systems, billing systems, equipment, materials, resources, intellectual property, telephone numbers or lines, mobile telephones, email systems or addresses, websites or computer servers.

**PART III CONDITIONS APPLICABLE TO THE TRANSMISSION LICENCE**

**Part III A**

**Condition 1: Scope of application of Part III**

Except as provided in paragraph 6 of Condition 1 of Part II:

(a) the transmission licence is subject to the Conditions in Part III (including where such Conditions relate to activities other than those authorised by that licence); and

(b) the public electricity supply licence is not subject to the Conditions in Part III.

Part III B

**Condition 2: Power** **procurement****Procurement**

1. The licensee shall carry on the Power Procurement Business.

2. The Power Procurement Business shall consist in the discharge by the licensee of the obligations stated or referred to in this licence as the obligations of the power procurement manager.

Part III B

**Condition 3: Bulk supply tariff and PSO charge****67****6[[67]](#footnote-67)5**

1. The power procurement manager shall, as soon as practicable after the transmission licence 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 bulk supply tariff for sales of electricity (metered at grid supply points) and a schedule of PSO charges to relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area).

2. Without prejudice to paragraph 3 and Schedule 5A and Schedule 5C, the bulk supply tariff and PSO charge shall:

(i) be in a form which shall require to be approved by the Authority (and, in the case of the first financial year, also by the Department);

(ii) contain such detail as shall be necessary to enable any relevant supplier (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) to make a reasonable estimate of the charges to which it would become liable;

(iii) reflect the costs of the power procurement manager in providing electricity at specified times of the year, days of the week and times of the day and night; and

(iv) (without prejudice to the foregoing generality):

(a) separately identify the charges to relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) for electricity delivered at specified times of the year, days of the week, and times of the day and night; and

(b) include a schedule of adjustment factors (depending on the voltage at which the connection is made) to be made in respect of transmission and distribution losses.

3. The bulk supply tariff and PSO charges shall be set in accordance with Schedule 5A and Schedule 5C respectively.

4. In the provision of electricity to relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) at the bulk supply tariff, and when charging the PSO charge to relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area), the power procurement manager shall not discriminate:

(a) as between any relevant suppliers or class or classes of relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area); or

(b) as between the licensee (in its capacity as public electricity supplier) and any relevant supplier or relevant suppliers or class or classes of relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area).

5. The power procurement manager shall (subject to paragraph 7) offer to enter into an agreement with any relevant supplier or person seeking to become a relevant supplier who requests the same to provide bulk supplies or sales of electricity, such offer to make provision for the charges to be made in respect of such bulk supplies or sales of electricity, such charges to be presented in such a way as to be referable to the bulk supply tariff and schedule of PSO charges or any revision of the bulk supply tariff or schedule of PSO charges.

6. The power procurement manager shall offer terms for agreements in accordance with paragraph 5 as soon as practicable and (save where the Authority consents to a longer period) in any event not more than 28 days after receipt by the power procurement manager of an application containing all such information as the power procurement manager may reasonably require for the purpose of formulating the terms of the offer.

7. The power procurement manager shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement:

(a) if to do so would involve the licensee:

 (i) in breach of its duties under Article 12 of the Order; or

(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the Transmission Business or the Distribution Business; or

(iii) in breach of any Conditions; or

(iv) in breach of the Grid Code; or

(b) if the relevant supplier or person seeking to become a relevant supplier does not undertake to be bound by the terms of:

(i) the Supply Competition Code; and

(ii) such parts of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition.

8. The power procurement manager shall give or send a copy of the bulk supply tariff and 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 other person.

9. The power procurement manager shall (subject to paragraph 10) give or send a copy of the bulk supply tariff and the schedule of PSO charges (as from time to time revised) to any person requesting the same.

10. The power procurement manager may make a charge for any copy of the bulk supply tariff and the schedule of PSO charges (as from time to time revised) given or sent pursuant to paragraph 9 of an amount 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.

11. The power procurement manager shall not in setting the bulk supply tariff and the schedule of PSO charges restrict, distort or prevent competition in the generation, transmission, distribution or supply of electricity.

12. The Authority may give to the licensee directions requiring the licensee to alter the form of the bulk supply tariff and 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. No such directions may:

(a) be given earlier than the date upon which the Authority shall first exercise its cancellation powers; or

(b) have the effect of reducing the ability of the licensee to ensure that in any relevant year the power procurement energy sales revenue shall not be likely to be less than the maximum regulated energy sales revenue calculated in accordance with Schedule 5A or the regulated PSO revenue shall not be likely to be less than the maximum regulated PSO revenue calculated in accordance with Schedule 5C. Terms in this sub-paragraph shall have the meanings ascribed to them in Schedule 5A and Schedule 5C.

The licensee shall forthwith comply with any such directions.686[[68]](#footnote-68)6

12A. The Authority may from time to time give to the power procurement manager by notice in writing directions requiring the power procurement manager to offer to sell electricity to licensed suppliers, in such quantity and on such terms (including terms as to price) as the Authority shall specify in the directions. No such direction shall have the effect of reducing the ability of the power procurement manager to ensure that in any relevant year the power procurement energy sales revenue shall not be likely to be less than the maximum regulated energy sales revenue calculated in accordance with Schedule 5A or the regulated PSO revenue shall not be likely to be less than the maximum regulated PSO revenue calculated in accordance with Schedule 5C. Terms in this sub-paragraph shall have the meanings ascribed to them in Schedule 5A and Schedule 5C. The power procurement manager shall forthwith comply with any such directions.696[[69]](#footnote-69)7

13. Condition 17 of Part II shall have effect in relation to the settlement by the Authority of certain disputes between the licensee and any person entitled or claiming to be entitled to purchase electricity at the bulk supply tariff.

14. In this Condition:

 "**metered**" means as measured by metering required pursuant to and defined in the Grid Code or (where no such meter is installed) as otherwise reasonably calculated.

 "**exempt supplier**" means a person exempt from the requirement to hold a licence under Article 10 (1) (c) and 10 (2) of the Order.

15. The power procurement manager is authorised to collect the bulk supply tariff and PSO charge. The power procurement manager may act as an agent and collect SSS charge revenue on behalf of the transmission system operator along with its revenue under the bulk supply tariff and the PSO charge. These SSS revenues must be transferred as soon as reasonably practicable to the transmission system operator.

16. The power procurement manager shall not be in breach of this Condition by reason only of establishing and performing its obligations under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document or under Condition 28 of Part III (Small renewable spill arrangements) of this Licence Document or under paragraph 12A of this Condition 3 of Part III (Bulk supply tariff and PSO charge) of this Licence Document706[[70]](#footnote-70)8.

Part III B

**Condition 4: Bulk supply tariff restriction conditions**

1. The transmission licence is subject to the Conditions in Schedule 5.

2. The public electricity supply licence is not subject to the Conditions in Schedule 5.

Part III B

**Condition 5: Supply Competition Code**

1. In complying with the provisions of the Supply Competition Code the power procurement manager shall not, subject to paragraph 9, unduly discriminate against or unduly prefer:

(i) any one or any group of persons; or

(ii) the licensee;

in favour of or as against any one other or any other group of persons.

2. The Supply Competition Code may be modified:

(a) in accordance with paragraph 3;

(b) in accordance with the provisions of the Supply Competition Code; or

(c) not later than 1 June 1993 by the Authority so as to add in paragraph 6 of the Supply Competition Code, after the word "manager" the words "provided that, in calculating such total requirements, no account shall be taken of electricity which a relevant supplier generates himself where the relevant supplier, as respects that electricity, satisfies the relevant condition. In this paragraph "relevant condition" has the same meaning as in paragraph D.2(a) of Schedule 2 to the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992, save that the reference therein to "person in question" shall be treated as a reference to "relevant supplier in question".

(d)716[[71]](#footnote-71)9 by the Authority so as to remove, in whole or in part, the obligation of any generator (or class thereof) to be required to enter into power purchase agreements, or the obligation of any relevant supplier (or class thereof) to purchase or otherwise acquire electricity from the power procurement manager, where such modification will, in the opinion of the Authority, facilitate or promote:

 (i) generation involving the use of non-fossil fuel generation sets; or

 (ii) generation involving the use of CHP generation sets; or

(e)727[[72]](#footnote-72)0 by the Authority or the Competition Commission in the manner provided for in Articles 14 to 18 of the Order.

3. The Authority shall be entitled to make such modifications to the Supply Competition Code as shall, in the Authority’s opinion, be necessary to implement the requisite arrangements referred to in Condition 7, or in accordance with paragraph 8 of that Condition, provided that such modifications shall not come into effect earlier than 1 November 1996.

4. The modifications of the Supply Competition Code made pursuant to paragraph 3 shall include the establishment of procedures for its further modification with the agreement of all licence holders and, in the absence of such agreement, in the manner provided for in Articles 14 to 18 of the Order.

5. No modification of the Supply Competition Code pursuant to paragraph 3 shall affect the rights or obligations of any party to:

(a) a power purchase agreement which is not a cancellable generating unit agreement; or

(b) a cancellable generating unit agreement which has not, at the relevant time, been the subject of a cancellation direction;

under that agreement beyond what may reasonably be regarded as de minimis in relation to that person.

6. The power procurement manager shall give or send a copy of the Supply Competition Code to the Department and the Authority.

7. The power procurement manager shall (subject to paragraph 8) give or send a copy of the Supply Competition Code to any person who requests it.

8. The power procurement manager may make a charge for any copy given or sent pursuant to paragraph 7 of an amount 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.

9. The power procurement manager shall not be in breach of paragraph 1 of this Condition 5, Part III or any other provision of this transmission licence by reason of any sale of electricity to a participating supplier or a participating generator, (both as defined in Condition 24 of Part III of this Licence Document) in a form approved by the Authority for the purposes only of supply to eligible customers or by reason of any sale to or purchase from a relevant supplier of electricity under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document, or under Condition 28 of Part III (Small renewable spill arrangements) of this Licence Document or under paragraph 12A of Condition 3 of Part III (Bulk supply tariff and PSO charge) of this Licence Document737[[73]](#footnote-73)1.

Part III B

**Condition 6: Obligation on economic purchasing by power procurement manager**

1. Subject to paragraph 6, the provisions of paragraph 2 shall apply separately in relation to contracts for electricity from the following sources:

(a) qualifying renewable generation; and

(b) generation from any source other than qualifying renewable generation.

2. In respect of each category referred to in paragraph 1 above, and subject to paragraph 4 below, the power procurement manager shall:

(a) itself contract;

(b) procure any affiliate of the power procurement manager to contract; and

(c) insofar as it is able through the exercise of voting rights or otherwise to do so, procure any related undertaking of the power procurement manager or any defined undertaking to contract;

for electricity at the best effective price reasonably obtainable having regard to the sources available.

3. In determining the effective price at which electricity is contracted for by the power procurement manager or any affiliate or related undertaking of the power procurement manager or any defined undertaking, regard shall be had to any payments made or received or to be made or received for the grant of or pursuant to any electricity purchase contract.

4. In the discharge of its obligations under paragraph 2 above, the power procurement manager may additionally have regard to any considerations liable to affect its ability and that of any affiliate or related undertaking of the power procurement manager to discharge its obligations under this licence in the future, including the future security, reliability and diversity of sources of electricity available for purchase.

5. In this Condition (and subject to paragraph 6) references to qualifying renewable generation shall refer to generation from capacity of that description which:

1. (a) has been contracted by the power procurement manager or any defined undertaking under arrangements of the kind mentioned in paragraph (a) of Article 35(1) of the Order entered into prior to the date this licence enters force; or
2. (b) is available to be contracted under arrangements to be produced to the Authority in satisfaction of an obligation imposed on the licensee by order made under Article 35 of the Order after this licence enters force.

6. Notwithstanding that generation may previously have been contracted as being qualifying renewable generation, it shall cease to be so treated to the extent that:

(a) the power procurement manager (or any affiliate or related undertaking of the power procurement manager or any defined undertaking) enjoys contractual freedom to vary or discontinue its obligation to purchase such generation; and

(b) capacity from which qualifying renewable generation is otherwise contracted by the power procurement manager or any affiliate or related undertaking of the power procurement manager or any defined undertaking is equal to or exceeds the aggregate capacity specified in any orders previously made under Article 35 of the Order and continuing in force, as being required to be available to the licensee at that time or in respect of any future period covered by such orders.

7. The licensee shall keep under review the effective prices which it shall be liable to pay under each of the contracts of the kind referred to in paragraph 2. Paragraphs 2, 3 and 4 shall apply mutatis mutandis where, as a result of any such review, the power procurement manager (or any affiliate or related undertaking of the power procurement manager):

(a) amends or seeks to amend or fails to amend or seek to amend;

(b) exercises a discretion or fails to exercise a discretion under; or

(c) terminates or seeks to terminate or fails to terminate or seek to terminate;

an existing agreement (whether or not entered into prior to the relevant date) in such a manner as to alter or not to alter the effective price under such agreement.

8. This Condition shall not extend to prescribing the manner or circumstances in which the licensee shall at any time arrange normal outage planning under the Grid Code or schedule and issue direct instructions for despatch pursuant to paragraph 1 of Condition 10.

9. The power procurement manager shall not be in breach of this Condition by reason only of:-

 (a) having entered into the vesting cancellable generating unit agreements, the gas conversion agreement, the re-powering agreement, the buy-out agreement and any amendment of a generating unit agreement to the extent that the amendment in question shall be made pursuant to and in accordance with the provisions of the gas conversion agreement, the re-powering agreement, and the buy-out agreement. In this paragraph, references to agreements are to those agreements in the forms in which they shall have been entered into747[[74]](#footnote-74)2,

 (b) establishing and performing its obligations under Condition 27 of Part III (Renewable factor output arrangements) of this Licence Document, or under Condition 28 of Part III (Small renewable spill arrangements) of this Licence Document;

 (c) performing its obligations under paragraph 12A of Condition 3 of Part III (Bulk supply tariff and PSO charge) of this Licence Document757[[75]](#footnote-75)3

10. Subject to Condition 10 of Part II, nothing in this Condition shall oblige the licensee to accept an offer made to the licensee by or on behalf of a party to a power purchase agreement to which the licensee is also a party, to convert the generation set or generation sets which are the subject of the power purchase agreement in question to burn a fuel other than the fuel which the generation set or generation sets in question are designed or capable of burning unless a reasonable share of the benefits of reduced fuel costs which would result from such conversion are made available to the power procurement manager.

11. The power procurement manager shall not exercise any right, howsoever arising, to terminate any of the cancellable generating unit agreements unless any contract which the power procurement manager shall enter into in relation to the generation set or combination of generation sets in respect of which the cancellable generating unit agreement so terminated applied shall contain a provision in the terms provided for in paragraph 13.

12. Any new contract of the kind referred to in paragraph 11, and any other contract in relation to the generation set or combination of generation sets in respect of which a cancellable generating unit agreement which shall have been terminated by effluxion of time applied, shall become a cancellable generating unit agreement, and Schedule 8 shall be modified so as to include the new contract or contracts in place of the cancellable generating unit agreement or cancellable generating unit agreements which shall have been terminated. No such amendment may alter the date appearing opposite the relevant cancellable generating unit agreement in Schedule 8.

13. The terms referred to in paragraph 11 are:

"**Termination following Authority's Notice**

"Notwithstanding any other provision of this agreement, either party shall be entitled to terminate this agreement if each party shall have received from the Authority a notice directing it to do so (in the case of Northern Ireland Electricity plc) pursuant to Condition 7 of Part III of the licence granted under Article 10(1)(b) of the Electricity (Northern Ireland) Order 1992 to Northern Ireland Electricity plc, and (in the case of [the generator in question]) pursuant to Condition 20 of the licence granted under Article 10(1)(a) of the Electricity (Northern Ireland) Order 1992 to [the generator in question].

"Such termination shall have effect upon the later of:

(a) [insert earliest cancellation date for that cancellable generating unit agreement]; and

(b) the date or the happening of such event as shall be specified for such termination in the Authority's notice.

"Neither party shall have any right of action against the other by virtue only of such termination, but subject thereto nothing herein shall affect any accrued rights and obligations of the parties."

14. The power procurement manager shall not agree to any amendment or deletion of the provision in any cancellable generating unit agreement which entitles either or both parties to terminate the agreement after receipt of a cancellation direction.

15. The power procurement manager shall furnish the Authority with all relevant information in relation to any amendment or termination of any power purchase agreement.

16. The power procurement manager shall not be in breach of its obligations under this Condition by reason only of its having madeany representations the power procurement manager shall have made to the transmission system operator of the kind referred to in sub-paragraph (e) of paragraph 5 of Condition 10in relation to the compliance by any generator with its obligations under the Large Combustion Plants (Control of Emissions) Regulations (Northern Ireland) 1991 in relation to emissions; and such representations having been acted upon. pursuant to sub paragraph (e) of paragraph 5 of Condition 10.

17. If required to do so in directions issued to it by the Authority for the purposes of this Condition, the licensee shall, when deciding whether or not to invite proposals for the provision of new generation capacity to be available to it, take into consideration any least cost planning measures available to it together with its rights and obligations under this licence and all the other circumstances of the case. Before issuing any such directions the Authority shall consult fully with the licensee and such other authorised electricity operators as it shall consider appropriate. Before exercising its cancellation powers, the Authority shall review any measures which the licensee shall have taken as a result of any direction given under this paragraph, and shall consider whether or not it would be appropriate, in the light of the modifications of the Supply Competition Code to be made pursuant to paragraph 3 of Condition 5 or paragraph 8 of Condition 7, for any further directions to be given under this paragraph.

18. In this Condition:

"**contract**" includes the acquisition of electricity from sources falling to be treated as own-generation for the purpose of Condition 13 of Part II, and the purchase of electricity under electricity purchase contracts;

"**defined undertaking**" means any entity through which the licensee enters into arrangements of the kind mentioned in paragraph (a) of Article 35(1) of the Order;

"**least cost planning** means measures which the licensee is able to take

**measures**" which would encourage the efficient use or conservation of electricity by consumers of electricity so as to reduce or constrain demand for electricity and so postpone or remove the necessity for new generation capacity to be commissioned;

"**relevant date**" means the date on which this licence comes into force.

Part III B

**Condition 7: Modification of Supply Competition Code and cancellation of contracts**

1. When the Authority shall have determined that the requisite arrangements have been developed and that they satisfy the requirements of paragraph 3, the Authority shall be entitled to exercise the powers specified in paragraph 4, provided that the procedural requirements of paragraph 6 have been followed.

2. The requisite arrangements are arrangements which, if implemented by means of the making of modifications ofto the Supply Competition Code, the Grid Code and the Northern Ireland Fuel Security Code, would facilitate an increase in competition in the generation or supply of electricity in Northern Ireland for the benefit of consumers of electricity in Northern Ireland in respect of the prices charged and the other terms of supply, the continuity of supply and the quality of the electricity supply services provided.

3. The requirements of this paragraph are:

(A) that there is available for immediate establishment an electricity trading system by which (except as provided in paragraph 7) the power procurement manager and all licence holders will be bound and which, in the opinion of the Authority, will:

(i) constitute proper and adequate arrangements for the trading of electricity and the calculation and settlement of payments due for the provision of available generating capacity and the delivery or supply of electricity;

(ii) ensure that adequate arrangements are in place for the provision by generators of all necessary System Support Services and the proper remuneration of those services;

(iii) be based upon a system of despatch of generation sets which is technically viable and will not prejudice the security and stability of the total system or any part of it;

(iv) ensure that there are adequate incentives for all generators to make available such generation capacity as will in aggregate be sufficient to ensure that all reasonable demands for electricity are satisfied;

(v) ensure that all generators and relevant licensed suppliers are contractually bound to comply with the provisions of the Northern Ireland Fuel Security Code;

(vi) ensure that relevant suppliers shall contract for or acquire, in aggregate, amounts of generation capacity and quantities of electricity from the power procurement manager which are not less than the amounts of generation capacity and quantities of electricity for which the power procurement manager is committed to pay under -

(a) the power purchase agreements to which the licensee is a party and which are cancellable generating unit agreements which at all relevant times have not been cancelled; and

(b) the power purchase agreements to which the licensee is a party and which are not liable to be cancelled;

(vii) not in its operation require any generator to breach any obligation incumbent upon it under the Large Combustion Plants (Control of Emissions) Regulations (Northern Ireland) 1991 in relation to emissions;

(viii) contain arrangements which will ensure that each generator which shall be a party to a cancellable generating unit agreement, for so long as such agreement shall not have been cancelled, shall be in no worse a financial position in respect of its rights under that cancellable generating unit agreement by reason of the operation of Clause 7.3.2 of each power station agreement;

(ix) ensure that an appropriate share of the costs of the Land Bank Business shall be borne by each relevant supplier;

(x) not, in its operation, cause the licensee to be unable to finance the carrying on of the activities which it is authorised by this licence to carry on; and

(B) that each generator which shall have applied for a licence under Article 10(2) of the Order to have effect from the date upon which any cancellable generating unit agreement to which it is a party is to be cancelled, shall have been granted such a licence, provided -

(a) the Authority shall at the relevant time have power under Article 10 of the Order to grant such a licence;

(b) the criteria for the grant of such a licence shall otherwise have been satisfied at the date of the application and the date upon which it is first to have effect; and

(c) there shall have been no material change in the circumstances of the applicant in any relevant respect between the date of the application and the date upon which the licence is to have effect.

4. The powers referred to in paragraph 1 are powers to serve upon the power procurement manager and the generator under a cancellable generating unit agreement a notice directing them to terminate the cancellable generating unit agreement pursuant to Clause 9.3 thereof upon such date or the happening of such event as shall be specified in the notice. The licensee shall comply with such a direction addressed to him.

5. The powers specified in paragraph 4 may not be exercised in relation to any cancellable generating unit agreement in the table appearing in Schedule 8 earlier than the date appearing opposite that cancellable generating unit agreement in that table. The Authority may, in relation to any cancellable generating unit agreement and upon the application of either party to that cancellable generating unit agreement, modify the table appearing in Schedule 8 by substituting a later date for the date appearing opposite that agreement in that table.

6. The procedural requirements which require to have been followed for the purposes of paragraph 1 are:

(a) in its preparations for the making of the determination referred to in paragraph 1, the Authority shall have consulted with the Department, all licence holders, the power procurement manager, the General Consumer Council and such other persons as the Authority shall consider likely to be materially affected in relation to the steps that the Authority believes require to be taken and the documentation and other obligations which the Authority believes require to be entered into, imposed or assumed in order to satisfy the requirements of paragraph 3 and to create and implement the requisite arrangements;

(b) in the consultations referred to in sub-paragraph (a) above, the Authority shall have made available to each person so consulted such drafts of the documentation in question and of the instruments or other means by which the obligations in question are to be imposed or assumed, as the Authority shall consider are necessary so as properly to inform such persons of the detail of its proposals;

(c) the Authority shall have given each person so consulted the opportunity to make representations in relation to the relevant steps and the relevant documentation and shall have taken into consideration all such representations (other than those which are frivolous or trivial) in making the determination;

(d) the Authority shall have published its conclusions as to the relevant steps and the relevant documentation (including drafts of the relevant documentation) and its reasons for those conclusions;

(e) the Authority shall, before exercising any power under paragraph 4, have given not less than 180 days' notice to the Department, the power procurement manager, every person who at the time it gives the notice is a licence holder, and the General Consumer Council, that it intends to do so; and

(f) the Authority shall, in publishing any statement of proposals or the reasons for them, have treated as confidential any representation (including any submission of any written material) which (and to the extent that) the person making the representation shall, by notice in writing to the Authority or by endorsement on the representation of words indicating the confidential nature of such representation, have specified as confidential information.

7. The rules of the electricity trading system referred to in paragraph 3(A) contained in the Supply Competition Code as modified by the Authority in the exercise of its powers under paragraph 3 of Condition 5, may provide that they are to apply to all licence holders except if and to the extent that:

(a) they permit the Authority to relieve the licence holder in question from compliance with them or any of them; or

(b) they make provision that they are to apply to particular licence holders or classes of licence holder differently from the way or ways in which they apply to other licence holders.

8. Notwithstanding paragraph 6, the Authority shall be entitled, after having carried out the consultations referred to in paragraph 6 and published its conclusions, both before and after it shall have given any notice of the kind referred to in sub-paragraph (e) of paragraph 6, to make any modification of the relevant documentation which:

(a) is, in the Authority’s opinion, necessary or desirable in order to refine the requisite arrangements;

(b) involves only a change of a technical nature in the requisite arrangements; and

(c) will not increase the liability or decrease the rights of any person bound or to be bound by the Supply Competition Code beyond what may be regarded as reasonable in relation to that person;

provided it gives due notice of such amendment or variation to such persons as appear to the Authority to be likely to be affected thereby.

9. The implementation of the requisite arrangements may be secured by the exercise by the Authority of its powers:

(a) under paragraph 3 of Condition 5 of Part III (to make modifications of the Supply Competition Code);

(b) under paragraph 5 of Condition 18 of Part II (to direct the licensee to revise the Grid Code);

(c) under paragraph 12 of Condition 3 of Part III (to direct the licensee to alter the form of the bulk supply tariff);

(d) under paragraph 9 of Condition 6 of Part IV (to direct that the economic purchasing obligation of the licensee as public electricity supplier shall come into force); and

(e) under Clause 2.01(F) of Part 2 of the Northern Ireland Fuel Security Code (to make amendments to that Code).

10. The licensee shall afford the Authority such co-operation as the Authority shall in directions issued to the licensee for the purposes of this paragraph request in developing and testing its proposals for the establishment of the requisite arrangements and the electricity trading system referred to in paragraph 3(A).

11. The licensee shall reimburse each generator and relevant licensed supplier its reasonable direct costs of complying with a request made under paragraph 10 of Condition 20 of its generation licence and paragraph 9 of Condition 5 of its licence granted under Article 10(2) of the Order (as the case may be) incurred prior to the date upon which the Authority shall first exercise its cancellation powers and for which an invoice shall have been submitted to the licensee not later than 2 months prior to the date upon which the first cancellation direction shall take effect.

12. In this Condition:

"**relevant documentation**" means the documentation and other obligations referred to in sub-paragraph (a) of paragraph 6;

"**relevant steps**" means the steps referred to in sub-paragraph (a) of paragraph 6; and

"**requisite arrangements**" means the arrangements referred to as such in paragraph 2.

Part III B

**Condition 8: Provision of Information**

1. In respect of any 28 day period, the power procurement manager shall give or send to any person requesting the same:

(a) the relevant prices (showing separately prices for start up, no-load heat and incremental heat rates) of each generation set and interconnector transfer available to the power procurement manager in terms of or pursuant to a power purchase agreement in each period for which prices are so available over the preceding 28 days for despatch;

(b) declared (and, where different, actual) availability of generation sets (on a set-by-set basis) or interconnector transfers available from or offered by any relevant generator on the terms of or pursuant to a power purchase agreement which the licensee is party to for despatch over the preceding 28 days; and

(c) the amounts payable to generators as derived in respect of any period over the preceding 28 days pursuant to the terms of any power purchase agreement signed before 19 February 1997;

to the extent that the Authority shall specify in directions issued from time to time to the licensee for the purposes of this Condition, having taken into consideration any representations made to the Authority by the power procurement manager and generators, and in accordance with any conditions contained in such directions.

2. The licensee may make a charge for the information given or sent pursuant to paragraph 1 of an amount which shall not exceed the maximum amount specified in directions issued from time to time by the Authority for the purposes of this Condition.

3. In this Condition:

"**available**" in relation to any generation set or interconnector transfer means a generation set or interconnector transfer which is available in accordance with the Grid Code and "**availability**" shall be construed accordingly;

"**interconnector transfer**" means electricity generating capacity of an amount not exceeding the maximum capacity specified in any contract for use of the relevant interconnector as may at any time be available to generate electricity for transfer across the interconnector to the total system;

"**relevant generator**" means:

(a) a generator; or

(b) a person who is exempt from the requirement to hold a generation licence (in terms of the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 19921999) and whose generation set is connected to the total system; or

(c) an externally interconnected party; and

“**relevant price**” means the price at which the power procurement manager is able to procure (or the prices that are offered for) the generation and delivery or transfer (as the case may be) of electricity into the total system in respect of any relevant period.

Part III C

**Condition 9: Transmission System Operation**

1. The licensee shall carry on the Transmission System Operation Business, either by itself, or by procuring the performance of its obligations as transmission system operator through a subsidiary of the licensee.

2. The Transmission System Operation Business shall consist in the discharge by the licensee, or by a subsidiary of the licensee, of the obligations stated or referred to in this licence as the obligations of the transmission system operator.

3. The licensee shall (or shall procure that, if it is carrying on the Transmission System Operation Business through a subsidiary, that subsidiary shall) conduct the Transmission System Operation Business in accordance with arrangements to be developed by the licensee to ensure independent management of the Transmission System Operation Business from any other business of the licensee or of an affiliate or related undertaking of the licensee (whether or not a Separate Business) as required by Directive 96/92/EC of the European Parliament and of the Council Directive 2003/43/EC.

4. The arrangements referred to in paragraph 3 shall be in such form and in such detail as the Authority may from time to time specify.

5. The licensee shall (or shall procure that, if it is carrying on the Transmission System Operation Business through a subsidiary, that subsidiary shall) conduct the Transmission System Operation Business in relation to the Power Procurement Business and, the Transmission Business and the Distribution Business in accordance with guidelines to be developed by the licensee and submitted to the Authority not later than three months after 1 July 1999.

6. The guidelines referred to in paragraph 5 shall require to be approved by the Authority.

7. The licensee shall give or send a copy of the documents referred to in paragraphs 3 and 5 to any person requesting the same.

8. The licensee may make a charge for any statement given or sent pursuant to paragraph 7 of an amount reflecting the licensee's reasonable costs of providing such a statement which shall not exceed the maximum amount specified in directions issued from time to time by the Authority for the purposes of this Condition.

Part III C

**Condition 10: Central despatch and merit order**

**Central despatch**

1. The transmission system operator shall schedule and issue direct instructions for the despatch in accordance with paragraphs 2, 3, 4 and 5 of:

(a) all available generation sets of each relevant generator in Northern Ireland which

(i) are required to be subject to such scheduling and despatch instructions under the terms of any exemption granted under Article 9 of the Order or any licence granted under Article 10 of the Order; or

(ii) are agreed by any such relevant generator to be subjected to such scheduling and despatch instructions; and

(b) available interconnector transfers.

2. Having regard to information provided to it by authorised electricity operators (including as to forecast levels of electricity demand and availability of generation capacity), to forecast levels of electricity available to be transferred to Northern Ireland across any interconnector or to be exported from Northern Ireland across any interconnector, and to the requirements of the approved system security standards referred to in paragraph 1 of Condition 19 of Part II, the transmission system operator shall undertake operational planning:

(a) for the matching of generation output (including a reserve of generation to provide a security margin of generation availability) with forecast demand after taking into account inter alia:

(i) unavailability of generation sets and/or interconnector transfers;

(ii) constraints from time to time imposed by technical limitations on the total system or any part thereof; and

(iii) electricity delivered to the total system from generation sets not subject to central despatch; and

(b) consistently with sub-paragraph (a) above, in accordance with the Grid Code and subject to paragraph 10 of Condition 18 of Part II, for the release of parts of the transmission system for maintenance, repair, extension or reinforcement.

**Merit Order**

3. Subject to paragraph 6 below, the transmission system operator shall establish as part of the Grid Code, and shall operate, a merit order system for generation sets in Northern Ireland subject to central despatch and for interconnector transfers.

4. Taking account of the factors referred to in paragraph 5, the transmission system operator shall schedule and issue direct instructions for the despatch of such generation sets and of such interconnector transfers as are at such times available to generate or transfer electricity:

(a) in ascending order of relevant prices; and

(b) as will in aggregate (and after taking account of electricity delivered to or from the total system from or to other sources) be sufficient to match at all times (to the extent possible having regard to the availability of generation sets and interconnector transfers) demand forecast taking account of information provided by authorised electricity operators, together with an appropriate margin of reserve.

5. The factors referred to in paragraph 4 include:

(a) forecast demand;

(b) economic and technical constraints from time to time imposed on the total system or any part or parts thereof;

(c) the dynamic operating characteristics of available generation sets and interconnector transfers;

(d) forecast exports of electricity across any interconnector;

(e) any representations the power procurement manager shall have made in relation to the compliance by any generator with its obligations under the Large Combustion Plants (Control of Emissions) Regulations (Northern Ireland) 1991 in relation to emissions;

(f) transmission and distribution losses;

(g) the operating security standard; and

(h) other matters provided for in the Grid Code.

6. The provisions of paragraphs 3 and 7(b) shall not apply to the capacity of any generation set or interconnector nominated for despatch for the purposes of giving a supply to any eligible customer (as such term is defined in the Supply Competition Code).

**Other**

7. The transmission system operator shall maintain for a minimum period of six years such records of:

(a) generation sets and interconnector transfers available or declared as available;

(b) subject to paragraph 6 above, relevant prices (including separate elements thereof) of generation sets and interconnector transfers declared as available;

(c) generation sets and interconnector transfers scheduled for despatch or despatched;

(d) System Support Services called for by the transmission system operator and provided;

(e) kilowatt hours of electricity taken from the total system by any purchaser of electricity who was at the time an authorised electricity operator; and

(f) imports and exports of electricity across any interconnector;

as shall be reasonably necessary to enable the transmission system operator to calculate any payments which become due to or owing by any party under the Interim Settlement Agreement or the Interim Settlement Code. The Authority may, on the application of the transmission system operator and after consultation with each authorised electricity operator liable to be materially affected thereby and with such other authorised electricity operators as the Authority shall consider appropriate, relieve the transmission system operator from its obligations under this paragraph to the extent specified in directions (which may be subject to conditions) which the Authority shall from time to time issue to the transmission system operator for the purposes of this Condition.

8. The transmission system operator shall provide to the Authority such information as the Authority shall request concerning the merit order system or any aspect of its operation.

9. In this Condition:

**"available"** in relation to any generation set or interconnector transfer means a generation set or interconnector transfer which is available in accordance with the Grid Code and "**availability**" shall be construed accordingly;

**"central despatch"** means the process of scheduling and issuing direct instructions by the transmission system operator referred to in paragraph 1;

**"externally**  means any person transferring electricity to or from

**interconnected** Northern Ireland across an interconnector;

**party”**

**"interconnector transfer"** means the flow of energy across an interconnector;

**"merit order system"** means a system establishing economic precedence of electricity from available generation sets or interconnector transfers to be delivered or transferred to the total system (subject to other system needs);

**"relevant generator"** means:

(a) a generator; or

(b) a person who is exempt from the requirement to hold a generation licence (in terms of the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992) and whose generation set is connected to the total system; or

(c) an externally interconnected party.

**"relevant price"** means the price at which the power procurement manager is able to procure (or the prices that are offered for) the generation and delivery or transfer (as the case may be) of electricity into the total system in respect of any relevant period.

Part III C

**Condition 11: System Capacity** **and Security of Supply** **Statements**

1. **Preparation of statements on system capacity**

The transmission system operator shall, once every year (and not later than such date as the Authority shall specify), prepare a statement in a form approved by the Authority showing in respect of each of the 7 succeeding financial years circuit capacity, forecast power flows and loading on each part of the transmission system (including anticipated future demand and generation availability during that period) and fault levels for each transmission node, together with:

(a) such further information as shall be reasonably necessary to enable any person seeking use of system to identify and evaluate the opportunities available when connecting to and making use of such system including information on the status of transmission capacity and the anticipated future requirements of transmission capacity;

(b) a commentary prepared by the transmission system operator indicating the transmission system operator's views as to those parts of the transmission system most suited to new connections and transport of further quantities of electricity; and

(c) a statement regarding the quality and level of maintenance of the distribution and transmission systems;

(d) a statement regarding the measures which the licensee anticipates will be necessary to meet peak demands for electricity and the failure of any licensed supplier to supply electricity to their customers; and

(e) such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of this Condition; and

and shall carry out its licensed activities with regard to such statement so as to ensure the long-term ability of the transmission system and distribution system to meet reasonable demands for the transmission and distribution of electricity respectively, and to contribute to the security of supply through adequate capacity and reliability, provided that the Authority may, upon application of the transmission system operator, relieve the transmission system operator from the obligation to prepare any such statement in respect of any period and any part or parts of the transmission system specified in directions issued to the transmission system operator by the Authority from time to time for the purposes of this Condition.

2. (a) Except as provided in sub-paragraph (b) below, the transmission system operator shall include in every statement prepared under paragraph 1 the information required by such paragraph.

(b) The transmission system operator may with the prior consent of the Authority omit from any such statement any details as to circuit capacity, power flows, loading or other information, disclosure of which would, in the view of the Authority, seriously and prejudicially affect the commercial interests of the transmission system operator or any third party.

3. The transmission system operator may periodically revise the information set out in and, with the approval of the Authority, alter the form of the statement prepared in accordance with paragraph 1 and shall, at least once in every year the transmission licence is in force, revise such statement in order that the information set out in the statement shall continue to be accurate in all material respects.

4. The transmission system operator shall send a copy of the statement prepared in accordance with paragraph 1 and of each revision of such statement in accordance with paragraph 3 to the Authority and provide a copy of such report to the Department. Each such revision shall require to be approved by the Authority and shall not become effective until approved by the Authority.

5. The transmission system operator shall give or send a copy of the statement prepared in accordance with paragraph 1 or (as the case may be) of the latest revision of such statement in accordance with paragraph 3 approved by the Authority pursuant to such paragraph to any person who requests a copy of such statement.

6. The transmission system operator may make a charge for any statement given or sent pursuant to paragraph 5 of an amount reflecting the transmission system operator's reasonable costs of providing such a statement which shall not exceed the maximum amount specified in directions issued by the Authority from time to time for the purposes of this Condition.

Part III C

**Condition 11A: Generation tendering procedure**

In the event that the Department issues a direction to the licensee under Article 11B(1) of the Order to issue a tender or tenders for generating capacity, energy-efficiency measures or demand side management measures:

(a) the licensee shall carry out the tender process for such work in accordance with procedures which comply with the requirements of Article 7 of European Parliament and Council Directive 2003/43/EC; and

(b) the selection of the successful tenderer shall be governed by criteria determined and published by the Department in accordance with and for the purposes of that Article.

**Condition 12: Interconnector Capacity Statement**

1. The transmission system operator shall as soon as practicable after the commissioning of each relevant interconnector and, in any event, not later than such date as the Authority shall specify, prepare a statement approved by the Authority showing:

(a) the amount of the capacity of each relevant interconnector which the transmission system operator anticipates will be available for the transfer of electricity from and to Northern Ireland during each remaining week of the year ending on 31 March in the year in which the relevant interconnector in question is commissioned;

(b) the amount of that capacity in relation to which any co-operator has a right to require the transmission system operator to receive and deliver electricity;

(c) the transmission system operator's forecast of the amount of the remainder of the capacity of such relevant interconnector which may be used for the transfer of electricity from and to Northern Ireland during each week referred to in sub-paragraph (a) above; and

(d) such matters (if any) as the Authority shall specify prior to its approval of the statement.

2. The transmission system operator shall, as soon as practicable (and in any event within such period as the Authority shall specify), prepare a statement in relation to each relevant interconnector, approved by the Authority showing the matters referred to in sub-paragraphs (a) to (d) of paragraph 1 in respect of each year following the year in which that relevant interconnector is commissioned.

3. The licensee shall send a copy of every statement prepared in accordance with this Condition to the Authority.

4. The licensee shall give or send a copy of any statement prepared in accordance with this Condition to any person who requests a copy of such statement.

5. The licensee may make a charge for any statement given or sent pursuant to paragraph 4 of an amount reflecting the licensee's reasonable costs of providing such a statement which shall not exceed the maximum amount specified in directions issued from time to time by the Authority for the purposes of this Condition.

Part III C

**Condition 13: Non-discrimination in the operation of the transmission system**

1. In respect of operation of the transmission system, the transmission system operator shall not unduly discriminate as between any persons or class or classes of persons.

Part III C

**Condition 14: Economic purchasing of System Support Services**

1. The transmission system operator shall contract for the provision of such quantities and types of System Support Services at any time available as may be appropriate to enable the transmission licensee to discharge its obligations under the Order and the Energy Order and Condition 10 of Part III.

2. In contracting for the provision of System Support Services pursuant to paragraph 1, the transmission system operator shall purchase or otherwise acquire System Support Services from the most economical sources available to it having regard to the quantity and nature of the System Support Services required to enable discharge of its obligations under the Order and the Energy Order and Condition 10 of Part III and to the diversity, number and reliability of such System Support Services at that time available for purchase or other acquisition.

3. The licensee shall not be in breach of this Condition by reason of having entered into the vesting cancellable generating unit agreements, the re-powering agreement and any amendment to a generating unit agreement to the extent that the amendment in question shall be made pursuant to and in accordance with the re-powering agreement.767[[76]](#footnote-76)4

4. This Condition shall not extend to prescribing the manner or circumstances in which the transmission system operator shall at any time call for the delivery of System Support Services under any contract entered into pursuant to paragraph 1.

5. This Condition shall only have effect from such date as the Authority shall specify in directions issued to the licensee for the purposes of this Condition and in relation to the purchase or other acquisition by the licensee of System Support Services other than those System Support Services for which, at the date so specified, it shall already have contracted.

Part III C

**Condition 15: Provision of Information to other system operators**

1. Subject to the provisions of Condition 9 of Part II, the transmission system operator shall furnish to other system operators, in such manner and at such times as may be reasonably required, such information as may reasonably be required by other system operators in order to ensure the secure and efficient operation, co-ordinated development and inter-operability of the interconnected system in accordance with Article 7.49 of Directive 96/92/EC of the European Parliament and of the Council Directive 2003/43/EC.

Part III C

**Condition 16: Operating Security Standard**

1. The transmission system operator shall make arrangements sufficient to meet the operating security standard.

2. The operating security standard is such level of operational security as was achieved immediately prior to the transfer date. Such level shall continue to be achieved by ensuring that:

(a) in normal operating conditions and where sufficient generating capacity is available to meet:

(i) the forecast demand; and

(ii) the spinning reserve constraint;

whilst applying the impact factor constraint, that capacity shall be despatched in accordance with the Grid Code; or

(b) such other or further measures as the Authority shall, upon the application of the licensee, agree shall be sufficient to ensure the same level of operational security.

3. Notwithstanding paragraph 1, the transmission system operator may interrupt or reduce a supply of electricity in circumstances where:

(a) it is necessary to do so by reason of planned maintenance undertaken on the transmission system or the distribution system or by reason of a fault on or affecting either the transmission system or the distribution system or the quantities of electricity delivered into the system or by reason of damage to or destruction of a gas pipeline; or

(b) electricity is available for purchase under the terms of the arrangements for trading electricity established by or referred to in the Supply Competition Code but:

(i) only at a price greater than the maximum energy price; or

(ii) the transmission system operator is prevented from despatching electricity by reason of relevant constraints; or

(c) it is necessary to do so to maintain the security and stability of the total system by reason of a sudden unplanned loss of a single infeed to the total system until the time at which the transmission system operator is again able to meet all demand on the total system.

4. The transmission system operator shall upon request by the Authority provide to the Authority such information as the Authority may require for the purpose of monitoring compliance with this Condition and to enable the Authority (having regard to its statutory duties) to review the operation of the operating security standard.

5. In this Condition:

“**forecast demand**” means the transmission system operator's forecast (made in accordance with the Grid Code) of the demand on the total system at any relevant time;

“**impact factor constraint**” means the requirement that under normal operating conditions no single infeed shall be required to provide more than 22% of all demand on the total system;

“**largest single infeed**” means the single infeed which at the relevant time is providing an amount of electricity to the total system which is more than any other;

“**level of operational security**” means the incidence of interruptions of supply or reductions in frequency or voltage below usual operational limits by reason of a sudden unplanned loss of a single infeed to the total system;

“**maximum energy price**”777[[77]](#footnote-77)5 means in respect of the financial year commencing on 1 April 2002, the sum of £0.40 per kWh and, in respect of each succeeding financial year, the sum which corresponds to £0.40 per kWh multiplied by the change in price paid by major power producers for natural gas, where the change in price paid by major power producers for natural gas is calculated by dividing the price paid by major power producers for natural gas in the calendar year ending the December before that financial year by the price paid by major power producers for natural gas in the 2002 calendar year;

|  |  |
| --- | --- |
| “**price paid by major power producers for natural gas**” 787[[78]](#footnote-78)6 | means the price paid by major power producers for natural gas as published in table 3.2.1, entitled “Average prices of fuels purchased by the major UK power producers and of gas at UK delivery points”, in the “Quarterly Energy Prices” bulletin published by the Department of Trade and Industry;  |

“**relevant constraints**” means constraints on the total system or on any interconnector;

“**single infeed**” means:

(a) a single generation set (or more than one generation set connected to the total system through a single transformer); and

(b) in relation to an interconnector, such part of an interconnector;

which is liable to sudden interruption in the event of a single fault other than damage to or destruction of a gas pipeline;

“**spinning reserve capability**” means the transmission system operator's reasonable expectation of the ability (in MW) of a generation set or interconnector to lift load and sustain it during and following a period when the system frequency is at or below 49.5 Hz;

“**spinning reserve constraint**” means the requirement that under normal operating conditions the total of the spinning reserve capability of all the generation sets and interconnectors connected to the total system shall at the relevant time be 68% of the output of the largest single infeed.

6. In the event that the basis of calculation of any of the indices or publications used for the purposes of this Condition 16, or if any one or more of those indices or publications should cease publication, the Authority may (after consultation with the licensee) substitute an alternative index or publication with effect from the date of change or cessation of the index or publication.797[[79]](#footnote-79)7

Part III C

# Condition 16A: System Support Services (SSS) Charge807[[80]](#footnote-80)8

1. The transmission system operator shall, as soon as practicable after the transmission licence 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 SSS charges applicable to relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area).

2. Without prejudice to paragraph 3 and Schedule 5B, the schedule of SSS charges shall:

(a) be in a form which shall require to be approved by the Authority (and in the case of the first financial year, also by the Department);

(b) contain such detail as shall be necessary to enable any relevant supplier (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) to make a reasonable estimate of the charges to which it would become liable; and

(c) (without prejudice to the foregoing generality):

(i) separately identify the charges to relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) for electricity delivered at specified times of the year, days of the week, and times of the day and night; and

(ii) include a schedule of adjustment factors (depending on the voltage at which the connection is made) to be made in respect of transmission and distribution losses.

3. The schedule of SSS charges shall be set in accordance with Schedule 5B.

4. When charging relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) the SSS charge, the transmission system operator shall not discriminate:

(a) as between any relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area) or class or classes of relevant suppliers; or

(b) as between the licensee (in its capacity as public electricity supplier) and any relevant supplier or relevant suppliers or class or classes of relevant suppliers (and where applicable, to exempt suppliers, to other persons inside the authorised transmission area and to persons outside the authorised transmission area).

5. Not used

6. Not used

7. Not used

8. The transmission system operator shall give or send a copy of the schedule of SSS charges (as from time to time revised) to the Authority not later than 14 days before it is to be made available to any other person.

9. The transmission system operator shall (subject to paragraph 10) give or send a copy of the schedule of SSS charges (as from time to time revised) to any person requesting the same.

10. The transmission system operator may make a charge for any copy of the schedule of SSS charges (as from time to time revised) given or sent pursuant to paragraph 9 of an amount 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.

11. The transmission system operator shall not in setting the schedule of SSS charges restrict, distort or prevent competition in the generation, transmission, distribution or supply of electricity.

12. The Authority may give to the licensee directions requiring the licensee to alter the form of the schedule of SSS 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. No such directions may:

(a) Not used

(b) have the effect of reducing the ability of the licensee to ensure that in any relevant year the regulated SSS revenue shall not be likely to be less than the maximum regulated SSS revenue calculated in accordance with Schedule 5B. Terms used in this sub‑paragraph shall have the meanings ascribed to them in Schedule 5B.

The licensee shall forthwith comply with any such directions.

13. Not used.

14. In this Condition:

"**metered**" means as measured by metering required pursuant to and defined in the Grid Code or (where no such meter is installed) as otherwise reasonably calculated.

**“exempt supplier”** means a person exempt from the requirement to hold a licence under Article 10 (1) (c) and 10 (2) of the Order.

15. The transmission system operator is authorised to collect the SSS charge. The transmission system operator may act as an agent and may collect bulk supply tariff revenue and public service obligation charge revenue (along with SSS charge revenue) to cover costs which are incurred by the power procurement manager. These bulk supply tariff and PSO revenues must be transferred as soon as reasonably practicable to the power procurement manager.

Part III D

**Condition 17: Land**

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;

(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. The power procurement manager shall pay to the Land Bank Business:

(a) an amount equal to the costs of the licensee in dealing with the land bank in accordance with the directions issued to it by the Authority pursuant to paragraph 1; and

(b) if and to the extent that no such directions shall have been issued in relation to any part of the land bank, an amount equal to the costs of the licensee in dealing with any such part;

less any amount which the Land Bank Business shall have received or be 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.

4. Paragraph 3 shall cease to have effect on the date upon which the Authority shall first exercise its cancellation powers.

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;

"**initial lease**" means a designated lease granted to one of Ballylumford Power Limited, Belfast West Power Limited, Coolkeeragh Power Limited or Kilroot Power Limited;

"**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.

Part III E

**Condition 18: Transmission and distribution charge restriction conditions**

1. The transmission licence is subject to the Conditions in Schedule 4.

2. The transmission licence is not subject to the Conditions in Schedule 6.

3. The public electricity supply licence is not subject to the Conditions in Schedule 5.

Part III F

**Condition 19: Basis of charges for use of interconnectors****81****7[[81]](#footnote-81)9**

1. Unless (and except for so long as) the Authority, upon the application of the licensee, approves otherwise, charges for use of any interconnector shall be made in accordance with the procedure for the setting of such charges embodied in the relevant access arrangements applicable to that interconnector from time to time.
2. In this Condition and Conditions 20, 21 and 22 of Part III, "**relevant access arrangements**" means, in relation to any interconnector, arrangements approved bythe Authority for the entering into by the licensee with other persons (including the Supply Business, the Power Procurement Business and the TSO Business) of agreements to transport across such interconnector electricity to be provided by or on behalf of such persons (which arrangements may, without limitation, include provision for the granting of rights to use such interconnector by way of the transmission system operator, on behalf of the licensee, inviting competitive bids through an auction or other process).

Part III F

**Condition 19A****82****8[[82]](#footnote-82)0****: Licensee to Recover Collection Agency Income Requirement and to enter into Operating Agency Agreement**

1. The Licensee shall enter into the Moyle Interconnector Collection Agency Agreement and, subject to and in accordance with its obligations under the Moyle Interconnector Collection Agency Agreement, recover, through its transmission and distribution charges (as defined in paragraph 1 of Schedule 4), the amount included therein in respect of the term CAIRt, (as defined in paragraph 2 of Schedule 4) and account to Moyle for the amounts so recovered by it.
2. The licensee shall procure that SONI Limited enters into the Operation Agency Agreement.
3. The licensee shall not make or agree to any amendment (excluding any amendment of a formal, technical or administrative nature) to the Moyle Interconnector Collection Agency Agreement or the Operating Agency Agreement, without the consent of the Authority.

Part III F

**Condition 20: Non-discrimination in the provision of use of interconnectors****83****8[[83]](#footnote-83)1**

1. In the provision of use of interconnectors the licensee shall not unduly discriminate:
2. between any person or class or classes of persons: or
3. between the licensee (in the provision of use of interconnectors by the licensee to itself for the purpose of the Supply Business or the Power Procurement Business or the TSO Business) and any person or class or classes of persons.
4. Without prejudice to paragraph 1, the licensee shall not make charges for the provision of use of interconnectors to any person or class or classes of persons which differ from the charges for such provision:
5. to any other person or class or classes of persons; or
6. to the licensee (in the provision of use of interconnectors by the licensee to itself for the purposes of the Supply Business or the Power Procurement Business or the TSO Business)

except insofar as such differences reasonably reflect differences in the costs associated with such provision or differences in the scope of the services provided under the relevant use of interconnector agreement or result from the operation of relevant access arrangements in accordance with their terms, including without limitation, from the grant of use of interconnector rights pursuant to any auction process contemplated by relevant access arrangements or as otherwise approved by the Authority.

1. The licensee shall not in making charges for use of interconnectors restrict, distort or prevent competition in the transmission, distribution, generation or supply of electricity.
2. The licensee shall not be in breach of this Condition;
3. where by reason of having previously granted use of interconnectors, there is no further available capacity of any relevant interconnector in respect of which to grant use of interconnectors or where the transmission system operator allocates the available capacity of a relevant interconnector in accordance with the arrangements for such allocation operated by it from time to time in circumstances where the transmission system operator has determined that any one or more particular interconnection capacities are insufficient to meet the requirements of all persons to whom use of interconnectors has been granted; or
4. by reason only of a failure to do or not do any thing which it is prevented from doing or not doing by reason of a failure by any co-operator to comply with and perform its obligations under any agreement with that co-operator concerning the relevant interconnector or by a party (other than the licensee or any affiliate or related undertaking of the licensee) to a related document or a person who is obliged to comply with a related document to comply with and perform its obligations under the related document in question; or
5. by reason of establishing and performing its obligations under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document.
6. The licensee shall keep and maintain such records concerning the provision of use of interconnectors as are, in the opinion of the Authority, sufficient to enable the Authority to assess whether the licensee is performing its obligations under paragraph 1 and the licensee shall furnish to the Authority such records (or such of these as the Authority may require), in such manner and at such times as the Authority may require.
7. In this Condition and in Conditions 21 and 22 of Part III:

"**co-operator**" means any person other than the licensee or any affiliate or related undertaking of the licensee who owns assets which are used in conjunction with an interconnector or who is able to exercise jointly with the licensee control over the use made of the interconnector;

**particular interconnection capacity**"means the capacity of an interconnector for transferring electricity into or out of Northern Ireland under any particular system conditions;

"**related document**" means any agreement, code, rules, or arrangement relating to the use of the interconnector in question for the time being in force and to which the licensee is a party or with which the licensee is obliged to comply.

Part III F

**Condition 21:** **Requirement to give third party access pursuant to relevant access arrangements****84****8[[84]](#footnote-84)2**

1. The licensee shall

(a) establish relevant access arrangements in relation to each interconnector, not later than 1st January 2002 or, in the case of any interconnector which is commissioned after such date, not later than 3 months before the date on which the licensee anticipates that such commissioning will be completed or such other date as shall be agreed in writing between the licensee and the Authority; and

(b) (subject to paragraph 2) give effect to and operate the relevant access arrangements which are in force from time to time.

2. The licensee shall not be obliged pursuant to this Condition to offer to enter into or to enter into an agreement for use of a relevant interconnector with any person:-

(a) if to do so would be likely to involve the licensee:

(i) in breach of its duties under Article 12 of the Order; or

(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable to the relevant interconnector; or

(iii) in breach of any of the Conditions; or

(b) if the person making the application does not undertake to be bound by the terms of:

(i) such parts of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition;

(ii) the Supply Competition Code;

(iii) the terms of any code of general application or agreement made between the licensee and any co-operator of the relevant interconnector governing the operation and maintenance of the interconnector approved for the time being by the Authority; and

(iv) any balancing, settlement or like arrangements including the Interim Settlement Arrangements which are in force from time to time; or

(c) where, on the application of the licensee or any other person, the Authority in its discretion shall determine that (having regard to the part of the capacity of the relevant interconnector already contracted to persons other than the licensee and affiliates and related undertakings of the licensee and the part thereof approved (for such period as shall be specified in the approval) by the Authority as being reserved to the licensee and affiliates and related undertakings of the licensee for the purpose of the Supply Business or the Power Procurement Business or the TSO Business) the capacity of the relevant interconnector is insufficient to accommodate the requirements of that other person.

3. The licensee shall (in consultation with authorised electricity operators liable to be materially affected thereby and any relevant co-operator) periodically review (including upon the request of the Authority) the relevant access arrangements which are in force from time to time. Following any such review, the licensee shall send to the Authority:

(a) a report on the outcome of such review; and

(b) any proposed revisions to the relevant access arrangements which the licensee (having regard to the outcome of such review) reasonably thinks fit; and

(c) any written representations or objections from authorised electricity operators or co-operators (including any proposals by any such person for revisions to the relevant access arrangements not accepted by the licensee in the course of such review) arising during the consultation process and subsequently maintained

4. Revisions to the relevant access arrangements proposed by the licensee and sent to the Authority pursuant to paragraph 3 shall require to be approved by the Authority.

5. Having regard to any written representations or objections referred to in sub-paragraph (c) of paragraph 3, and following such further consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise the relevant access arrangements in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.

6. The licensee shall give or send a copy of the relevant access arrangements from time to time in force to the Authority.

7. The licensee shall (subject to paragraph 8) give or send a copy of the relevant access arrangements from time to time in force to any person requesting the same.

8. The licensee may make a charge for any copy given or sent pursuant to paragraph 7 of an amount which will not exceed any amount specified for the time being for the purposes of this Condition in directions issued by the Authority.

9. The licensee shall within 28 days following receipt of a request from any person, give or send to such person such information in the possession of the licensee as may be reasonably required by such person for the purpose of completing the appropriate paragraphs of the Electricity (Applications for Licences and Extensions of Licences) Regulations (Northern Ireland) 1992 or such provisions to like effect contained in any further regulations then in force made pursuant to Articles 10(3) and 64 of the Order.

10. In this Condition:-

"**relevant authority**" means, in the case of a reservation of capacity of a relevant interconnector applied for by the licensee prior to 31 March 1992, the Department, and in every other case, the Authority.]

Part III F

**Condition 22: Functions of the Authority****85****8[[85]](#footnote-85)3**

1. Upon the application of any person wishing to question the terms of an agreement for use of an interconnector offered by or to be entered into by the licensee pursuant to any relevant access arrangements applicable to such interconnector or required to be offered under the terms of any agreement previously entered into for use of an interconnector by the person or persons entitled to use thereunder, or upon the application of the licensee, the Authority may, pursuant to Article 11(3)(c) of the Order, settle any terms of the agreement in dispute between the licensee and that person or between such persons (as the case may be) in such manner as appears to the Authority to be reasonable having (insofar as relevant) regard in particular to the following considerations:
2. that such person should pay to the licensee charges determined in accordance with the procedure for the setting of such charges embodied in the relevant access arrangements applicable to such interconnector;
3. that the obligations of the licensee under the agreement should not be in conflict with the provisions of any related document for the time being approved by the Authority;
4. that the performance by the licensee of its obligations under the agreement should not cause it to be in breach of those provisions referred to in sub-paragraphs (a) or (b) of paragraph 2 of Condition 21 of Part III; and
5. that the terms and conditions of the agreement so settled by the Authority and of any other agreements entered into by the licensee for the use of such interconnector pursuant to relevant access arrangements should be, so far as circumstances allow, in as similar a form as practicable.
6. The Authority shall issue a decision within two months after receipt of a complaint pursuant to paragraph 1 above. This two-month period may be extended by a further two months where additional information is sought by the Authority, and by more than two months with the agreement of the complainant.
7. 2. Insofar as any person who has received an offer such as is referred to in paragraph 1 wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into and implement such agreement in accordance with its terms.
8. 3. If either party to an agreement entered into pursuant to relevant access arrangements proposes to vary the contractual terms of such agreement in any manner provided for under such agreement, the Authority may, at the request of the licensee or other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Authority to be reasonable.

Part III F

**Condition 23: Requests for transit**

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

(a) use of system;

(b) connection to the licensee's transmission system or modification of an existing connection; or

(c) use of interconnectors;

notify the Department, the Authority and the Commission of the European Communities without delay of the matters set out in paragraph 2.

2. The matters of which notification must be given are:

(a) the application;

(b) if an agreement has not been concluded within 12 months of the date of receipt of the application, the reasons for the failure to conclude it;

(c) the conclusion of the agreement, whether it is concluded before or after the expiry of the period mentioned in sub-paragraph (b) above.

3. If, in relation to an application for transit by any entity, the Authority has been requested to exercise its powers under Condition 22 of Part III, the Authority may delay the exercise of its said powers until the terms have been considered by the body set up under Article 3.4 of the Directive and the Authority may give such weight to the opinion (if any) of that body as it thinks fit in exercising its said powers.

4. In this Condition:

"**entity**" means any of the entities referred to in Article 3.1 of the Directive;

"**Directive**" means the Directive of the Council of the European Communities, dated 29 October 1990 (No. 90/547/EEC), on the transit of electricity through transmission grids;

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

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

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

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

(b) the transport involves:

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

(ii) the use of the licensee's transmission system and at least two other grids.

Part III G

**Condition 24: Interim Settlement Arrangements**

1. The transmission system operator shall establish interim settlement arrangements to facilitate the achievement of the objective set out in paragraph 2 (the "**relevant objective**").

2. The relevant objective is to provide for the identification and settlement of imbalances arising from bilateral contracts involving participating generators and participating suppliers for the sale and purchase of electricity to be supplied to eligible customers (as defined in the Supply Competition Code) and related matters.

3. The transmission system operator shall, in connection with the establishment of the arrangements referred to in paragraph 1 above, prepare an Interim Settlement Code and a pro forma Interim Settlement Agreement, both of which shall be furnished to the Authority for its approval.

4. The Interim Settlement Code shall include:

(a) rules for notifying the transmission system operator of the volumes of electricity to be delivered under bilateral contracts involving participating generators and participating suppliers for the sale and purchase of electricity, including volumes to be dispatched from the generating units of participating generators and supplied by participating suppliers to eligible customers (as defined in the Supply Competition Code);

(b) bidding rules to establish the prices at which participating generators offer additional generation capacity for dispatch;

(c) information requirements including the nature of the information, its format and where and when it must be given and to whom;

(d) rules for the calculation of payments relating to imbalances;

(e) rules for the calculation and payment of charges associated with participation in the interim settlement arrangements; and

(f) security arrangements in relation to payments to be made pursuant to the interim settlement arrangements.

5. The pro forma Interim Settlement Agreement shall require compliance with the Interim Settlement Code and shall include:

(a) conditions for participation in the arrangements established by the Interim Settlement Code; and

(b) remedies for non-compliance.

6. On application made by any person, the transmission system operator shall, as soon as practicable and (save where the Authority consents to a longer period) in any event not later than 14 days after receipt by the transmission system operator of the duly completed application, offer to enter into an Interim Settlement Agreement with such person which shall be substantially the same as the approved pro forma Interim Settlement Agreement.

7. The transmission system operator shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement:

(a) if to do so would involve the transmission system operator:

(i) in breach of its duties under Article 12 of the Order; or

(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the Distribution Business or Transmission Business; or

(iii) in breach of the Conditions to which the public electricity supply licence or the transmission licence is subject; or

(iv) in breach of the Grid Code; or

(b) if to do so would cause the transmission system operator to be in breach of the Distribution Code or if the person making the application does not undertake to be bound by such parts of the Distribution Code and of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the transmission system operator for the purposes of this Condition.

8. The transmission system operator shall not enter into any agreements or arrangements for the purposes of the relevant objective except in conformity with the approved Interim Settlement Code and under an Interim Settlement Agreement being substantially the same as the approved pro forma Interim Settlement Agreement.

9. Upon the application of any person wishing to question the terms of an agreement offered pursuant to paragraph 6 above, or upon the application of the transmission system operator, the Authority may, pursuant to Article 11(3)(c) of the Order, settle any terms of the agreement in dispute between the transmission system operator and that person in such manner as appears to the Authority to be reasonable.

10. Insofar as any person entitled to an offer under this condition wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into, and implement such agreement in accordance with its terms.

11. The transmission system operator shall, in consultation with any authorised electricity operator liable to be materially affected thereby and such other persons as the Authority shall consider appropriate periodically review the Interim Settlement Code and its implementation.

12. In addition to periodic review in accordance with paragraph 11, the transmission system operator shall, in consultation with any authorised electricity operator liable to be materially affected thereby and such other persons as the Authority shall consider appropriate review the Interim Settlement Code and its implementation:

(a) subject to the prior approval of the Authority, at the request of any authorised electricity operator;

(b) at the request of the Authority.

13. Following such review, the transmission system operator shall send to the Authority:

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

(b) any revisions which it is proposed to make to the Interim Settlement Code (having regard to the outcome of the review); and

(c) any written representations or objections from authorised electricity operators (including any proposals by such operators for revisions to the Interim Settlement Code not accepted by the transmission system operator in the course of the review) arising during the consultation process and subsequently maintained.

14. Revisions to the Interim Settlement Code proposed by the transmission system operator and sent to the Authority pursuant to paragraph 13 shall require to be approved by the Authority.

15. The Authority may, following such further consultation (if any) as the Authority may consider appropriate and having regard to any written representation or objection referred to in sub-paragraph (c) of paragraph 13, issue directions requiring the transmission system operator to revise the Interim Settlement Code as may be specified in the directions and the transmission system operator shall forthwith comply with any such directions.

15A. Where it appears to the transmission system operator that there has been or there is going to be a revision of the Interim Settlement Code under paragraph 15 of this Condition which has had or is likely to have a material effect on the financial position of the transmission system operator, the transmission system operator may require the Authority to determine whether the revision to the Interim Settlement Code has had or is likely to have such an effect and if so what charge, if any, the transmission system operator can make under the Interim Settlement Code to ensure that the financial position and performance of the transmission system operator is likely, so far as reasonably practicable, to be the same as if the relevant revision had not taken place.

16. The transmission system operator shall (subject to paragraph 17) give or send a copy of the pro forma Interim Settlement Agreement and the Interim Settlement Code to any person requesting the same.

17. The transmission system operator may make a charge for any copy given or sent pursuant to paragraph 16 of any amount reflecting the transmission system operator's reasonable costs of the documents 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.

18. The Interim Settlement Code and this Condition shall cease to apply at 6:00am on 30 June 2000 unless, subject to the agreement of the transmission system operator, the Authority, taking into account any representations received from participating generators and participating suppliers, otherwise determines.

19. In this Condition:

"**participating generator**" means a generator who is party to an Interim Settlement Agreement and "**generator**" for the purposes of this definition, shall include persons who are exempt by virtue of schedule one of the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992;

"**participating supplier**" means a supplier who is party to an Interim Settlement Agreement and “supplier” for the purposes of this Condition shall include relevant suppliers and persons who are exempt by virtue of schedule two of the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992.

Part III G

**Condition 25: Trading Arrangements**

1. The licensee shall use its reasonable endeavours in conjunction with other licence holders to facilitate the development of trading arrangements which, subject to paragraph 3, will supersede the interim settlement arrangements established under Condition 24 of Part III for the trading of electricity between authorised electricity operators with a view to developing more flexible trading arrangements to facilitate the competitive electricity market as envisaged by Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricityCouncil Directive 2003/43/EC.

2. The arrangements referred to in paragraph (1) above shall be developed in accordance with such timetable and in such format as the Authority shall consider appropriate and shall require to be approved by the Authority.

3. If, as part of the process referred to in paragraph 1 above, the licensee and the other licence holders agree that the interim settlement arrangements meet the criteria specified in paragraph 1 above and that it will not be advantageous for the interim settlement arrangements to be replaced and superseded by other trading arrangements the licensee and the other licence holders together shall notify the Authority accordingly. Subject to the approval of the Authority, the interim settlement arrangements will then remain in force and effect and will become, and be, the trading arrangements referred to in paragraph 1 above.

Part III G

**Condition 26: Guidelines relating to supplies to premises within the licensee's authorised supply area by persons other than the licensee**

1. The licensee shall, by not later than such date as the Authority shall specify, establish guidelines in respect of supplies to relevant premises by persons other than the licensee and supplies pursuant to the renewable output factor arrangements which shall be approved by the Authority and shall include information regarding the following:

(a) the market for eligible customers (as defined in the Supply Competition Code);

(b) access to the licensee's transmission and distribution system;

(c) the interim trading arrangements established pursuant to Condition 24 of Part III and the renewable output factor arrangements; and

(d) the registration requirements for participating suppliers (as defined in Condition 24 of Part III of this Licence Document) and for relevant suppliers participating in the renewable output factor arrangements.

2. The licensee may periodically revise the relevant second tier supply guidelines and shall revise the guidelines at least once in every year that the interim settlement arrangements are in effect in order that the information set out in the guidelines shall continue to be accurate in all material respects. Each such revision shall require to be approved by the Authority.

3. The licensee shall give or send a copy of the relevant second tier supply guidelines to the Authority.

4. The licensee shall (subject to paragraph 5) give or send a copy of the relevant second tier supply guidelines to any person requesting the same.

5. The licensee may make a charge for any copy given or sent pursuant to paragraph 4 of an amount which will not exceed any amount specified for the time being for the purposes of this Condition in directions issued by the Authority.

6. In this Condition:

“**relevant second tier** means guidelines to be prepared in accordance

**supply guidelines**” with paragraph 1 of this Condition;

“**relevant premises**” means premises occupied by an eligible customer (as defined in the Supply Competition Code) and situated within the licensee's authorised supply area;

**“renewable output factor** means the arrangements established under Condition

**arrangements”** 27 of Part III (Renewable output factorarrangements)

 of this Licence Document.

PART III H

**Condition 27: Renewable Output Factor Arrangements**

1. The licensee shall establish renewable output factor arrangements to facilitate the achievement of the objective set out in paragraph 2 (the “relevant objective”).

2. The relevant objective is to facilitate the promotion by the Authority of renewable source electricity by providing arrangements whereby settlement of renewable source electricity is dealt with over an extended balancing period in accordance with specific requirements in order to reduce the risks for those selling renewable source electricity of imbalances between output and demand and to simplify settlement requirements, and related matters.

3. The licensee shall, in connection with the establishment of the arrangements referred to in paragraph 1 above, prepare a renewable output factor code and a pro forma renewable output factor participation agreement, both of which shall be furnished to the Authority for its approval.

4. The renewable output factor code shall include:

(a) rules governing the eligibility to participate;

(b) information requirements including the nature of the information, its format and where and when it must be given and to whom;

(c) rules to limit the potential for misuse of the renewable output factor arrangements and associated remedies;

(d) rules for the calculation of payments, delivery of associated benefits and other obligations at the end of the extended balancing period;

(e) rules for the calculation of security payments, delivery of associated benefits and other obligations at regular intervals during the extended balancing period;

(f) rules for the calculation and payment of charges associated with participation in the renewable output factor arrangements;

(g) provisions as to requirements for certificates and other material relating to eligibility and participation; and

(h) provisions for there to be referred to the Authority for determination such matters arising under the renewable output factor arrangements as may be specified in them.

5. The pro forma renewable output factor participation agreement shall require compliance with the renewable output factor code and shall include:

(a) conditions for participation in the arrangements established by the renewable output factor code;

(b) remedies for non-compliance;

(c) security arrangements in relation to payments to be made pursuant to the renewable output factor arrangements; and

(d) termination arrangements.

6. On application made by any relevant supplier, the licensee shall, as soon as practicable and (save where the Authority consents to a longer period) in any event not later than 14 days after receipt by the licensee of the duly completed application, offer to enter into a renewable output factor participation agreement with such person which shall be substantially the same as the approved pro forma renewable output factor participation agreement.

7. The licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement:

(a) if to do so would involve the licensee being:

(i) in breach of its duties under Article 12 of the Order; or

(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the Distribution Business or Transmission Business; or

(iii) in breach of any of the Conditions to which the public electricity supply licence or the transmission licence is subject; or

(iv) in breach of the Grid Code; or

(b) if to do so would cause the licensee to be in breach of the Distribution Code or if the person making the application does not undertake to be bound by such parts of the Distribution Code and of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition.

8. The licensee shall not (subject to paragraph 10) enter into any agreements or arrangements for the purposes of the relevant objective except in conformity with the approved renewable output factor code and under a renewable output factor participation agreement being substantially the same as the approved pro forma renewable output factor participation agreement.

9. Upon the application of any person wishing to question the terms of an agreement offered pursuant to paragraph 6 above, or upon the application of the licensee, the Authority may, pursuant to Article 11(3)(c) of the Order, settle any terms of the agreement in dispute between the licensee and that person in such manner as appears to the Authority to be reasonable.

10. Insofar as any person entitled to an offer under this condition wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into, and implement such agreement in accordance with its terms.

11. The licensee shall, in consultation with any authorised electricity operator liable to be materially affected thereby and such other persons as the Authority shall consider appropriate periodically review the renewable output factor code and its implementation.

12. In addition to periodic review in accordance with paragraph 11, the licensee shall, in consultation with any authorised electricity operator liable to be materially affected thereby and such other persons as the Authority shall consider appropriate, review the renewable output factor code and its implementation:

(a) subject to the prior approval of the Authority, at the request of any authorised electricity operator; or

(b) at the request of the Authority.

13. Following such review, the licensee shall send to the Authority:

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

(b) any revisions which it is proposed to make to the renewable output factor code (having regard to the outcome of the review); and

(c) any written representations or objections from authorised electricity operators (including any proposals by such operators for revisions to the renewable output factor code not accepted by the licensee in the course of the review) arising during the consultation process and subsequently maintained.

14. Revisions to the renewable output factor code proposed by the licensee and sent to the Authority pursuant to paragraph 13 shall require to be approved by the Authority.

15. The Authority may, following such further consultation (if any) as the Authority may consider appropriate and having regard to any written representation or objection referred to in sub-paragraph (c) of paragraph 13, issue directions requiring the licensee to revise the renewable output factor code as may be specified in the directions and the licensee shall forthwith comply with any such directions.

16. Where it appears to the licensee that there has been or there is going to be a revision of the renewable output factor code under paragraph 15 of this Condition which has had or is likely to have a material effect on the financial position of the licensee, the licensee may require the Authority to determine whether the revision to the renewable output factor code has had or is likely to have such an effect and if so what charge, if any, the licensee can make under the renewable output factor code to ensure that the financial position and performance of the licensee is likely, so far as reasonably practicable, to be the same as if the relevant revision had not taken place.

17. The licensee shall (subject to paragraph 18) give or send a copy of the pro forma renewable output factor participation agreement and renewable output factor code to any person requesting the same.

18. The licensee may make a charge for any copy given or sent pursuant to paragraph 17 of any amount reflecting the licensee’s reasonable costs of the documents, 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.

19. This Condition shall cease to have effect if the Authority delivers to the licensee a notice given for the purposes of this paragraph, such notice to take effect from the date stated in the notice.

20. In this Condition:

**“associated benefits”**  means green benefits and embedded benefits, each as defined in Condition 28 of Part III of this Licence Document;

**“renewable source electricity"** means electricity generated from non-fossil fuel generating sets (within the meaning of the Supply Competition Code) and that is of a class or type and satisfies such other eligibility criteria as may be specified by the licensee for the purposes of this Condition with the approval of the Authority from time to time.

Part III H

**Condition 28**: **Small Renewable Spill Arrangements**

1. The licensee shall establish arrangements for small renewable generating units to facilitate the achievement of the objective set out in paragraph 2 (the “relevant objective”).

2. The relevant objective is to facilitate the promotion by the Authority of renewable generation in Northern Ireland by providing arrangements whereby the licensee purchases renewable spill and the associated benefits from small renewable generating units under a tariff.

3. The licensee shall, in connection with the establishment of the arrangements referred to in paragraph 1 above, prepare a pro forma renewable spill agreement, which shall be furnished to the Authority for its approval, and may be amended from time to time subject to the Authority's approval.

4. The pro forma renewable spill agreement shall include:

(a) provisions governing eligibility to enter into a renewable spill agreement;

(b) provisions about calculating the quantity of small renewable spill and associated benefits;

(c) information requirements including the nature of the information, its format and where and when it must be given and to whom;

(d) provisions about payments for the renewable source electricity and associated benefits and related obligations;

(e) remedies for non-compliance; and

(f) termination arrangements; and

(g) provisions for there to be referred to the Authority for determination such matters arising under the small renewable spill agreement and the small renewable spill tariff as may be specified in them.

5. On application made by any person, the licensee shall, as soon as practicable and (save where the Authority consents to a longer period) in any event not later than 14 days after receipt by the licensee of the duly completed application, offer to enter into a renewable spill agreement with such person which shall be substantially the same as the approved pro forma renewable spill agreement.

6. The licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement:

(a) if to do so would involve the licensee being:

(i) in breach of its duties under Article 12 of the Order; or

(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the Distribution Business or Transmission Business; or

(iii) in breach of any of the Conditions to which the public electricity supply licence or the transmission licence is subject; or

(iv) in breach of the Grid Code; or

(b) if to do so would cause the licensee to be in breach of the Distribution Code or if the person making the application does not undertake to be bound by such parts of the Distribution Code and of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the licensee for the purposes of this Condition.

7. The licensee shall not, subject to paragraph 10, enter into any agreements or arrangements for the purposes of the relevant objective except under a renewable spill agreement being substantially the same as the approved pro forma renewable spill agreement.

8. Upon the application of any person wishing to question the terms of an agreement offered pursuant to paragraph 6 above, or upon the application of the licensee, the Authority may, pursuant to Article 11(3)(c) of the Order, settle any terms of the agreement in dispute between the licensee and that person in such manner as appears to the Authority to be reasonable.

9. Insofar as any person entitled to an offer under this condition wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into, and implement such agreement in accordance with its terms.

10. The tariff paid by the licensee under a renewable spill agreement and associated terms shall be set by the licensee with the approval of the Authority. The tariff price is to be set in accordance with the following principles:

(a) the price shall be less than the prevailing market price paid for electricity from renewable sources and associated benefits in Northern Ireland; and

(b) that part of the price representing payment for electricity and generating capacity may be above the prevailing market price in Northern Ireland for electricity that is not electricity from renewable sources.

11. The licensee shall (subject to paragraph 13) give or send a copy of the pro forma renewable spill agreement to any person requesting the same.

12. The licensee may make a charge for any copy given or sent pursuant to paragraph 12 of any amount reflecting the licensee’s reasonable costs of the documents 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.

13. This Condition shall cease to have effect if the Authority delivers to the licensee a notice given for the purposes of this paragraph, such notice to take effect from the date stated in the notice.

14. In this Condition:

 **“associated benefits”** means embedded benefits and green benefits;

 **“embedded benefits”** means benefits available by virtue of a generating unit being connected to a distribution network, including rebates, payments and avoided costs and any instruments associated with such benefits;

**“green benefits”** means benefits available by virtue of a generating unit using non-fossil or carbon emission saving fuels or waste to generate electricity, including payments, rebates and avoided costs, and any instrument associated with such benefits, including renewables obligation certificates which are or will become available in Northern Ireland and levy exemption certificates under Schedule 6 of the Finance Act 2000;

**“same site”**  includes sites immediately adjoining each other and sites separated from each other only by road, railway or water course or by another site owned by the person, or any affiliate of the person, that owns the separated sites;

**“small renewable** means a non-fossil fuel generating set (within the

**generating unit”** meaning of the Supply Competition Code) located in Northern Ireland and that whether taken alone or together with other generating sets on the same site has a maximum export capacity to the distribution system of 100 kW;

**“small renewable**  means electricity that is generated from small renewable

 **spill”** generating units and that is of a class or type and satisfies such other eligibility criteria as may be specified by the licensee for the purposes of this Condition with the approval of the Authority from time to time;

**PART IV: CONDITIONS APPLICABLE TO THE PUBLIC ELECTRICITY SUPPLY LICENCE**

Part IV A

**Condition 1: Scope of application of Part IV**

Except as provided in paragraph 6 of Condition 1 of Part II:

(a) the public electricity supply licence is subject to the Conditions in Part IV (including where such Conditions relate to activities other than those authorised by that licence); and

(b) the transmission licence is not subject to the Conditions in Part IV.

Part IV B

**Condition 2: Standards of performance**

The licensee shall conduct the Supply and Distribution Businesses in the manner which it reasonably considers to be best calculated to achieve any standards of overall performance or standards of performance in connection with the promotion of the efficient use of electricity by customers that may be determined by the Authority pursuant to Articles 43 and 44 respectively of the Order

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Part IV C

**Condition 3: Public electricity supply and transmission and distribution charge restriction conditions**

1. The public electricity supply licence is subject to the Conditions in Schedules 4 and 6.

2. The public electricity supply licence is not subject to the Conditions in Schedule 5.

3. The transmission licence is not subject to the Conditions in Schedule 6.

Part IV C

**Condition 4: Provision of comments to the Authority on information and advice**

1. 1. The licensee shall, if so requested by the Authority, give reasoned comments on the accuracy and text of any information and advice, so far as relating to the Supply and Distribution Businesses, which the Authority proposes to publish pursuant to Article 7 of the Energy Order.
2. 2. The licensee may not be required by the Authority to furnish the Authority under this Condition with information for the purpose of the exercise of the Authority’s functions under Article 7 of the Energy Order.
3. 3. The licensee may not be required by the Authority to furnish the Authority under this Condition with any information in relation to an enforcement matterany matter in respect of which any functions of the Authority under Article 42 of the Energy Order are or may be exerciseable which the licensee could not be compelled to produce or give in evidence in civil proceedings in the High Court.
4. In paragraphs 2 and 3, "**information**" shall include any documents, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Authority) of any description specified by the Authority.

Part IV C

**Condition 5: Tariffs**

1. The licensee shall ensure that any tariffs fixed under Article 21 of the Order shall be so framed as separately to identify:

(a) the element for use of the licensee's transmission system in the licensee's charges;

(b) the element for use of the licensee's distribution system in the licensee's charges; and

(c) the element in respect of the supply of electricity to tariff customers in the licensee's charges.

2. The licensee shall provide to the Authority copies of the tariffs from time to time fixed by the licensee pursuant to Article 21 of the Order not later than 14 days prior to publication thereof.

3. Where the Authority considers that by reason of the complexity of any such tariffs fixed by the licensee, simplified explanatory statements are required or expedient for the understanding of tariff customers, the Authority may direct the licensee to draw up such explanatory statements and thereafter to publish them with the tariffs to which they relate.

4. The licensee, whose authorised supply area is specified in an order referred to in Article 12(2)(c)(i) of the Energy Order, shall exercise its power to fix tariffs under Article 21 of the Order so that the price charged by the licensee at any time to any tariff customer for the supply of electricity is the same as the price charged by the licensee at that time to any other tariff customer for a comparable supply of electricity, irrespective of where such tariff customers are located or reside.

5. For the purposes of this Condition, supplies of electricity shall be regarded as comparable if they:

(a) are at the same or similar voltages or power factor; and

(b) are in accordance with the same or similar demand characteristics.

Part IV C

**Condition 6: Obligation on economic purchasing**

1. Subject to Condition 11 of Part II and paragraph 6 of this Condition, the provisions of paragraph 2 shall apply separately in relation to purchases of electricity from the following sources:

(a) qualifying renewable generation;

(b) generation from any source other than qualifying renewable generation.

2. In respect of each category referred to in paragraph 1 above, and subject to paragraph 4 below, the licensee shall:

(a) itself purchase;

(b) procure any affiliate of the licensee to purchase; and

(c) insofar as it is able through the exercise of voting rights or otherwise to do so, procure any related undertaking of the licensee or any defined undertaking to purchase

electricity at the best effective price reasonably obtainable having regard to the sources available.

3. In determining the effective price at which electricity is purchased by the licensee or any affiliate or related undertaking of the licensee or any defined undertaking, regard shall be had to any payments made or received or to be made or received for the grant of or pursuant to any electricity purchase contract.

4. In the discharge of its obligations under paragraph 2 above, the licensee may additionally have regard to any considerations liable to affect its ability and that of any affiliate or related undertaking of the licensee to discharge its obligations under this Condition in the future, including the future security, reliability and diversity of sources of electricity available for purchase.

5. In this Condition (and subject to paragraph 6) references to qualifying renewable generation shall refer to generation from capacity of that description which:

(a) has been contracted by the licensee or any defined undertaking under arrangements of the kind mentioned in paragraph (a) of Article 35(1) of the Order entered into prior to the date this licence enters force; or

(b) is available to be contracted under arrangements to be produced to the Authority in satisfaction of an obligation imposed on the licensee by order made under Article 35 of the Order after this licence enters force.

6. Notwithstanding that generation may previously have been contracted as being qualifying renewable generation, it shall cease to be so treated to the extent that:

(a) the licensee (or any affiliate or related undertaking of the licensee or any defined undertaking) enjoys contractual freedom to vary or discontinue its obligation to purchase such generation; and

(b) capacity from which qualifying renewable generation is otherwise contracted by the licensee or any affiliate or related undertaking of the licensee or any defined undertaking is equal to or exceeds the aggregate capacity specified in any orders previously made under Article 35 of the Order and continuing in force, as being required to be available to the licensee at that time or in respect of any future period covered by such orders.

7. Paragraphs 2, 3 and 4 shall apply mutatis mutandis where the licensee (or any affiliate or related undertaking of the licensee) exercises a discretion or (by agreement or otherwise) varies the terms of an existing agreement (whether or not entered into prior to the relevant date) in such a manner as to alter the effective price under such agreement.

8. The licensee shall not be in breach of this Condition by reason only of performing a must-take obligation to purchase electricity.

9. This Condition shall have effect from the date specified for its coming into force in a direction issued to the licensee by the Authority for the purposes of this Condition. The date so specified shall not be earlier than the date of the direction or the date upon which the Authority shall first have exercised its cancellation powers.

10. In this Condition:

"**defined undertaking**" means any entity through which the licensee enters into arrangements of the kind mentioned in paragraph (a) of Article 35(1) of the Order;

"**purchase**" includes the acquisition of electricity from sources falling to be treated as own-generation for the purpose of Condition 13 of Part II, and the purchase of electricity under electricity purchase contracts;

"**relevant date**" means the date on which the public electricity supply licence comes into force; and

“**must-take obligation**” an agreement which imposes an obligation on the licensee to make a payment to another party to the agreement in the event that the licensee does not purchase electricity (or a minimum quantity of electricity) under the agreement shall be deemed to be an agreement under which the licensee has a must-take obligation to purchase electricity and any quantity of electricity purchased by the licensee pursuant to the agreement shall be deemed to have been purchased in performance of a must-take obligation to purchase electricity if the licensee would have been obliged to make a payment to another party to the agreement had it not purchased such quantity of electricity.

Part IV C

**Condition 7: Conditions of supply affecting tariff customers' statutory rights**

1. The licensee shall not include in or send with any notice given under Article 19(3) of the Order or any form provided to tariff customers or prospective tariff customers for use in giving notice under Article 19(2) of the Order or any notice sent subsequently, an invitation to agree to anything which, by virtue of the Order, may only be done or (as the case may be) not done:

(a) with the agreement of that person; or

(b) in any case where that person withholds his agreement or makes that agreement subject to terms and conditions to which the licensee objects, with the approval or consent or by order of the Department

unless the form and terms of such invitation have first been submitted to and approved by the Authority.

2. Nothing in paragraph 1 shall prevent the licensee from:

(a) requiring a customer or prospective customer to enter into a special agreement where this is permitted under Article 25 of the Order; or

(b) including in any such notice any provision or condition which the licensee is required or permitted to include in such notice by virtue of Article 19(4) of the Order; or

(c) including in any such notice concerning the provision of a supply to premises:

(i) not previously supplied by the licensee; or

(ii) where any change is required in the location of any electric line, electrical plant or electric meter

an invitation to any customer or prospective customer to agree to any provision or condition concerning the installation or location of any or all of an electric line, electrical plant or an electric meter

in any such case without having submitted the form and terms of such agreement or notice to the Authority.

3. The licensee shall include in any form provided to tariff customers or prospective tariff customers for use in giving notice under Article 19(2) of the Order a prominent statement of the right of such customer to apply to the Authority for the determination of any dispute arising out of the proposed terms of supply.

Part IV C

**Condition 8: Licensee's apparatus on tariff customers' side of meter**

1. This Condition applies where the licensee installs a second meter or other apparatus for the purpose of ascertaining or regulating the amount of electricity supplied, the period of supply, or any other quantity or time connected with the supply on the tariff customer's side of the meter or meters registering the quantity of the supply to a tariff customer.

2. Any second meter or other apparatus installed by the licensee in the position and for a purpose described in paragraph 1 shall be such that the power consumed by it, when aggregated with the power consumed by any other meter or apparatus installed by the licensee in the like position and for a like purpose in relation to the tariff customer, does not exceed 10 watts except where otherwise agreed with the tariff customer.

Part IV C

**Condition 9: Code of practice on payment of bills**

1. Subject to the requirements of paragraph 2 below, the licensee shall within 3 months after the public electricity supply licence has come into force prepare a Code of Practice concerning the payment of electricity bills by customers occupying domestic premises, and including appropriate guidance for the assistance of such customers who may have difficulty in paying such bills.

2. The licensee shall comply with the requirements set out in Condition 16, as if they were set out in this Condition.

3. “**Code of Practice**” in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the payment of bills.

Part IV C

**Condition 10: Methods for dealing with tariff customers in default**

1. Subject to the requirements of paragraph 2 below, the licensee shall within three months of this Condition coming into force prepare a Code of Practice setting out the methods for dealing with tariff customers who, through misfortune or inability to cope with electricity supplied for domestic use on credit terms, incur obligations to pay for electricity so supplied which they find difficulty in discharging including, in particular, methods for:

(a) distinguishing such tariff customers from others in default;

(b) detecting failures by such tariff customers to comply with arrangements entered into for paying by instalments charges for electricity supplied;

(c) making such arrangements so as to take into account the tariff customer's ability to comply with them;

(d) ascertaining, with the assistance of other persons or organisations, the ability of tariff customers to comply with such arrangements;

(e) providing for such a tariff customer who has failed to comply with such arrangements a prepayment meter where safe and practical to do so; and

(f) calibrating any prepayment meter so provided so as to take into account the tariff customer's ability to pay any of the charges due from the customer under such arrangements in addition to the other charges lawfully being recovered through the prepayment meter.

2. Except in relation to Condition 16 paragraph 8, the licensee shall comply with the requirements set out in Condition 16, as if they were set out in this Condition.

3. The licensee shall as soon as practicable following the preparation of the Code of Practice or any revision made to it, send to the Authority, the General Consumer Council, such other bona fide consumer advice organisations as may from time to time be agreed with the Authority and, at the request of any customer, any recognised professional advisor of that customer, a copy of the Code of Practice or such revision in the form approved by the Authority.

4. The licensee shall, within 3 months after the Code of Practice has been put in place, establish procedures for monitoring its general operation of the arrangements set out in the Code of Practice and compliance therewith, which shall be submitted to the Authority for its approval.

5. “**Code of Practice**” in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to tariff customers in default.

Part IV C

**Condition 11: Provision of services for persons who are of pensionable age or disabled**

1. The licensee shall make arrangements for persons occupying domestic premises who are of State pensionable age or disabled, by which special services in the following respects can be made available where appropriate:

(a) providing where practicable special controls and adaptors for electrical appliances and meters (including prepayment meters) and repositioning meters;

(b) providing special means of identifying officers authorised by the licensee; and

(c) giving advice on the use of electricity.

2. Subject to the requirements of paragraph 3 below, the licensee shall within 3 months after the date on which the public electricity supply licence has come into force prepare a Code of Practice describing the special services available and any charges made or to be made to such persons described in paragraph 1 above.

3. The licensee shall comply with the requirements set out in Condition 16, as if they were set out in this Condition.

4. “**Code of Practice**” in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the provision of services for persons who are of State pensionable age or disabled.

Part IV C

**Condition 12: Efficient use of electricity**

1. Subject to the requirements of paragraph 2 below, the licensee shall, within 3 months after the public electricity supply licence has come into force, prepare a Code of Practice setting out the ways in which the licensee will make available to customers such guidance on the efficient use of electricity as will, in the opinion of the licensee, enable them to make informed judgements on measures to improve the efficiency with which they use the electricity supplied to them. Such Code of Practice shall include, but shall not be limited to:

(a) the preparation, and making available free of charge to any customer who requests it, of a statement, in a form approved by the Authority, setting out information and advice for the guidance of customers in the efficient use of electricity supplied to them;

(b) the creation and maintenance within the licensee's organisation of sources from which customers may obtain further information about the efficient use of electricity supplied to them, including the maintenance of a telephone information service; and

(c) the preparation, and making available free of charge to any customer who requests it, of a statement or statements of sources (to the extent that the licensee is aware of the same) outside the licensee's organisation from which customers may obtain additional information or assistance about measures to improve the efficiency with which they use the electricity supplied to them such statement or statements to include basic information which is publicly available on financial assistance towards the costs of such measures available from Central or Local Government or through bodies in receipt of financial support from Government in connection with measures to promote the efficiency of energy use.

2. The licensee shall comply with the requirements set out in Condition 16, as if they were set out in this Condition.

3. “**Code of Practice**” in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the efficient use of electricity.

Part IV C

**Condition 13: Complaint handling procedure**

1. Subject to the requirements of paragraph 2 below, the licensee shall, within 3 months after the public electricity supply licence has come into force prepare a Code of Practice establishing a procedure for handling complaints from customers about the manner in which the licensee conducts the Supply Business and the Distribution Business and any procedure established in accordance with this Condition shall specify the periods within which it is intended that different descriptions of complaint should be processed and resolved.

2. The licensee shall comply with the requirements set out in Condition 16, as if they were set out in this Condition.

3. “**Code of Practice**” in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to the complaint handling procedure.

Part IV C

**Condition 14: Relations with the General Consumer Council**

1. The licensee shall meet with the General Consumer Council whenever requested to do so by itthe General Consumer Council, up to a maximum of 6 times in every year during the period of the public electricity supply licence.

2. Without prejudice to paragraph 1, the licensee shall meet the General Consumer Council at least once in every year during the period of the public electricity supply licence.

3. In at least one meeting with the General Consumer Council in every year during the period of the public electricity supply licence, the licensee shall be represented by one or more directors of the licensee.

Part IV C

**Condition 15: Provision of services for prepayment meter customers**

1. Subject to the requirements of paragraph 2 below, the licensee shall, within 3 months after this Condition has come into force, prepare a Code of Practice setting out the services which the licensee offers to prepayment meter customers. Such Code of Practice shall include, but shall not be limited to:

(a) instructions for the operation of the prepayment meter system, including token availability, emergency credit and other such facilities;

(b) details of the advantages and disadvantages of prepayment meters, including situations or types of customer for which they are particularly suited or unsuited; and

(c) details of any additional charges which may be payable for the use of prepayment meters and the basis on which these charges are calculated.

2. The licensee shall comply with the requirements set out in Condition 16, as if they were set out in this Condition.

3. “**Code of Practice**” in this Condition means the Code of Practice from time to time in force which is required to be prepared pursuant to this Condition, in relation to prepayment meter customers.

Part IV C

**Condition 16: Preparation, review of and compliance with Codes of Practice**

1. This Condition applies to each of the Codes of Practice required to be prepared by the licensee pursuant to Conditions 9, 10, 11, 12, 13 and 15 of the public electricity supply licence (a “**Code**”).

2. The licensee shall, before submitting a Code to the Authority for its approval, consult the General Consumer Council and shall consider any representations made by the General Consumer Council on the Code or the manner in which it is likely to be operated.

3. The licensee shall submit the Code to the Authority for its approval.

4. If, within 30 days from the day the licensee first submitted the Code to the Authority for its approval, the Authority notifies the licensee that the Authority considers that the Code does not meet the requirements of this public electricity supply licence the licensee shall immediately make such changes to the Code as the Authority may require.

5. The licensee shall whenever requested to do so by the Authority review the Code and the manner in which it has been operated, with a view to determining whether any modification should be made to the Code or to the manner of its operation.

6. In carrying out any such review the licensee shall consult the General Consumer Council and shall consider any representations made by the General Consumer Council about the Code or the manner in which it is likely to be or has been operated.

7. After consulting the General Consumer Council in accordance with paragraph 6, the licensee shall submit any revision of the Code which it wishes to make to the Authority for its approval and if the Authority approves the revision, the licensee shall, following receipt of the Authority's approval in writing, then revise the Code appropriately. If the Authority does not approve the revision, the licensee shall make further revisions to the Code as the Authority may require, in order to meet the requirements of the licensee's public electricity supply licence.

8. The licensee shall:

(a) as soon as practicable following the preparation of the Code or any revision made to it, send to the Authority and the General Consumer Council, a copy of the Code or such revision in the form approved by the Authority;

(b) draw to the attention of its customers the existence of the Code and each substantive revision of it and how they may inspect or obtain a copy of the Code in its latest form;

(c) make a copy of the Code available for inspection by members of the public at each of the relevant premises during normal opening hours;

(d) give or send free of charge a copy of the Code (as from time to time revised) to any person who requests it; and

(e) make available to members of the public, in such form and in such manner as the Authority considers appropriate, information published by the Authority pursuant to Article 7 of the Energy Order.

9. No changes may be made to the Code otherwise than in accordance with this Condition.

10. Subject to paragraph 12 the licensee shall ensure, so far as reasonably practicable, that it complies with the terms of and the arrangements or procedures (as the case may be) as are contained in or described by each Code to which this Condition applies or any revision to such Code approved by the Authority.

11. The licensee shall provide the Authority with all assistance reasonably necessary to enable the Authority to monitor the implementation and operation of any Code and this assistance shall include, without limitation, permitting the Authority access to relevant documentation held by the licensee.

12. The Authority may (following consultation with the licensee) issue directions relieving the licensee of any of its obligations under Conditions 9, 10, 11, 12, 13, 15 and this Condition 16 to such an extent as may be specified in those directions and subject to such terms and conditions as the Authority thinks fit.

**Condition 17: Labelling Requirements**

1. The licensee shall specify in or with any bills and in any promotional materials made available to customers:

 (a) the contribution of each energy source to the overall fuel mix of the licensee over the proceeding year; and

 (b) the publicly available reference (such as web-pages) for information on the environmental impact (in terms of at least emissions of CO2 and the radio active waste) resulting from the electricity produced by the overall fuel mix of the licensee over the proceeding year.

2. If the licensee obtains electricity via an electricity exchange or imports electricity from an undertaking outside the European Community, aggregate figures provided by the exchange or the undertaking in question over the proceeding year may be used.

3. The licensee shall deliver to the Authority evidence (including copies of bills and promotional materials) that the licensee has complied with its obligation in paragraph 1 of this Condition.

4. The licensee shall, if so requested by the Authority give reasoned comments on the accuracy of any information which the licensee provides pursuant to paragraph 1.

(Paragraph 1 of Part I)

 SCHEDULE 1

 AUTHORISED TRANSMISSION AREA

1. The authorised transmission area shall comprise Northern Ireland.

2. If any part of the authorised transmission area is designated in a subsequent licence granted under Article 10(1)(b) of the Order, such part shall be excluded from the authorised transmission area.

 (Paragraph 1 of Part I)

 SCHEDULE 2

 AUTHORISED SUPPLY AREA

1. The authorised supply area shall comprise Northern Ireland.

2. If any part of the authorised supply area is designated in a subsequent licence granted under Article 10(l)(c) of the Order, such part shall be excluded from the authorised supply area.

 (Paragraph 2 of Part I)

 SCHEDULE 3

 REVOCATION

1. The Department may at any time revoke either of the licences granted by this Licence Document by not less than 30 days' notice in writing to the licensee:

(a) if the licensee agrees in writing with the Department that such licence should be revoked;

(b) if any amount payable under Condition 7 of Part II in relation to such licence is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Department 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 to which such licence is subject 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 such licence and (in either case) such failure is not rectified to the satisfaction of the Department within three months after the Department has given notice of such failure to the licensee, provided that no such notice shall be given by the Department 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 any order made by the Office of Fair Trading, the Competition Commission or the Secretary of State, as appropriate, under Section 56, 73, 74 or 89 of the Fair Trading Act 1973Sections 55, 66, 72, 73, 75, 81, 83, 84, 158, 160 or 161 of the Enterprise Act 2002, or with any decision made by the Office of Fair Trading or any sectoral regulator under Section 10(2)(a)32 or 33 of the Competition Act 19801998;

(e) if the other licence granted by this Licence Document is revoked;

(f) 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 Department); or

(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; or

(iii) has an administration order under Article 21 of the Insolvency (Northern Ireland) Order 1989, made in relation to it; or

(iv) passes any resolution for winding-up other than a resolution previously approved in writing by the Department; or

(v) becomes subject to an order for winding-up by a court of competent jurisdiction; or

(g) 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.

(h) 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 to which such licence is subject 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 Department has given notice in writing of such failure to the licensee, provided that no such notice shall be given by the Department 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.

2. The Department may at any time by not less than 30 days' notice in writing to the licensee:

(a) revoke the transmission licence if the licensee ceases to carry on its business in the transmission of electricity or its Power Procurement Business other than with the consent of the Authority; and

(b) revoke the public electricity supply licence if the licensee ceases to carry on its business as a public electricity supplier.

3. (a) For the purposes of paragraph 1(f)(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 Department and the licensee.

(b) The licensee shall not be deemed to be unable to pay its debts for the purposes of paragraph 1(f)(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 Department under paragraph 1 of this Schedule.

 (Condition 18 of Part III)

 SCHEDULE 4

TRANSMISSION AND DISTRIBUTION CHARGE RESTRICTION CONDITIONS868[[86]](#footnote-86)4

1. **Definitions**

1.1 In this Schedule:

"**adjusted quantity transmitted** means the regulated quantity transmitted and

**and distributed**" distributed plus an amount equal to the units consumed on the licensee's premises in Northern Ireland (insofar as not already included) plus any wheeled units;

"**average specified rate**" means the arithmetic mean of the daily base rates of Northern 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;

"**distribution services**" means all services provided as part of the Distribution Business other than excluded services;

"**excluded services**" means those services provided as part of the Transmission Business and the Distribution Business which in accordance with the principles set out in paragraph 5 fall to be treated as excluded services;

**"first relevant year"** means the financial year commencing on 1 April 2002;

"**maximum core revenue****87****8[[87]](#footnote-87)5**" means the revenue calculated in accordance with the formula in paragraph 2(A);

"**maximum regulated** means the aggregate of the maximum core

**transmission and** revenue and the Moyle revenue;

**distribution revenue****88****8[[88]](#footnote-88)6**"

"**metered**" means in relation to any quantity transmitted and/or distributed, as measured by metering required pursuant to and defined in the Grid Code or (where no such meter is installed) as otherwise reasonably calculated;

"**Moyle revenue****89****8[[89]](#footnote-89)7**" means the revenue which the licensee is allowed to recover in accordance with paragraph 2(B);

"**quantity entering the** means the aggregate quantity of units

**total system**" metered on entry to the total system in relevant year t (minus any units consumed by generation sets and imported from the total system);

"**regulated quantity transmitted** means the aggregate quantity of units

**and distributed**" transmitted and distributed through the total system in relevant year t metered at grid supply points (excluding (a) any units consumed by generation sets and imported from the total system, and (b) any wheeled units);

"**regulated transmission and** means the revenue (measured on an accruals

**distribution revenue**" basis) derived from transmission and distribution charges (including to any Separate Business) in relevant year t, after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;

"**relevant year**" means a financial year commencing on or after 1 April 2002;

"**relevant year t**" means that relevant year for the purposes of which any calculation falls to be made; "relevant year t‑1" means the relevant year preceding relevant year t or, in respect of the period prior to 1 April 2002, the period of 12 calendar months commencing on 1 April 2001; and similar expressions shall be construed accordingly;

"**transmission and distribution** means this Schedule as from time to time

**charge restriction conditions**" modified or replaced in accordance therewith or pursuant to Article 14, 17 ,17A or 18 of the Order or under the Energy Order;

"**transmission and distribution** means all charges for the provision of

**charges**" transmission and distribution services and for wheeling;

"**transmission and distribution** means transmission services and distribution

**services**" services taken together;

"**transmission services**" means all services provided as part of the Transmission Business other than excluded services;

"**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. **Restriction of transmission and distribution charges: basic formula**

908[[90]](#footnote-90)8Without prejudice to paragraph 6 the licensee shall in setting its transmission and distribution charges use its best endeavours to ensure that in any relevant year the regulated transmission and distribution revenue shall not exceed the maximum regulated transmission and distribution revenue, which shall be the aggregate of:

(A) the maximum core revenue calculated in accordance with the following formula:

MDt = h FDt + (1 ‑ h) VDt QDt + EetNDt + Yt + WDt + NSIDt + Dt + KDt

Plus

(B) CAIRt

where:

MDt918[[91]](#footnote-91)9 = the maximum core revenue in relevant year t;

h means 0.75.

FDt means an amount for relevant year t derived using the following formula:

FDt = CDt \* NDt

where:

CDt = CDt-1 (1 + (rpi – 5) / 100)

but in relation to the first relevant year, CDt‑1 shall have an equal value to £226.472181.

rpit means the percentage change (whether a positive or negative value) in the Retail Prices Index between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October; and

NDt  means the number of customers connected for each relevant year t as specified in the table immediately below:-

|  |  |
| --- | --- |
| **Relevant year ended****(t)** | **NDt** **(No. of customers connected)** |
| 31 March 2003 | 716,700 |
| 31 March 2004 | 726,750 |
| 31 March 2005 | 736,900 |
| 31 March 2006 | 747,200 |
| 31 March 2007 | 757,650 |

VDt means an amount for relevant year t derived using the following formula:

VDt = VDt‑1 (1 + (rpit ‑ 5)/100)

but in relation to the first relevant year, the amount VDt‑1 shall have a value equal to 2.044239 pence

QDt means the regulated quantity transmitted and distributed in relevant year t.

Eet  means an allowance in respect of energy efficiency derived using the following formula:

 Eet = Eet-1 (1 + rpit /100)

 but, in relation to the first relevant year, Eet-1 shall be equal to 489.88 pence.

Yt means an incentive, in pounds sterling, in respect of energy efficiency in relevant year t derived using the following formula:

 Yt = 0.004415\* QEt

 Where:

QEt means the amount (in kWh) by which the energy saved in relevant year t, as a result of expenditure raised under the Eet NDt term and as certified by the Energy Saving Trust, exceeds the target level of energy savings for that year specified in a direction to be issued by the Authority to the licensee no later than **[Insert Date]**

but where the energy saved in the relevant year t equals or is less than the value specified in the direction, QEt shall equal zero, and

in any relevant year t, the sum of Eet NDt and Yt must not exceed the values as specified in the table immediately below:-

|  |  |
| --- | --- |
| **Relevant year ended****(t)** | **Cap on Eet NDt and Yt****(in pounds sterling (£))** |
| 31 March 2003 | £4,100,000 |
| 31 March 2004 | £4,100,000 |
| 31 March 2005 | £4,200,000 |
| 31 March 2006 | £4,200,000 |
| 31 March 2007 | £4,300,000 |

WDt means for each relevant year, an amount no less than zero calculated in accordance with a method notified to the licensee by the Authority (after consultation with the licensee and such other persons as the Authority shall consider appropriate), representing amounts which the Authority is satisfied are likely to be equal to the licensee's costs of wheeling in respect of the relevant year in question;

NSIDt means the licensee's regulated revenue entitlement associated with any interconnectors with the Republic of Ireland for each relevant year t, as specified in the table immediately below:-

|  |  |
| --- | --- |
| **Relevant year ended****(t)** | **NSIDt****(Regulated revenue entitlement in pounds sterling (£))** |
| 31 March 2003 | £335,000 |
| 31 March 2004 | £319,000 |
| 31 March 2005 | £304,000 |
| 31 March 2006 | £290,000 |
| 31 March 2007 | £277,000 |

Dt means an allowance (in pounds sterling) for excluded transmission and distribution costs in relevant year t calculated by adding together (whether a positive or negative amount) the following amounts:

 i) the difference between the actual rates incurred by the Transmission Business and the Distribution Business and the allowance for rates assumed in setting the notified values for CDt-1 and VDt-1 in this Schedule.

 ii) an amount up to £250,000 which represents expenditure under NIE's SMART 1 programme (Sustainable Management of Assets and Renewables Technology) designed to stimulate pilot projects using new technologies that are not yet commercially viable;

 iii) amounts arising out of the refinancing of the Moyle Interconnector as recorded in the document "Summary of Arrangements between Moyle and the Viridian Group" and the letter from the Authority dated 5 June 2003;

 iv) any reasonable costs incurred by the licensee in complying with the requirements of Condition 27, Part III in respect of renewable output factor arrangements;

 v) amounts arising under the arrangements approved by the Authority which are designed to incentivise investment in Demand Side Management schemes; and

 vi) any other costs which the Authority shall determine, upon an application to him by the licensee shall be included as excluded transmission and distribution costs.

KDt means the correction factor (whether a positive or negative value) to be applied to the maximum core revenue929[[92]](#footnote-92)0 in relevant year t which is derived from the following formula:

 KDt = (MDt‑1 ‑ RDt‑1)(1 + It/100)

 (but in relation to the first relevant year, KDt shall be equal to -£804,000);

 where:

MDt‑1 means the maximum core revenue in relevant year t ‑ 1;

RDt‑1939[[93]](#footnote-93)1 means the regulated transmission and distribution revenue (other than the revenue which is attributable to the financing and other costs associated with the Moyle Interconnector, as referred to in the definition of the term CAIRt above) in relevant year t‑1; and

 It means the average specified rate.

CAIRt949[[94]](#footnote-94)2 has the same meaning as it has in the Moyle Interconnector Collection Agency Agreement in respect of relevant year t;

3. **Restriction of transmission and distribution charges: adjustments**

3.1 If, in respect of any relevant year, the regulated transmission and distribution revenue exceeds the maximum regulated transmission and distribution revenue by more than the permitted one‑year percentage, the licensee shall furnish an explanation to the Authority and in the next following relevant year the licensee shall not effect any increase in transmission and distribution charges unless it has demonstrated to the reasonable satisfaction of the Authority that the regulated transmission and distribution revenue would not be likely to exceed the maximum regulated transmission and distribution revenue in that next following relevant year.

3.2 If, in respect of any 3 successive relevant years, the sum of the amounts by which the regulated transmission and distribution revenue has exceeded the maximum regulated transmission and distribution revenue is more than the permitted 3‑year percentage, then in the next following relevant year the licensee shall, if required by the Authority, adjust its transmission and distribution charges such that the regulated transmission and distribution revenue would not be likely, in the judgment of the Authority, to exceed the maximum regulated transmission and distribution revenue in that next following relevant year.

3.3 In this paragraph:

"**permitted one‑year** means 4 per cent of the maximum regulated

**percentage**" transmission and distribution revenue; and

"**permitted 3‑year** means 5 per cent of the maximum regulated

**percentage**" transmission and distribution revenue in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the transmission and distribution charge restriction conditions**

4.1 Where any change is intended to be made in transmission and distribution charges regulated under paragraph 2, the licensee shall not later than 14 days prior to the time of publication of such change provide the Authority with:

(i) a written forecast of the maximum regulated transmission and distribution revenue, together with its components, in respect of the relevant year t in which such change is to take effect and in respect of the next following relevant year t+1;

(ii) a written estimate of the maximum regulated transmission and distribution revenue, together with its components, in respect of the relevant year t‑1 immediately preceding the relevant year in which the change is to take effect unless a statement complying with paragraph 4.5 in respect of relevant year t‑1 has been furnished by the licensee to the Authority more than 14 days before the publication of the proposed change.

4.2 If within 3 months of the commencement of any relevant year t the licensee has not made any such change in charges as is referred to in paragraph 4.1, the licensee shall provide the Authority with a written forecast of the maximum regulated transmission and distribution revenue, together with its components, in respect of relevant year t.

4.3 Any forecast or estimate provided in accordance with paragraph 4.1 or 4.2 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.

4.4 Not later than 6 weeks after the commencement of each relevant year t, the licensee shall send to the Authority a statement as to:

(a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the regulated transmission and distribution revenue in the preceding relevant year t‑1 or the 3 preceding relevant years t‑1, t‑2 and t‑3; and

(b) its best estimate as to the relevant correction factor KDt calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum regulated transmission and distribution revenue in respect of relevant year t.

4.5 Not later than 3 months after the end of each relevant year the licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.7.

4.6 The statement referred to in the preceding paragraph shall be:

(a) accompanied by a report from the Auditors that in their opinion such statement fairly presents each of the specified items referred to in paragraph 4.7 in accordance with the requirements of the transmission and distribution charge restriction conditions and that the amounts shown in respect of each of the specified items are in accordance with the accounting records which have been maintained in accordance with Condition 3 of Part II; and

(b) certified by a director of the licensee on behalf of the licensee that to the best of his knowledge, information and belief after having made all reasonable enquiries:

(i) there is no amount included in its calculations under paragraph 2 which represents other than bona fide consideration for the provision of transmission and distribution services the revenue from which is regulated under this Schedule;

(ii) no service has been treated as an excluded service other than a service permitted to be so treated in accordance with paragraph 5;

(iii) no amount included in the revenues stated in respect of excluded services represents other than bona fide consideration for the provision of the excluded service to which it relates.

4.7 The specified items to be shown in the statement referred to in paragraph 4.5 shall be the following:

(a) the regulated transmission and distribution revenue;

(b) the regulated quantity transmitted and distributed;

(c) the adjusted quantity transmitted and distributed;

(d) the quantity entering the total system;

(e) the revenue derived from excluded services (showing separately the revenue from each category of excluded service) as provided for in paragraph 5.6;

(f) the details relating to security costs referred to in paragraph 6.4; and

(g) such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Schedule.

4.8 Where the Authority issues directions under paragraph 5.7, the licensee shall, if so required by the Authority and within such period as the Authority shall specify, send to the Authority a revised statement in substitution for the licensee's statement under paragraph 4.5 in respect of the relevant year in question and such revised statement shall give effect to such directions.

5. **Excluded services for purposes of** **the** **Transmission** **Business** **and** **the** **Distribution Business**

5.1 There may be treated as excluded services provided by the Transmission Business and the Distribution Business such services in respect of which charges are made which:

(a) do not fall within paragraph 5.2; and

(b) may (subject to paragraph 5.7) be determined by the licensee as falling under one of the principles set out in paragraphs 5.3 to 5.5.

5.2 No service provided as part of the Transmission Business and 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 14 of Part II 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 and 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 18 and 19 of Part II, the Electricity Supply Regulations (Northern Ireland) 1991 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 Business and the Distribution Business; and

(d) the provision, installation and maintenance of any meters, switchgear or other electrical plant ancillary to the grant of use of system.

5.3 The whole or an appropriate proportion (as the case may be) of the charges of the type described in paragraph 7 of Condition 14 of Part II and borne by any person as connection charges in respect of connections made after the grant of this Licence Document may be treated as excluded services.

5.4 There may be treated as an excluded service charges 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.

5.5 There may be treated as an excluded service any service of a type not above referred to 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 Business and the Distribution Business remunerated by use of system charges, including (without prejudice to the foregoing):

(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 of Part II.

5.6 The licensee shall following the end of each relevant year furnish to the Authority, as being one of the specified items to be included in the statement referred to in paragraph 4.7, details specifying separately the nature of all services provided as part of the Transmission Business and 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.

5.7 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 (being not earlier than the commencement of the relevant year to which the statement last furnished to the Authority pursuant to paragraph 4.5 prior to issue of such directions related, unless such statement or the accompanying report or certificate referred to in paragraph 4.6 or any earlier such statement, report or certificate was incorrect or misleading in any material respect) as may be specified in the directions.

6. **Allowances in respect of security costs**

6.1 At any time during a security period, 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 security period the transmission and distribution charge restriction conditions or any part or parts thereof; or

(b) introduce for the unexpired term of the security period new transmission and 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 Transmission Business and the Distribution Business an amount estimated as being equal to the licensee's allowed transmission and distribution related security costs during such period, and the licensee shall comply with the terms of any directions so issued.

6.2 Subject to paragraphs 6.3 and 6.5, the licensee shall in any relevant year be entitled to recover an aggregate amount equal to the licensee's allowed transmission and 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 Transmission Business and the Distribution Business.

6.3 Paragraph 6.2 shall not apply insofar as such licensee's allowed transmission and 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 6.1.

6.4 The licensee shall following the end of each relevant year provide to the Authority details in respect of that relevant year of:

(a) the aggregate amounts charged under paragraph 6.2 on account of the licensee's allowed transmission and distribution related security costs; and

(b) the bases and calculations underlying the increases in charges made by the licensee in the course of the Transmission Business and the Distribution Business under paragraph 6.2.

6.5 Where the Authority is satisfied that the licensee has recovered amounts in excess of the licensee's allowed transmission and 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 Transmission Business and the Distribution Business for the excess amounts charged to them, and the licensee shall comply with any directions so issued.

6.6 No amounts charged by the licensee under this paragraph 6 (whether or not subsequently required to be reimbursed) shall be taken into account for the purpose of applying the transmission and distribution charge restriction provisions of paragraph 2.

6.7 In this paragraph 6:

"**security period**" means a Security Period as defined in paragraph 2 of Part I of the Northern Ireland Fuel Security Code; and

"**licensee's allowed**

**transmission and distribution**

**related security costs"** means any cost incurred by the Transmission Business and 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 licensee's allowed power procurement related security costs (as defined in sub‑paragraph (ii) of paragraph 5.1 of Schedule 5); or

(b) the licensee's payments to generators in relation to services provided to the Power Procurement Business during security periods (as provided for in sub‑paragraph (i) of paragraph 5.1 of Schedule 5).

7. **Duration of transmission and distribution charge restriction conditions**

7.1 The transmission and distribution charge restriction conditions shall apply so long as the transmission licence and the public electricity supply licence continue in force but shall cease to have effect (in whole or in part, as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 7.2 and:

(a) the Authority agrees in writing to the disapplication request; or

(b) their application (in whole or in part) is terminated by notice given by the licensee in accordance with either paragraph 7.4 or paragraph 7.5.

7.2 A disapplication request pursuant to this paragraph 7 shall (a) be in writing addressed to the Authority, (b) specify the transmission and distribution charge restriction conditions (or any part or parts thereof) to which the request relates and (c) state the date (being not earlier than the date referred to in paragraph 7.3) from which the licensee wishes the Authority to agree that the specified transmission and distribution charge restriction conditions shall cease to have effect.

7.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 7 shall have effect earlier than the date which is the later of:

 (a) the date occurring 18 months after delivery of the disapplication request; and

(b) 31 March 2007.

7.4 If the Authority has not made a reference to the Competition Commission under Article 15 of the Order relating to the modification of the transmission and distribution charge restriction conditions before the beginning of the period of 12 months which will end with the disapplication date, the licensee may deliver written notice to the Authority terminating the application of such of the transmission and distribution charge restriction conditions (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.

7.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of the transmission and distribution charge restriction conditions (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of such transmission and distribution charge restriction conditions, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to it written notice terminating the application of such transmission and distribution charge restriction conditions (or any part or parts thereof) with effect from the disapplication date or a later date.

7.6 A disapplication request or notice served under this paragraph 7 may be served in respect of a specified geographic area.

 (Condition 4 of Part III)

 SCHEDULE 5 A959[[95]](#footnote-95)3

BULK SUPPLY TARIFF RESTRICTION CONDITIONS969[[96]](#footnote-96)4

1. Definitions

1.1 In this Schedule:

"**adjusted quantity** means the regulated quantity transmitted and

**transmitted and distributed**" distributed plus an amount equal to the units consumed on the licensee's premises in Northern Ireland (insofar as not already included);

"**allowed change of law costs**" means an amount determined as such by the Authority in accordance with paragraph 7.1;

"**allowed change of law** means an amount determined as such by the

**revenues**" Authority in accordance with paragraph 7.1;

"**average specified rate**" means the arithmetic mean of the daily base rates of Northern 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;

"**bulk supply tariff** means this Schedule as from time to time

**restriction conditions**" modified or replaced in accordance therewith or pursuant to Article 14, 17 or 18 of the Order;

"**eleventh relevant year**" means the relevant year commencing 1st April 2002;

 "**excess cost of NFFO**" means, subject to the approval of the Authority of the manner of its calculation, the total cost incurred by the power procurement manager under paragraph 5.1(v) of Schedule 5A less an amount equal to the revenue received by the power procurement manager from the sale by the power procurement manager of the output from the capacity referred to in paragraph 5.1(v) of Schedule 5A;

 **“excess cost of the renewable** means, subject to the approval of the Authority of the manner of its calculation, the

 **output factor arrangements”** amount of the under-recovery of costs caused by imbalances between electricity delivered onto the NIE System by or on behalf of relevant suppliers and the electricity consumed by their customers, due to settlement of those imbalances under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document instead of under Condition 24 of Part III (Interim Settlement Arrangements); and the amount of any under-payment or non-payment of amounts owed to the licensee under the renewable output factor arrangements or under the small renewable spill arrangements established under Condition 28 of Part III of this Licence Document;

 "**excess cost of the Rathlin** means, subject to the approval of the

 **purchase tariff**" Authority, the total cost of payments by the power procurement manager for the purchase of energy from generators on Rathlin island less an amount which equals the total energy cost of generating the same output (as generated from the capacity of Rathlin generators) from fossil fuel generating sets under contract with the power procurement manager under the cancellable generating unit agreements outlined in Schedule 8 (or under any other contract for electricity from fossil fuel generating sets entered into by the power procurement manager but excluding Rathlin generator contracts).

"**excluded power procurement** has the meaning ascribed to it in paragraph

**costs**" 5.1;

"**fuel security period**" means a Security Period as defined in paragraph 2 of Part 1 of the Northern Ireland Fuel Security Code as that period may be extended for the purposes of this Schedule with the approval of the Authority;

**“fossil fuel”** means natural gas, coal, coal products, peat, lignite, crude liquid petroleum or petroleum products;

**“fossil fuel generating set”** means a generating set which is (or may be) fuelled or driven by a fossil fuel;

**“franchise customers”** all customers other than those defined as eligible customers within the Supply Competition Code;

"**maximum regulated energy** means the maximum allowed revenue

**sales revenue**" calculated in accordance with the formula in paragraph 2;

"**metered**" means, in relation to any quantity sold, as measured by metering required pursuant to and defined in the Grid Code or (where no such meter is installed) as otherwise reasonably calculated;

**“non-fossil fuel generating set”** means a generating set which is (or may be) fuelled or driven otherwise than by a fossil fuel;

"**notified value**" means, in respect of each of the financial years ending on or before 31st March 1997, in relation to any term, such value as the Department ascribed to that term in a written notice given to the licensee dated 27th November 1992 and as shown in Schedule 10, and in respect of each financial year thereafter, such value ascribed to that term in Schedule 10 hereto;

"**period of force majeure**" means a period during which any generator shall have been relieved from liability for breach of, or been entitled to suspend performance of its obligations under any power purchase agreement and in respect of which the Authority shall agree that the consequences thereof shall qualify for the purposes of paragraph 2 sub‑paragraph (i) of Schedule 5C, as that period may be extended for the purposes of this Schedule with the approval of the Authority;

"**power procurement energy** means the revenue (measured on an accruals

**sales revenue**" basis) derived by the power procurement business from sales of electricity from whatever source or at whatever tariff (including all amounts receivable by the power procurement manager (measured on an accruals basis) as a result of sales of electricity by the power procurement manager to persons outside the authorised transmission area), after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;

**“power procurement renewable** has the meaning ascribed to it in paragraph

**profit”** 5.1;

**“PPB traded sales”** means all sales by the power procurement manager measured on the basis of invoiced sales but excluding those included in the definition of "quantity sold";

**“renewable quantity sold”** means the aggregate quantity of units sold in the relevant year t by the power procurement manager in respect of renewable electricity acquired by the licensee under Condition 27 of Part III (Renewable output factor arrangements) or under Condition 28 of Part III (Small renewable spill arrangements) of this Licence Document;

"**quantity entering the total** means the aggregate quantity of units metered

**system**" on entry to the total system in relevant year t (minus any units consumed by generation sets and imported from the total system);

"**quantity sold**" means the aggregate quantity of units sold in the relevant year t at the bulk supply tariff to relevant suppliers inside the authorised supply area for supply to franchise customers;

"**regulated quantity** means the aggregate quantity of units

**transmitted and distributed**" transmitted and distributed through the total system in relevant year t metered at grid supply points (excluding any units consumed by generation sets and imported from the total system);

"**relevant year**" means a financial year commencing on or after 1 April 1992;

"**relevant year t**" means that relevant year for the purposes of which any calculation falls to be made; "relevant year t ‑ 1" means the relevant year preceding relevant year t or, in respect of the period prior to 1 April 1992, the period of 12 calendar months commencing on 1 April 1991; and similar expressions shall be construed accordingly;

**“small renewable spill costs”** has the meaning ascribed to it in paragraph 5.1;

"**sold**" means sold or otherwise disposed of by the power procurement manager, and cognate expressions shall be construed accordingly;

"**unit**" means a kilowatt hour; and

**“Varied Ballylumford** means (i) the buy-out agreement, and (ii) the

**Agreements”** generating unit agreements for generation sets nos. 4 and 6 at Ballylumford power station, and the power station agreement, each as modified by the re-powering agreement;

2. **Restriction of the bulk supply tariff: basic formula**

The licensee shall in setting the bulk supply tariff use its best endeavours to ensure that in any relevant year the power procurement energy sales revenue shall not exceed the maximum regulated energy sales revenue calculated in accordance with the following formula:

MBt = At + Bt + (CAt  \* Qt / 100) + (CBt \* QBBt / 100) + Dt + KBt

where:

MBt means the maximum regulated energy sales revenue in relevant year t.

At means the actual power purchase costs incurred in the purchase of electricity in relevant year t derived by:

(a) aggregating amounts payable by the power procurement manager to any person in relevant year t (measured on an accruals basis) for:

(i) the provision to the power procurement manager of the total available capacity of contracted generation sets and the purchase of electricity excluding payments for System Support Services and excluding the costs of the gas turbines contracted under the cancellable generating unit agreements as outlined in Schedule 8 and excluding the excess cost of the Rathlin purchase tariff and excluding the excess cost of the renewable output factor arrangements;

(ii) the provision or use of any interconnector;

(iii) the early termination or amendment of any power purchase agreement;

(iv) holding stocks of fuel or other materials for the purposes of generation of electricity; and

(v) the provision of any other services approved by the Authority for the purpose of this paragraph;

1. deducting the excluded power procurement costs (to the extent that those costs are included in sub‑paragraph (a)) and the allowed change of law costs for relevant year t;

(c) adding the net amount (whether a positive or a negative number) payable or receivable (as the case may be and measured on an accruals basis) by the power procurement manager in relevant year t in respect of electricity purchase or sale contracts and other contracts designed to enable the power procurement manager to hedge fuel price or exchange rate risks;

(d) no longer used.

(e) no longer used.

Bt means the target Bt revenue entitlement in relevant year t and is determined as the greater of:

1. the Minimum Bt revenue entitlement; and
2. the Minimum PPB revenue entitlement

*less* the greater of the CAt revenue entitlement and the Minimum CAt revenue entitlement for relevant year t.

*less* the CBt revenue entitlement in relevant year t.

where :

CAt revenue entitlement means the entitlement calculated by multiplying CAt in relevant year t by the quantity sold in relevant year t and dividing by 100, as given by : CAt \* Qt / 100.

CBt revenue entitlement means the entitlement calculated by multiplying CBt in relevant year t by the PPB traded sales in relevant year t and dividing by 100, as given by :

CBt \* QBBt / 100.

 Minimum CAt revenue

entitlement means in the eleventh relevant year,

 £1,080,000 \* RPI2002 / RPI2000 and for each subsequent relevant year t, the Minimum CAt revenue entitlement for the year t-1 multiplied by (RPIt / RPIt-1 – (XCAt / 100)).

Minimum Bt revenue means in the eleventh relevant year,

entitlement £1,520,000 \* RPI2002 / RPI2000 and for each subsequent relevant year t, the Minimum Bt revenue entitlement for the year t-1 multiplied by (RPIt / RPIt-1 – (XBt / 100))

Minimum PPB revenue means in the eleventh relevant year,

entitlement £3,860,000 \* RPI2002 / RPI2000 and for each subsequent relevant year t, the Minimum PPB revenue entitlement for the year t-1 multiplied by (RPIt / RPIt-1 – (XCAt / 100))

RPI2000 means the Retail Prices Index (1987 = 100) published in respect of October 2000;

RPI2002 means the Retail Prices Index (1987 = 100) published in respect of October 2002;

RPIt means the Retail Prices Index (1987 = 100) published or determined with respect to October in the relevant year t;

RPIt-1 means the Retail Prices Index (1987 = 100) published or determined with respect to October in the year immediately preceding to the relevant year t;

XCAt is the notified value for relevant year t.

CAt means the allowed power procurement charge in pence per unit sold in relevant year t which is derived from the following formula:

CAt = CAt‑1(1 + (rpit - XCAt )/100)

(but in relation to the ninth relevant year, CAt shall have a value equal to 0.02000 pence and a value equal to zero in previous years (see Schedule 10));

where:

rpit means the percentage change (whether a positive or negative value) in the Retail Prices Index (1987 = 100) between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October; and

 XCAt means the notified value for relevant year t;

Qt means the quantity sold in relevant year t;

CBt means the allowed power procurement incentive to encourage trading in pence per unit sold in relevant year t which is derived from the following formula:

CBt = CBt-1 (1 + rpit /100)

(but in relation to the ninth relevant year, CBt shall have a value equal to 0.1200 pence and a value equal to zero in previous years (see Schedule 10));

where:

rpit means the percentage change (whether a positive or negative value) in the Retail Prices Index (1987 = 100) between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October;

QBBt means the PPB traded sales in relevant year t;

Dt means the allowed charge in relevant year t for excluded power procurement costs and changes of law calculated as the aggregate of the excluded power procurement costs plus the allowed change of law revenues less the excess cost of NFFO for relevant year t.

KBt means a correction factor (whether a positive or negative value) to be applied to the maximum regulated energy sales revenue in relevant year t derived using the following formula:

KBt = [MBt‑1 ‑ RBt‑1](1 + It/100)

(but in relation to the first relevant year, KBt shall be equal to zero);

where:

MBt‑1 means the maximum regulated energy sales revenue in relevant year t‑1;

RBt‑1 means the power procurement energy sales revenue in relevant year t‑1;

It means the average specified rate.

3. **Restriction of the bulk supply tariff: adjustments**

3.1 If, in respect of any relevant year the power procurement energy sales revenue exceeds the maximum regulated energy sales revenue by more than the permitted one‑year percentage, the licensee shall furnish an explanation to the Authority and in the next following relevant year the licensee shall not effect any increase in the bulk supply tariff unless it has demonstrated to the reasonable satisfaction of the Authority that the power procurement energy sales revenue would not be likely to exceed the maximum regulated energy sales revenue in that next following relevant year.

* 1. If, in respect of any 3 successive relevant years excluding the eleventh relevant year, the sum of the amounts by which the power procurement energy sales revenue has exceeded the maximum regulated energy sales revenue is more than the permitted 3‑year percentage, then in the next following relevant year the licensee shall, if required by the Authority, adjust its bulk supply tariff such that the power procurement energy sales revenue would not be likely, in the judgment of the Authority, to exceed the maximum regulated energy sales revenue in that next following relevant year.

3.3 In this paragraph:

"**permitted one‑year** means 4 per cent of the maximum regulated

**percentage**" energy sales revenue; and

"**permitted 3‑year** means 5 per cent of the maximum regulated

**percentage**" energy sales revenue in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the bulk supply tariff restriction conditions**

4.1 Where any change is intended to be made in the bulk supply tariff regulated under paragraph 2, the licensee shall not later than the time referred to in paragraph 4.2 provide the Authority with:

(a) a written forecast of the maximum regulated energy sales revenue, together with its components, in respect of the relevant year t in which such change is to take effect and in respect of the next following relevant year t + 1;

(b) a written estimate of the maximum regulated energy sales revenue, together with its components, in respect of the relevant year t‑1 immediately preceding the relevant year in which the change is to take effect unless a statement complying with paragraph 4.6 in respect of relevant year t‑1 has been furnished by the licensee to the Authority before the time referred to in paragraph 4.2.

4.2 The relevant time referred to in paragraph 4.1 shall be 14 days prior to the date of publication of such charges.

4.3 If within 3 months of the commencement of any relevant year t the licensee has not provided the aforementioned forecasts pursuant to paragraph 4.1 for the purpose of such changes in charges as are referred to in paragraph 4.1, the licensee shall forthwith provide the Authority with a written forecast of the maximum regulated energy sales revenue (together with its components) in respect of relevant year t.

4.4 The Authority may issue directions providing that any forecast or estimate provided in accordance with paragraph 4.1 or 4.3 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 and the licensee shall comply with any such directions.

4.5 Not later than 6 weeks after the commencement of each relevant year t, the licensee shall send to the Authority a statement as to:

(a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the power procurement energy sales revenue in the preceding relevant year t‑1 or the 3 preceding relevant years t‑1, t‑2 and t‑3; and

(b) its best estimate as to the relevant correction factor KBt calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum regulated energy sales revenue in respect of relevant year t.

4.6 Not later than 3 months after the end of each relevant year the licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.8.

4.7 The statement referred to in the preceding paragraph shall be:

1. accompanied by a report from the Auditors that in their opinion:

(i) such statement fairly presents each of the specified items referred to in paragraph 4.8 in accordance with the requirements of the bulk supply tariff restriction conditions; and

(ii) the amounts shown in respect of each of those specified items are in accordance with the licensee's accounting records which have been maintained in respect of each of the relevant Separate Businesses in accordance with Condition 3 of Part II; and

(b) certified by a Authority of the licensee on behalf of the licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:

(i) there is no amount included in its calculations under paragraph 2 which represents other than

(aa) bona fide consideration for electricity sold; or

(bb) an amount permitted under the bulk supply tariff restriction conditions to be so included;

(ii) there is no amount included in its calculations of excluded power procurement costs under paragraph 5 which represents other than an amount permitted under the bulk supply tariff restriction conditions to be so included; and

(iii) all amounts which should properly be taken into account for the purposes of the bulk supply tariff restriction conditions have been taken into account.

4.8 The specified items to be contained in the statement referred to in paragraph 4.6 shall be the following:

(a) the quantity sold;

(b) the power procurement energy sales revenue;

(c) the Power Procurement Business's costs incurred in the purchase of electricity, calculated as provided under paragraph 2 (showing separately each component thereof);

(d) the allowed power procurement charge, being CAt calculated as provided under paragraph 2;

1. the allowed power procurement incentive to encourage trading, being CBt calculated as provided under paragraph 2;
2. the excluded power procurement costs referred to at paragraph 5 (showing separately each category of excluded cost); and
3. such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Schedule.

5. **Excluded power procurement costs**

* 1. Subject to paragraph 5.2, the following costs and revenues of the power procurement manager (whether a positive or negative amount) shall be treated as excluded power procurement costs in relevant year t (and, in the case of (xii) and (xiii) below, such costs shall be so treated for each year in which the buy-out agreement continues to be in force):

(i) an amount such that if the CAt revenue entitlement in relevant year t is less than the Minimum CAt revenue entitlement, it equals such calculated shortfall,

 where:

 CAt revenue entitlement is as defined in paragraph 2 of this Schedule.

 Minimum CAt revenue is as defined in paragraph 2 of this Schedule.

 entitlement

(ii) no longer used;

(iii) no longer used;

(iv) no longer used;

(v) where the Department has made one or more orders under Article 35(1) of the Order in relation to the licensee, the costs incurred by the power procurement manager in:

(a) acquiring the availability of an aggregate amount of generating capacity from non‑fossil fuel generating sets which is not more than the amount specified in those orders; and

(b) acquiring the output of such capacity;

1. small renewable spill costs, being the costs incurred by the power procurement manager in acquiring electricity and associated benefits (as defined in Condition 28 of Part III) under Condition 28 of Part III (Small renewable spill arrangements);

(vii) an amount represented by the excess cost of the renewable output factor arrangements, expressed as a negative amount;

(viii) the power procurement renewable profit (a positive or negative amount), being the difference between:

(a) the revenue received by the power procurement manager for the renewable quantity sold during relevant year t; and

(b) the number of units in the renewable quantity sold in relevant year t multiplied by the tariff paid in relevant year t by the licensee under the small renewable spill arrangements established under paragraph 11 of Condition 28 of Part III;

(ix) the following amounts:

(a) any amount which shall be payable by the power procurement manager to any generator or relevant supplier in compensation for the costs of complying with a request made by the Authority under paragraph 10 of Condition 20 of any generation licence and paragraph 9 of Condition 5 of any licence granted under Article 10(2) of the Order (as the case may be);

(b) the reasonable direct costs of the licensee in complying with a request made by the Authority under paragraph 10 of Condition 7 of Part III; and

(c) such amount as shall have been paid to the Authority in reimbursement of his costs and expenses incurred or to be incurred in developing the requisite arrangements provided for in Condition 7 of Part III;

(x) any other costs or revenues of the Power Procurement Business which:

(a) were not taken into account in setting Bt (as defined in paragraph 2);

(b) in the case of costs, those which cannot reasonably be controlled by the power procurement manager; and

(c) the Authority shall determine, upon an application to him by the licensee, shall be included for the purposes of this paragraph; and

(xi) no longer used;

(xii) The costs incurred by the power procurement manager as a result of the buy-out agreement less an amount equal to that calculated in accordance with the formula for BPSOt in Schedule 5C paragraph 2;

(xiii) Without limitation to paragraph (xii), any additional costs which are incurred under the buy-out agreement by reason of any Increase in Tax (as such term is defined in the buy-out agreement);

(xiv) The applicable Breakage Charges and applicable reimbursable costs (as such items are defined in the re-powering agreement) incurred as a result of the re-powering agreement;

(xv) Charges to generators contracted to the power procurement manager for Transmission Use of System.

5.2 No cost incurred or revenues received by the power procurement manager shall be included in more than one of the categories in sub‑paragraphs (i) to (xv) of paragraph 5.1.

6. **Duration of bulk supply tariff restriction conditions**

6.1 The bulk supply tariff restriction conditions and the provisions of Schedule 7 shall apply so long as the transmission licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 6.2 and:

(a) the Authority agrees in writing to the disapplication request; or

(b) their application (in whole or in part) is terminated by notice given by the licensee in accordance with either paragraph 6.4 or paragraph 6.5.

6.2 A disapplication request pursuant to this paragraph 6 shall (a) be in writing addressed to the Authority, (b) specify the bulk supply tariff restriction conditions (or any part or parts thereof) to which the request relates and (c) state the date (being not earlier than the date referred to in paragraph 6.3) from which the licensee wishes the Authority to agree that the specified bulk supply tariff restriction conditions shall cease to have effect (hereafter referred to as the disapplication date).

6.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 6 shall have effect earlier than the date which is the later of:

(a) the date occurring 18 months after delivery of the disapplication request; and

(b) 31 March 2005.

6.4 If the Authority has not made a reference to the Monopolies Commission under Article 15 of the Order relating to the modification of the bulk supply tariff restriction conditions and/or Schedule 7 before the beginning of 12 months which will end with the disapplication date, the licensee may deliver written notice to the Authority terminating the application of such of the bulk supply tariff restriction conditions (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.

6.5 If the Monopolies Commission makes a report on a reference made by the Authority relating to the modification of the bulk supply tariff restriction conditions (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of such bulk supply tariff restriction conditions, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to him written notice terminating the application of such bulk supply tariff restriction conditions (or any part or parts thereof) with effect from the disapplication date or a later date.

6.6 A disapplication request or notice served under this paragraph 6 may be served in respect of a specified geographic area.

7. **Change of Law**

7.1 Where it appears to the power procurement manager that there has been, or is likely to be, a relevant change of law which has had or is likely to have a material effect on the financial position and performance of the Power Procurement Business, the power procurement manager may require the Authority to determine whether the relevant change of law has had or is likely to have such an effect, and if so, what amounts, if any, should be treated as:

 (a) allowed change of law costs in calculating At for relevant year t and each succeeding relevant year in accordance with paragraph 2; and

 (b) allowed change of law revenues in calculating Dt for relevant year t and each succeeding relevant year in accordance with paragraph 2.

to ensure that the financial position and performance of the licensee is likely, so far as reasonably practicable, to be the same as if the relevant change of law had not taken place. In determining the matters provided for in sub‑paragraphs (a) and (b) above, the Authority shall have regard, where relevant, to:

(a) his intentions in relation to the development and implementation of the requisite arrangements provided for in Condition 7 of Part III;

(b) the period over which the licensee shall incur costs by reason of the relevant change of law;

(c) the incremental costs (including financing costs) which the licensee has been or will be required to incur as a consequence of the relevant change of law; and

(d) the other circumstances of the case.

7.2 A notice given to the Authority by the power procurement manager pursuant to paragraph 7.1 shall contain or be accompanied by all relevant details of the relevant change of law and such other information as the Authority shall require and, unless the Authority shall otherwise consent, shall be given not later than the first day of October immediately preceding the first of the relevant years in respect of which the power procurement manager wishes any change in such elements to take effect.

7.3 In this paragraph:

"**environment**" has the meaning ascribed to it in the Environmental Protection Act 1990;

"**harm to the** means actual or potential adverse effects on the

**environment**" environment or living organisms (including man), and shall include changes in climatic conditions or other natural physical systems or functions in the world or any part thereof, and shall also include harm as that expression is defined in the Environmental Protection Act 1990;

"**legal requirement**" means, in relation to a relevant person, any of the following:

(a) any enactment to the extent that it applies to the relevant person;

(b) any regulation made by the Council or the Commission of the European Communities to the extent that it applies to the relevant person or a decision taken by the said Commission which is binding on the relevant person to the extent that it is so binding;

(c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within (a) or (b) above to have effect in a way that is different to that in which it previously had effect;

 (d) any direction of a competent authority other than, insofar as it applies to the licensee, the Authority (except in the exercise of his powers under paragraph 4 of Condition 18 of Part II) or the Department;

"**relevant change of** means any of the following:

**law**"

(a) the application to the power procurement manager of any legal requirement which did not previously so apply or the change of any legal requirement relating to the Power Procurement Business (including any such legal requirement ceasing to apply, being withdrawn or not being renewed);

(b) a change of the United Kingdom Plan, as it applies to Northern Ireland, for the reduction of emissions, made by the Secretary of State on 20 December 1990 pursuant to section 3(5) of the Environmental Protection Act 1990 (as it shall have been amended, supplemented or replaced from time to time); and

(c) the application to any generator of any legal requirement which did not previously so apply or the change of any legal requirement relating to that generator (including any such legal requirement ceasing to apply, being withdrawn or not being renewed) which has the effect of increasing the cost of electricity purchased by the power procurement manager,

other than in relation to:

(i) corporation tax (or any other tax of a similar nature replacing corporation tax on profits or gains); or

(ii) Value Added Tax (save to the extent that the generator is not entitled to credit for the same as input tax under section 14 of the Value Added Tax Act 1983);

save to the extent that the rate, incidence or basis of or other provisions applicable to such tax differ as between one case and another, by reason of considerations or matters relating to harm to the environment so as to result in the imposition of tax or costs at a greater level or higher amount, as between one case and another, than would otherwise be the case.

For the above purposes, a tax shall be treated as charged, levied, imposed or payable in relation to or because of considerations or matters relating to harm to the environment, or differences as between one case and another shall be treated as applying by reason of considerations or matters relating to harm to the environment, if in all the circumstances it may reasonably be considered that considerations or matters relating to harm to the environment were a material factor in relation to the charging, levying or imposition or making provision for payment of such tax or the making of provision for such difference;

"**relevant person**" means a generator or the licensee; and

"**tax**" means any tax, duty, impost or levy of any nature whatsoever and wherever and whenever charged, levied or imposed.

8. **Modification of Generating Unit Agreements, Power Station Agreements and/or the Grid Code**

8.1 No longer used.

8.2 No longer used.

* 1. No longer used.
1. **Purpose of Bulk Supply Tariff Charge Restriction Condition**

It is acknowledged that the purpose of Schedule 5A and Schedule 5C is to ensure that, subject to the conditions contained in paragraphs 1 to 8, and having regard to other sources of revenue available to the Licensee as transmission licensee (and the costs to be recovered therefrom), the Licensee is and shall at all times be able to recover, the aggregate payments made by the Licensee from time to time under the Varied Ballylumford Agreements in the manner described in a letter from the Authority to the Licensee dated 27 July 2000.

SCHEDULE 5B979[[97]](#footnote-97)5

SYSTEM SUPPORT SERVICES (SSS) CHARGE RESTRICTION CONDITIONS989[[98]](#footnote-98)6

1. **Definitions**

1.1 In this Schedule:

"**average specified rate**" means the arithmetic mean of the daily base rates of Northern 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;

 "**maximum regulated SSS revenue**" means the revenue calculated in accordance with the formula in paragraph 2;

"**quantity entering the** means the aggregate quantity of units

**total system**" metered on entry to the total system in relevant year t (minus any units consumed by generation sets and imported from the total system);

"**regulated SSS revenue**" means the revenue (measured on an accruals basis) derived from SSS charges (including any revenue received from any Separate Business) in relevant year t after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;

"**relevant year**" means a financial year commencing on or after 1 April 1992;

"**relevant year t**" means that relevant year for the purposes of which any calculation falls to be made; "relevant year t ‑ 1" means the relevant year preceding relevant year t or, in respect of the period prior to 1 April 1992, the period of 12 calendar months commencing on 1 April 1991; and similar expressions shall be construed accordingly;

 **“SSS charge(s)**” means the charge(s) so called and provided for in Part IIIC Condition 16A;

"**SSS charge restriction condition**" means this schedule as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 17 or 18 of the Order;

"**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.

2. **Restriction of SSS charges: basic formula**

The transmission system operator (TSO) shall, in setting the SSS charges, use its best endeavours to ensure that in any relevant year the regulated SSS revenue shall not exceed the maximum regulated SSS revenue calculated in accordance with the following formula:

MTSOt = ATSOt + BTSOt + DTSOt + KTSOt

where:

MTSOt means the maximum regulated SSS revenue in relevant year t.

ATSOt  means the cost of System Support Services in relevant year t including the cost of the gas turbines contracted under the cancellable generating unit agreements as outlined in Schedule 8 in relevant year t and including amounts payable by the transmission system operator to any person for the provision or use of any System Support Services provided over any interconnector in relevant year t.

BTSOt means the allowed SSS revenue in pounds millions in relevant year t which is derived from the following formula:

 BTSOt = BTSOt-1 x (1 + RPIt/ 100)

 Where

 BTSOt for relevant year 11 (or the year 2002/03) shall assume that BTSOt – 1 equals £6.02m (see Schedule 10) but in previous years BTSOt equals zero;

 rpit means the percentage change (whether a positive or negative value) in the Retail Prices Index between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October;

DTSOt means the allowed charge in pounds millions in relevant year t for excluded system support service costs as defined in paragraph 8.1 of this Schedule 5B.

KTSOt means the correction factor (whether a positive or negative number) to be applied to the maximum regulated SSS revenue in relevant year t derived from the following formula:

 KTSOt = (MTSOt-1 – RTSOt-1) ( 1 + It / 100 )

Where :

MTSOt-1 means the maximum regulated SSS revenue in relevant year t-1;

RTSOt-1 means the regulated SSS revenue in relevant year t-1;

It means the average specified rate.

 In respect of the first and ninth relevant years commencing 1st April 1992 KTSOt will have the value zero.

3. **Restriction of SSS charges: adjustments**

3.1 If, in respect of any relevant year except the ninth relevant year, the regulated SSS revenue exceeds the maximum regulated SSS revenue by more than the permitted one‑year percentage, the licensee shall furnish an explanation to the Authority and in the next following relevant year the licensee shall not effect any increase in the SSS charges unless it has demonstrated to the reasonable satisfaction of the Authority that the regulated SSS revenue would not be likely to exceed the maximum regulated SSS revenue in that next following relevant year.

3.2 If, in respect of any 3 successive relevant years excluding the ninth relevant year, the sum of the amounts by which the regulated SSS revenue has exceeded the maximum regulated SSS revenue is more than the permitted 3‑year percentage, then in the next following relevant year the licensee shall, if required by the Authority, adjust the SSS charges such that the regulated SSS revenue would not be likely, in the judgement of the Authority, to exceed the maximum regulated SSS revenue in that next following relevant year.

3.3 In this paragraph:

"**permitted one‑year** means 4 per cent of the maximum regulated

**percentage**" SSS revenue; and

"**permitted 3‑year** means 5 per cent of the maximum regulated

**percentage**" SSS revenue in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the SSS charge restriction conditions**

4.1 Where any change is intended to be made in the SSS charges regulated under paragraph 2, the licensee shall not later than the time referred to in paragraph 4.2 provide the Authority with:

(a) a written forecast of the maximum regulated SSS revenue, together with its components, in respect of the relevant year t in which such change is to take effect and in respect of the next following relevant year t + 1;

(b) a written estimate of the maximum regulated SSS revenue, together with its components, in respect of the relevant year t‑1 immediately preceding the relevant year in which the change is to take effect unless a statement complying with paragraph 4.6 in respect of relevant year t‑1 has been furnished by the licensee to the Authority before the time referred to in paragraph 4.2.

4.2 The relevant time referred to in paragraph 4.1 shall be 14 days prior to the date of publication of such charges.

4.3 If within 3 months of the commencement of any relevant year t the licensee has not provided the aforementioned forecasts pursuant to paragraph 4.1 for the purpose of such changes in charges as are referred to in paragraph 4.1, the licensee shall forthwith provide the Authority with a written forecast of the maximum regulated SSS revenue (together with its components) in respect of relevant year t.

4.4 The Authority may issue directions providing that any forecast or estimate provided in accordance with paragraph 4.1 or 4.3 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 and the licensee shall comply with any such directions.

4.5 Not later than 6 weeks after the commencement of each relevant year t, the licensee shall send to the Authority a statement as to:

(a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the regulated SSS revenue in the preceding relevant year t‑1 or the 3 preceding relevant years t‑1, t‑2 and t‑3; and

(b) its best estimate as to the relevant correction factor KTSOt calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum regulated SSS revenue in respect of relevant year t.

4.6 Not later than 3 months after the end of each relevant year the licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.8.

* 1. The statement referred to in the preceding paragraph shall be:

(a) accompanied by a report from the Auditors that in their opinion:

 (i) such statement fairly presents each of the specified items referred to in paragraph 4.8 in accordance with the requirements of the SSS charge restriction conditions; and

(ii) the amounts shown in respect of each of those specified items are in accordance with the licensee's accounting records which have been maintained in respect of each of the relevant Separate Businesses in accordance with Condition 3 of Part II; and

(b) certified by a Authority of the licensee on behalf of the licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:

(i) there is no amount included in its calculations under paragraph 2 which represents other than

(aa) Not used

(bb) an amount permitted under the SSS charge restriction conditions to be so included;

(ii) all amounts which should properly be taken into account for the purposes of the SSS charge restriction conditions have been taken into account.

4.8 The specified items to be contained in the statement referred to in paragraph 4.6 shall be the following:

(a) the regulated SSS revenue;

(b) the maximum regulated SSS revenue;

(c) the cost of ATSOt, namely, System Support Services including the cost of the gas turbines contracted under the cancellable generating unit agreements as outlined in Schedule 8 and amounts payable by the TSO for the provision or use of System Support Services provided over any interconnector, calculated as provided under paragraph 2 (showing separately each component thereof);

(d) the allowed SSS revenue, being BTSOt, calculated as provided under paragraph 2;

(e) any other excluded SSS costs, being DTSOt calculated as provided under paragraph 2 (showing separately each component thereof);

(f) such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Schedule.

5. **Duration of SSS charge restriction conditions**

5.1 The SSS charge restriction conditions shall apply so long as the transmission licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 5.2 and:

(a) the Authority agrees in writing to the disapplication request; or

(b) their application (in whole or in part) is terminated by notice given by the licensee in accordance with either paragraph 5.4 or paragraph 5.5.

5.2 A disapplication request pursuant to this paragraph 5 shall (a) be in writing addressed to the Authority, (b) specify the SSS charge restriction conditions (or any part or parts thereof) to which the request relates and (c) state the date (being not earlier than the date referred to in paragraph 5.3) from which the licensee wishes the Authority to agree that the specified SSS charge restriction conditions shall cease to have effect (hereafter referred to as the disapplication date).

5.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 5 shall have effect earlier than the date which is the later of:

(a) the date occurring 18 months after delivery of the disapplication request; and

(b) 31 March 2005.

5.4 If the Authority has not made a reference to the Monopolies Commission under Article 15 of the Order relating to the modification of the SSS charge restriction conditions before the beginning of 12 months which will end with the disapplication date, the licensee may deliver written notice to the Authority terminating the application of such of the SSS charge restriction conditions (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.

5.5 If the Monopolies Commission makes a report on a reference made by the Authority relating to the modification of the SSS charge restriction conditions (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of such SSS charge restriction conditions, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to him written notice terminating the application of such SSS charge restriction conditions (or any part or parts thereof) with effect from the disapplication date or a later date.

5.6 A disapplication request or notice served under this paragraph 5 may be served in respect of a specified geographic area.

6. **Change of Law**

6.1 Where it appears to the transmission system operator that there has been, or is likely to be, a relevant change of law which has had or is likely to have a material effect on the financial position and performance of the Transmission System Operation Business, the transmission system operator may require the Authority to determine whether the relevant change of law has had or is likely to have such an effect, and if so what amounts, if any, should be treated as allowed change of law revenues in calculating DTSOt for relevant year t and each succeeding relevant year in accordance with paragraph 2 to ensure that the financial position and performance of the licensee is likely, so far as reasonably practicable, to be the same as if the relevant change of law had not taken place. In determining the matters provided for in the paragraph above, the Authority shall have regard, where relevant, to:

(a) his intentions in relation to the development and implementation of the requisite arrangements provided for in Condition 7 of Part III;

(b) the period over which the licensee shall incur costs by reason of the relevant change of law;

(c) the incremental costs (including financing costs) which the licensee has been or will be required to incur as a consequence of the relevant change of law; and

(d) the other circumstances of the case.

6.2 A notice given to the Authority by the transmission system operator pursuant to paragraph 6.1 shall contain or be accompanied by all relevant details of the relevant change of law and such other information as the Authority shall require and, unless the Authority shall otherwise consent, shall be given not later than the first day of October immediately preceding the first of the relevant years in respect of which the transmission system operator wishes any change in such elements to take effect.

* 1. This Schedule shall be modified to give effect to any determination made by the Authority under this paragraph 6. Such modification shall have effect from the later of the date of the determination and the date upon which the relevant change of law comes into force.
	2. In this paragraph:

"**legal requirement**" means, in relation to the transmission system operator, any of the following:

(a) any enactment to the extent that it applies to the transmission system operator;

(b) any regulation made by the Council or the Commission of the European Communities to the extent that it applies to the transmission system operator or a decision taken by the said Commission which is binding on the transmission system operator to the extent that it is so binding;

(c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within (a) or (b) above to have effect in a way different to that in which it previously had effect;

(d) any direction of a competent authority other than, insofar as it applies to the licensee, the Authority (except in the exercise of his powers under paragraph 4 of Condition 18 of Part II) or the Department;

"**relevant change of** means any of the following:

**law**"

(a) the application to the transmission system operator of any legal requirement which did not previously so apply or the change of any legal requirement relating to the transmission system operator (including any such legal requirement ceasing to apply, being withdrawn or not being renewed);

1. a change of the United Kingdom Plan, as it applies to Northern Ireland, for the reduction of emissions, made by the Secretary of State on 20 December 1990 pursuant to section 3(5) of the Environmental Protection Act 1990 (as it shall have been amended, supplemented or replaced from time to time).

7. **Unit Coverage**

* 1. The maximum regulated System Support Service revenue (or certain parts of the maximum regulated SSS revenue) can potentially be recovered from the quantity entering the total system in the authorised transmission area and from Wheeled Units. The final decision regarding which units in particular the maximum regulated SSS revenue (or certain parts of the maximum regulated SSS revenue) will be recovered from in relevant year t (“unit coverage”) rests with the Authority. In each relevant year t on the decision of the Authority regarding unit coverage of the SSS charge, the licensee will then draw up for the relevant year t the schedule of SSS charges in accordance with Part III C Condition 16A in a manner which is consistent with the decision of the Authority regarding unit coverage. If the licensee draws up for relevant year t the schedule of SSS charges in accordance with Part IIIC Condition 16A in a manner which is not consistent with the decision of the Authority regarding unit coverage then the Authority’s approval under Part IIIC Condition 16A paragraph 2 (i) for the form of this schedule will not be granted.

8. **Excluded System Support Service Costs**

* 1. Subject to paragraphs 8.2 and 8.3 the following costs and revenues of the transmission system operator (whether a positive or negative amount) shall be treated as excluded system support service costs in relevant year t:

(1) costs and revenues associated with the development of a combined electricity market between Northern Ireland and The Republic of Ireland;

(2) costs and revenues associated with any future divestment of the transmission system operator business;

(3) costs and revenues associated with any further electricity market opening in Northern Ireland;

(4) any other costs and revenues of the transmission system operator business which:-

(i) were not taken into account in setting ATSOt or BTSOt;

(ii) in the case of costs, those which cannot reasonably be controlled by

 the transmission system operator business; and

(iii) the Authority shall determine, upon an application to him by the

 licensee, shall be included for the purposes of this paragraph.

8.2 The transmission system operator shall, in a timely manner, give the Authority notice of any claim for costs pursuant to paragraph 8.1 Such notice shall contain or be accompanied by all relevant details of the costs claimed and such other information as the Authority shall require in order to determine whether such costs can be recovered by the transmission system operator. Any claim for recovery of costs by the transmission system operator pursuant to paragraph 8.1 shall require to be approved by the Authority and shall not become effective until approved by the Authority.

8.3 No costs incurred or revenues received by the transmission system operator business shall

be included in more than one of the categories in sub-paragraphs (1) to (4) of
paragraph 8.1.

SCHEDULE 5C

PUBLIC SERVICE OBLIGATION (PSO) CHARGE RESTRICTION CONDITIONS999[[99]](#footnote-99)7

1. **Definitions**

1.1 In this Schedule:

"**average specified rate**" means the arithmetic mean of the daily base rates of Northern 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;

 "**excess cost of NFFO**" means, subject to the approval of the Authority of the manner of its calculation, the total cost incurred by the power procurement manager under paragraph 5.1(v) of Schedule 5A less an amount equal to the revenue received by the power procurement manager from the sale by the power procurement manager of the output from the capacity referred to in paragraph 5.1(v) of Schedule 5A;

 "**excess cost of the Rathlin** means, subject to the approval of the

 **purchase tariff**" Authority, the total cost of payments by the power procurement manager for the purchase of energy from generators on Rathlin island less an amount which equals the total energy cost of generating the same output (as generated from the capacity of Rathlin generators) from fossil fuel generating sets under contract with the power procurement manager under the cancellable generating unit agreements outlined in Schedule 8 (or under any other contract for electricity from fossil fuel generating sets entered into by the power procurement manager but excluding Rathlin generator contracts).

 **“excess cost of the renewable** means, subject to the approval of the Authority

 **output factor arrangements”** of the manner of its calculation, the amount of the under-recovery of costs caused by imbalances between electricity delivered onto the NIE System by or on behalf of relevant suppliers and the electricity consumed by their customers, due to settlement of those imbalances under Condition 27 of Part III (Renewable output factor arrangements) of this Licence Document instead of under Condition 24 of Part III (Interim Settlement Arrangements); and the amount of any under-payment or non-payment of amounts owed to the licensee under those renewable output factor arrangements;

"**maximum regulated PSO revenue**" means the revenue calculated in accordance with the formula in paragraph 2;

**“power procurement renewable** has the meaning ascribed to it in paragraph **profit”** 5.1 of Schedule 5A;

**“PSO charge(s)”** means the charge(s) so called and provided for in Part IIIB Condition 3;

"**regulated PSO revenue**" means the revenue (measured on an accruals basis) derived from PSO charges (including any revenue received from any Separate Business) in relevant year t after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;

"**relevant year**" means a financial year commencing on or after 1 April 1992;

"**relevant year t**" means that relevant year for the purposes of which any calculation falls to be made; "relevant year t ‑ 1" means the relevant year preceding relevant year t or, in respect of the period prior to 1 April 1992, the period of 12 calendar months commencing on 1 April 1991; and similar expressions shall be construed accordingly;

"**PSO charge restriction condition**" means this schedule as from time to time modified or replaced in accordance therewith or pursuant to Article 14, 17, 17A or 18 of the Order or under the Energy Order;

"**quantity entering the** means the aggregate quantity of units

**total system**" metered on entry to the total system in relevant year t (minus any units consumed by generation sets and imported from the total system);

"**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.

2. **Restriction of PSO charges: basic formula**

The power procurement manager shall, in setting the PSO charges, use its best endeavours to ensure that in any relevant year the regulated PSO revenue does not exceed the maximum regulated PSO revenue calculated in accordance with the following formula:

MPSOt = APSOt + BPSOt + DPSOt + KPSOt

where:

MPSOt means the maximum regulated public service obligation revenue in relevant year t;

APSOt means the public service obligation charge subject to the approval of the Authority, comprising the excess cost of NFFO in relevant year t, the excess cost of the Rathlin purchase tariff in relevant year t, the excess cost of the renewable output factor arrangements in relevant year t and the following costs and revenues (whether a positive or negative amount) in relevant year t:

(i) the cost incurred in the purchase of electricity during fuel security periods and periods of force majeure in relevant year t calculated in accordance with the definition of At in paragraph 2 of Schedule 5A and with a basis for attributing costs between different periods of the year approved by the Authority;

(ii) the licensee's allowed power procurement related security costs, being any cost incurred by the power procurement manager 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 licensee's allowed transmission and distribution related security costs (as that term is defined in paragraph 6.7 of Schedule 4); or

(b) any payment of the kind referred to in sub‑paragraph (i) above;

(iii) any amounts which the power procurement manager shall have paid or be liable to pay to the Land Bank Business, less any amounts which the power procurement manager shall have received or have been entitled to receive from the Land Bank Business;

(iv) payments made by the power procurement manager to generators in consideration of their compliance with any directions made to them in relation to stocks of fuel and other materials under Article 37 of the Order;

(v) amounts paid or payable to generators by way of compensation for any damage, costs, losses and expenses suffered or incurred by them as a result of complying or attempting to comply (in either case acting as reasonable and prudent operators) with any request or instruction from the transmission system operator pursuant to OC2.6.1(c)(ii), OC2.6.1(c)(iii), OC2.6.2(c)(ii), OC2.6.2(f)(ii), OC2.6.2(f)(iii), OC2.6.2(c)(iii), OC2.6.6.4, OC7.4.6.6, SDC2B.1.9 and SDC2.4.2.9 of the Grid Code (and the corresponding provisions of any replacement of the Grid Code), including:

(a) physical damage to or operational deterioration of any generation set or other plant;

(b) increased costs of operation or maintenance of the generation set or other plant;

(c) costs and claims of contractors; and

(d) loss or diminution of any payments to which the generators would have been entitled for the provision of available capacity (including reductions and/or increased rebates thereof) in relation to any such compliance at any time prior to 31 March 1997,

to the extent that the Authority is satisfied that:

(aa) the compensation in question shall have had deducted from it any payment which the licensee shall have received or have been entitled to receive from any generator whose act or omission was responsible for the request or instruction in question from the grid operator, in relation to such act or omission;

(bb) it was necessary for the transmission system operator to have made the request or instruction in question in order to protect or maintain the security and stability of the system; and

(cc) the licensee, acting reasonably and prudently, could not have avoided the threat in question to the security and stability of the system;

(vi) an amount in respect of the power procurement renewable profit in relevant year t, equal to:

(a) zero, if the power procurement profit in relevant year t is zero or positive; and

(b) the absolute value of the power procurement profit in relevant year t in all other cases.

No costs incurred or revenue received by the power procurement manager shall be included in more than one of the categories (i) to (vi) of paragraph 2.

 BPSOt means the cost of servicing the buy-out agreement in relevant year t which is derived from the following formula:

 BPSOt = CBOt \* ( 1 – (35 / MO ) ) \* 100 / 65

 Where :

 BPSOt equals zero where MO is less than or equal to 35 in relevant year t;

 CBOt equals the cost in relevant year t in pounds millions incurred by the power procurement manager as measured by the sum of the costs incurred as a result of the buy-out agreement plus tax liabilities from whatever source or jurisdiction which are incurred as a result of the buy-out agreement;

 MO is the number equal to the extent of market opening actually implemented in relevant year t under the EU directive number 96/92European Parliament and Council Directive 2003/43/EC as measured in percentage point terms.

DPSOt means any other amount in relevant year t not included in APSOt and BPSOt requested by the licensee and approved by the Authority.

KPSOt means the correction factor (whether a positive or negative number) to be applied to the maximum regulated PSO revenue in relevant year t derived from the following formula:

 KPSOt = (MPSOt-1 – RPSOt-1) ( 1 + It / 100 )

Where :

MPSOt-1 means the maximum regulated PSO revenue in relevant year t-1;

RPSOt-1 means the regulated PSO revenue in relevant year t-1;

It means the average specified rate.

 In respect of the first and ninth relevant years commencing 1st April 1992 KPSOt will have the value zero.

3. **Restriction of PSO charges: adjustments**

3.1 If, in respect of any relevant year except the ninth relevant year, the regulated PSO revenue exceeds the maximum regulated PSO revenue by more than the permitted one‑year percentage, the licensee shall furnish an explanation to the Authority and in the next following relevant year the licensee shall not effect any increase in the PSO charges unless it has demonstrated to the reasonable satisfaction of the Authority that the regulated PSO revenue would not be likely to exceed the maximum regulated PSO revenue in that next following relevant year.

3.2 If, in respect of any 3 successive relevant years excluding the ninth relevant year, the sum of the amounts by which the regulated PSO revenue has exceeded the maximum regulated PSO revenue is more than the permitted 3‑year percentage, then in the next following relevant year the licensee shall, if required by the Authority, adjust its PSO charges such that the regulated PSO revenue would not be likely, in the judgment of the Authority, to exceed the maximum regulated PSO revenue in that next following relevant year.

3.3 In this paragraph:

"**permitted one‑year** means 4 per cent of the maximum regulated

**percentage**" PSO revenue; and

"**permitted 3‑year** means 5 per cent of the maximum regulated

**percentage**" PSO revenue in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the PSO charge restriction conditions**

4.1 Where any change is intended to be made in the PSO charges regulated under paragraph 2, the licensee shall not later than the time referred to in paragraph 4.2 provide the Authority with:

(i) a written forecast of the maximum regulated PSO revenue, together with its components, in respect of the relevant year t in which such change is to take effect and in respect of the next following relevant year t + 1;

(ii) a written estimate of the maximum regulated PSO revenue, together with its components, in respect of the relevant year t‑1 immediately preceding the relevant year in which the change is to take effect unless a statement complying with paragraph 4.6 in respect of relevant year t‑1 has been furnished by the licensee to the Authority before the time referred to in paragraph 4.2.

4.2 The relevant time referred to in paragraph 4.1 is 14 days prior to the date of publication of such charges.

4.3 If within 3 months of the commencement of any relevant year t the licensee has not provided the aforementioned forecasts pursuant to paragraph 4.1 for the purpose of such changes in charges as are referred to in paragraph 4.1, the licensee shall forthwith provide the Authority with a written forecast of the maximum regulated PSO revenue (together with its components) in respect of relevant year t.

4.4 The Authority may issue directions providing that any forecast or estimate provided in accordance with paragraph 4.1 or 4.3 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 and the licensee shall comply with any such directions.

4.5 Not later than 6 weeks after the commencement of each relevant year t, the licensee shall send to the Authority a statement as to:

(a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the regulated PSO revenue in the preceding relevant year t‑1 or the 3 preceding relevant years t‑1, t‑2 and t‑3; and

(b) its best estimate as to the relevant correction factor KPSOt calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum regulated PSO revenue in respect of relevant year t.

4.6 Not later than 3 months after the end of each relevant year the licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.8.

4.7 The statement referred to in the preceding paragraph shall be:

(a) accompanied by a report from the Auditors that in their opinion:

 (i) such statement fairly presents each of the specified items referred to in paragraph 4.8 in accordance with the requirements of the PSO charge restriction conditions; and

(ii) the amounts shown in respect of each of those specified items are in accordance with the licensee's accounting records which have been maintained in respect of each of the relevant Separate Businesses in accordance with Condition 3 of Part II; and

(b) certified by a director of the licensee on behalf of the licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:

(i) there is no amount included in its calculations under paragraph 2 which represents other than

(aa) Not used.

(bb) an amount permitted under the PSO charge restriction conditions to be so included;

(ii) all amounts which should properly be taken into account for the purposes of the PSO charge restriction conditions have been taken into account.

4.8 The specified items to be contained in the statement referred to in paragraph 4.6 shall be the following:

(a) the regulated PSO revenue;

(b) the maximum regulated PSO revenue;

(c) the public service obligations charge, being APSOt, calculated as provided under paragraph 2 (showing separately each component thereof);

(d) the excess cost of servicing the buy-out agreement, being BPSOt, calculated as provided under paragraph 2 (showing seperately each component thereof);

(e) any other excluded PSO cost, being DPSOt calculated as provided under paragraph 2;

(f) such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Schedule.

5. **Duration of PSO charge restriction conditions**

5.1 The PSO charge restriction conditions shall apply so long as the transmission licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 5.2 and:

(a) the Authority agrees in writing to the disapplication request; or

(b) their application (in whole or in part) is terminated by notice given by the licensee in accordance with either paragraph 5.4 or paragraph 5.5.

5.2 A disapplication request pursuant to this paragraph 5 shall (a) be in writing addressed to the Authority, (b) specify the PSO charge restriction conditions (or any part or parts thereof) to which the request relates and (c) state the date (being not earlier than the date referred to in paragraph 5.3) from which the licensee wishes the Authority to agree that the specified PSO charge restriction conditions shall cease to have effect (hereafter referred to as the disapplication date).

5.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 5 shall have effect earlier than the date which is the later of:

(a) the date occurring 18 months after delivery of the disapplication request; and

(b) 31 March 2002.

5.4 If the Authority has not made a reference to the Competition Commission under Article 15 of the Order, relating to the modification of the PSO charge restriction conditions before the beginning of 12 months which will end with the disapplication date, the licensee may deliver written notice to the Authority terminating the application of such of the PSO charge restriction conditions (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.

5.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of the PSO charge restriction conditions (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of such PSO charge restriction conditions, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to the Authority written notice terminating the application of such PSO charge restriction conditions (or any part or parts thereof) with effect from the disapplication date or a later date.

5.6 A disapplication request or notice served under this paragraph 5 may be served in respect of a specified geographic area.

6. **Change of Law**

6.1 Where it appears to the power procurement manager that there has been, or is likely to be, a relevant change of law which has had or is likely to have a material effect on the financial position and performance of the Power Procurement Business, the power procurement manager may require the Authority to determine whether the relevant change of law has had or is likely to have such an effect, and if so what amounts, if any, should be treated as allowed change of law revenues in calculating DPSOt for relevant year t and each succeeding relevant year in accordance with paragraph 2 to ensure that the financial position and performance of the licensee is likely, so far as reasonably practicable, to be the same as if the relevant change of law had not taken place. In determining the matters provided for in the paragraph above, the Authority shall have regard, where relevant, to:

(a) its intentions in relation to the development and implementation of the requisite arrangements provided for in Condition 7 of Part III;

(b) the period over which the licensee shall incur costs by reason of the relevant change of law;

(c) the incremental costs (including financing costs) which the licensee has been or will be required to incur as a consequence of the relevant change of law; and

(d) the other circumstances of the case.

6.2 A notice given to the Authority by the power procurement manager pursuant to paragraph 6.1 shall contain or be accompanied by all relevant details of the relevant change of law and such other information as the Authority shall require and, unless the Authority shall otherwise consent, shall be given not later than the first day of October immediately preceding the first of the relevant years in respect of which the transmission system operator wishes any change in such elements to take effect.

* 1. This Schedule shall be modified to give effect to any determination made by the Authority under this paragraph 6. Such modification shall have effect from the later of the date of the determination and the date upon which the relevant change of law shall come into force.
	2. In this paragraph:

"**legal requirement**" means, in relation to the transmission system operator, any of the following:

(a) any enactment to the extent that it applies to the power procurement manager;

(b) any regulation made by the Council or the Commission of the European Communities to the extent that it applies to the power procurement manager or a decision taken by the said Commission which is binding on the power procurement manager to the extent that it is so binding;

(c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within (a) or (b) above to have effect in a way different to that in which it previously had effect;

(d) any direction of a competent authority other than, insofar as it applies to the licensee, the Authority (except in the exercise of its powers under paragraph 4 of Condition 18 of Part II) or the Department;

"**relevant change of** means any of the following:

**law**"

(a) the application to the power procurement manager of any legal requirement which did not previously so apply or the change of any legal requirement relating to the power procurement manager (including any such legal requirement ceasing to apply, being withdrawn or not being renewed);

1. a change of the United Kingdom Plan, as it applies to Northern Ireland, for the reduction of emissions, made by the Secretary of State on 20 December 1990 pursuant to section 3(5) of the Environmental Protection Act 1990 (as it shall have been amended, supplemented or replaced from time to time).

7. **Unit Coverage**

7.1 The maximum regulated Public Service Obligation revenue (or certain parts of the maximum regulated PSO revenue) can potentially be recovered from the quantity entering the total system in the authorised transmission area and from Wheeled Units. The final decision regarding which units in particular the maximum regulated PSO revenue (or certain parts of the maximum regulated PSO revenue) will be recovered from in relevant year t (“unit coverage”) rests with the Authority. In each relevant year t on the decision of the Authority regarding unit coverage of the PSO charge, the licensee will then draw up for the relevant year t the schedule of PSO charges in accordance with Part III B Condition 3 in a manner which is consistent with the decision of the Authority regarding unit coverage. If the licensee draws up for relevant year t the schedule of PSO charges in accordance with Part IIIB Condition 3 in a manner which is not consistent with the decision of the Authority regarding unit coverage then the Authority’s approval under Part IIIB Condition 3 paragraph 2 (i) for the form of this schedule will not be granted.

 (Condition 3 of Part IV)

 SCHEDULE 6

PUBLIC ELECTRICITY SUPPLY CHARGE RESTRICTION CONDITIONS

1. Definitions

1.1 In this Schedule:

"**average charge per** means the regulated supply revenue in the

**unit supplied**" relevant year divided by the quantity supplied in that year;

"**average specified rate**" means the arithmetic mean of the daily base rates of Northern 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;

"**distribution services**" means all services provided as part of the Distribution Business other than excluded services (as defined in paragraph 1.1 of Schedule 4);

"**excluded services**" means those services which in accordance with the principles set out in paragraph 5 fall to be treated as excluded services;

"**first relevant year**" means the financial year commencing on 1 April 1997;

"**maximum average charge** means the charge calculated in accordance

 **per unit supplied**" with paragraph 2;

"**metered**" means, in relation to any quantity supplied, as measured by metering required pursuant to and defined in the Grid Code or (where no such meter is installed) as otherwise reasonably calculated;

"**1 MW Premises**" means any premises other than over 1 MW premises;

"**over 1 MW Premises**" means premises supplied by the licensee at which the average of the maximum monthly demands in the three months of highest system maximum demand in the relevant period of twelve consecutive months commencing on or after January 1991 exceeds one megawatt or one equivalent megawatt;

"**public electricity supply** means this Schedule as from time to time

**charge restriction** modified or replaced in accordance therewith

**conditions"** or pursuant to Article 14, 17, 17A or 18 of the Order or under the Energy Order;

"**quantity supplied**" means the aggregate quantity of units supplied to supply customers by the licensee in the relevant year metered at grid supply points;

"**regulated supply revenue**" means the revenue (measured on an accruals basis) derived from supply charges, after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;

"**relevant year**" means a financial year commencing on or after 1 April 1997;

"**relevant year t**" means that relevant year for the purposes of which any calculation falls to be made; "relevant year t - 1" means the relevant year preceding relevant year t or, in respect of the period prior to 1 April 1997 the period of 12 calendar months commencing on 1 April 1996, and similar expressions shall be construed accordingly;

"**supply**" excludes supply outside the licensee's authorised supply area, standby, top-up and any other supplies or sales of electricity to persons other than customers; "supplied" and similar expressions shall be construed accordingly;

"**supply charges**" means all charges (including charges for the provision of distribution services and transmission services, and standing charges) made in respect of electricity supplied to supply customers other than charges for the provision of excluded services;

"**supply customer**" means a person who receives a supply of electricity from the licensee at 1MW premises;

"**transmission services**" means all services provided as part of the Transmission Business other than excluded services (as defined in paragraph 1.1 of Schedule 4);

"**unit**" means a kilowatt hour.

2. **Restriction of supply charges: basic formula**

The licensee shall in setting its supply charges use its best endeavours to ensure that in any relevant year the average charge per unit supplied shall not exceed the maximum average charge per unit supplied calculated in accordance with the following formula:

MSt = Gt + Ut + St + KSt

where:

MSt means the maximum average charge per unit supplied in relevant year t.

Gt means the unit costs incurred in the purchase of electricity in pence per unit supplied in relevant year t derived by:

(a) aggregating the amounts payable by the Supply Business to any person (including amounts payable to the “Eco Energy Tariff Trust Fund”) for the purchase of electricity (measured on an accruals basis) in relevant year t (excluding any purchases made for purposes other than supply to supply customers); and

(b) dividing the resulting amount by the quantity supplied in relevant year t.

Ut means the allowed transmission and distribution cost in pence per unit supplied in relevant year t derived:

(i) by aggregating the charges made against the Supply Business (measured on an accruals basis) in relevant year t by the Transmission Business and the Distribution Business in respect of transmission services and distribution services;

(ii) by attributing a proportion of such aggregate charges to supply customers in a manner approved by the Authority; and

(iii) dividing the resulting amount by the quantity supplied in relevant year t.

St means the allowed charge in pence per unit supplied to supply customers at 1 MW premises in relevant year t which is derived from the following formula:

St = ((Pf+Pc\*Ct+Pq\*Qst+Pg\*Qgt)/Qst)\*PIt

PIt means an amount derived from the following formula:

PIt = (1+(rpit  - 2.0)/100) PIt-1

but, in relation to the first relevant year, PIt-1 shall be equal to 1;

Ct means the number of supply customers who are supplied by the licensee at 1MW premises in relevant year t determined in such manner as the Authority shall specify from time to time by notice to the licensee;

Qst means the quantity supplied in relevant year t;

Pf means £8.4725 million;

Pc means 1309.3163 pence;

Pq means 0.07632653 pence;

Pg means 0.105 pence

Qgt means the quantity of renewable electricity supplied, in relevant year t, under contracts or a tariff (as the case may be) which make an express provision for the purchase of electricity under such contract or tariff (as the case may be);

rpit means the percentage change (whether a positive or negative value) in the Retail Prices Index between that published or determined with respect to October in relevant year t and that published or determined with respect to the immediately preceding October;

 KSt means a correction factor in pence per unit supplied (whether a positive or negative value) to be applied to the average charge per unit supplied in relevant year t derived using the following formula:

KSt = [(QSt-1MSt-1 - RSt-1)/QSt](1 + It/100)

where:

QSt-1 means the quantity supplied in relevant year t-1;

MSt-1 means the maximum average charge per unit supplied in relevant year t-1;

RSt-1 means the regulated supply revenue in relevant year t-1;

QSt means the quantity supplied in relevant year t; and

It means the average specified rate.

3. **Restriction of supply charges: adjustments**

3.1 If, in respect of any relevant year the average charge per unit supplied exceeds the maximum average charge per unit supplied by more than the permitted one-year percentage, the licensee shall furnish an explanation to the Authority and in the next following relevant year the licensee shall not effect any increase in supply charges unless it has demonstrated to the reasonable satisfaction of the Authority that the average charge per unit supplied would not be likely to exceed the maximum average charge per unit supplied in that next following relevant year.

3.2 If, in respect of any 3 successive relevant years excluding the first relevant year, the sum of the amounts by which the average charge per unit supplied has exceeded the maximum average charge per unit supplied is more than the permitted 3-year percentage, then in the next following relevant year the licensee shall, if required by the Authority, adjust its charges such that the average charge per unit supplied would not be likely, in the judgment of the Authority, to exceed the maximum average charge per unit supplied in that next following relevant year.

3.3 In this paragraph:

"**permitted one-year** means 4 per cent of the maximum average

**percentage**" charge per unit supplied; and

"**permitted 3-year** means 5 per cent of the maximum average

**percentage**" charge per unit supplied in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the public electricity supply charge restriction conditions**

4.1 Where any change is intended to be made in supply charges regulated under paragraph 2, the licensee shall not later than the time referred to in paragraph 4.2 provide the Authority with:

(a) a written forecast of the maximum average charge per unit supplied, together with its components, in respect of the relevant year t in which such change is to take effect and in respect of the next following relevant year t + 1;

(b) a written estimate of the maximum average charge per unit supplied, together with its components, in respect of the relevant year t-1 immediately preceding the relevant year in which the change is to take effect unless a statement complying with paragraph 4.6 in respect of relevant year t-1 has been furnished by the licensee to the Authority before the time referred to in paragraph 4.2.

4.2 The relevant time referred to in paragraph 4.1 shall be not later than 14 days prior to the date of publication of such charges.

4.3 If within 3 months of the commencement of any relevant year t the licensee has not provided the aforementioned forecasts pursuant to paragraph 4.1 for the purpose of such changes in charges as are referred to in paragraph 4.1, the licensee shall forthwith provide the Authority with a written forecast of the maximum average charge per unit supplied (together with its components) in respect of relevant year t.

4.4 The Authority may issue directions providing that any forecast or estimate provided in accordance with paragraph 4.1 or 4.3 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 and the licensee shall comply with any such directions.

4.5 Not later than 6 weeks after the commencement of each relevant year t, the licensee shall send to the Authority a statement as to:

(a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the average charge per unit supplied in the preceding relevant year t-1 or the 3 preceding relevant years t-1, t-2 and t-3; and

(b) its best estimate as to the relevant correction factor KSt calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum average charge per unit supplied in respect of relevant year t.

4.6 Not later than 3 months after the end of each relevant year the licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.8.

4.7 The statement referred to in the preceding paragraph shall be:

(a) accompanied by a report from the Auditors that in their opinion:

(i) such statement fairly presents each of the specified items referred to in paragraph 4.8 in accordance with the requirements of the public electricity supply charge restriction conditions; and

(ii) the amounts shown in respect of each of those specified items are in accordance with the licensee's accounting records which have been maintained in respect of each of the relevant Separate Businesses in accordance with Condition 3 of Part II; and

(b) certified by a director of the licensee on behalf of the licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:

(i) there is no amount included in its calculations under paragraph 2 which represents other than

(aa) bona fide consideration for electricity supplied to supply customers in the course of the Supply Business; or

(bb) an amount permitted under the public electricity supply charge restriction conditions to be so included;

(ii) no service has been treated as an excluded service which was not properly so treated and no amount included in the revenues in respect thereof represents other than bona fide consideration for the provision of the excluded service to which it relates; and

(iii) all amounts which should properly be taken into account for the purposes of the public electricity supply charge restriction conditions have been taken into account.

4.8 The specified items to be contained in the statement referred to in paragraph 4.6 shall be the following:

(a) the quantity supplied;

(b) the average charge per unit supplied;

(c) the Supply Business' unit costs incurred in the purchase of electricity, being Gt calculated as provided under paragraph 2;

(d) the allowed charge for supply per unit, being St calculated as provided under paragraph 2;

(e) the allowed transmission and distribution cost per unit, being Ut calculated as provided under paragraph 2;

(f) the revenue derived from excluded services (showing separately the revenue from each category of excluded service) as provided for in paragraph 5.2; and

(g) such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Schedule.

5. **Excluded services for the purposes of the Supply Business**

5.1 Subject to paragraph 5.3, a service provided as part of the Supply Business may be treated as an excluded service insofar as it consists of the provision of services for the specific benefit of customers requesting the same and not made available as a normal part of the Supply Business.

5.2 The licensee shall following the end of each relevant year furnish the Authority, as being one of the specified items to be included in the statement referred to in paragraph 4.6, details specifying separately the nature of all services provided as part of the Supply 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.

5.3 Where the Authority is satisfied that in the light of the principles set out in paragraph 5.1 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, and the service or services specified in the directions shall cease to be treated as excluded services from the date of issue of the directions or such other date (being not earlier than the commencement of the relevant year to which the statement last furnished to the Authority pursuant to paragraph 4.6 prior to issue of such directions related, unless such statement or the accompanying report or certificate referred to in paragraph 4.7 or any earlier such statement, report or certificate was incorrect or misleading in any material respect) as may be specified in the directions.

6. **Duration of public electricity supply charge restriction conditions**

6.1 The public electricity supply charge restriction conditions shall apply so long as the public electricity supply licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the licensee delivers to the Authority a disapplication request made in accordance with paragraph 6.2 and:

(a) the Authority agrees in writing to the disapplication request; or

(b) their application (in whole or in part) is terminated by notice given by the licensee in accordance with either paragraph 6.4 or paragraph 6.5.

6.2 A disapplication request pursuant to this paragraph 6 shall (a) be in writing addressed to the Authority, (b) specify the public electricity supply charge restriction conditions (or any part or parts thereof) to which the request relates and (c) state the date from which the licensee wishes the Authority to agree that the specified public electricity supply charge restriction conditions shall cease to have effect.

6.3 Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication request pursuant to this paragraph 6 shall have effect earlier than the date which is the later of:

(a) the date occurring 18 months after delivery of the disapplication request; and

(b) 31 March 2002.

6.4 If the Authority has not made a reference to the Competition Commission under Article 15 of the Order, relating to the modification of the public electricity supply charge restriction conditions before the beginning of the period of 12 months which will end with the disapplication date, the licensee may deliver written notice to the Authority terminating the application of such of the public electricity supply charge restriction conditions (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.

6.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of the public electricity supply charge restriction conditions (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of such public electricity supply charge restriction conditions, in whole or in part, operates or may be expected to operate against the public interest, the licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to the Authority written notice terminating the application of such public electricity supply charge restriction conditions (or any part or parts thereof) with effect from the disapplication date or a later date.

6.6 A disapplication request or notice served under this paragraph 6 may be served in respect of a specified geographic area.

 SCHEDULE 71009[[100]](#footnote-100)8

 SCHEDULE 810[[101]](#footnote-101)1

CANCELLABLE GENERATING UNIT AGREEMENTS9[[102]](#footnote-102)9

Cancellable Generating Unit Agreement Earliest Cancellation Date

Agreement dated 1 April 1992 between 31 March 2002

Coolkeeragh Power Limited and the

power procurement manager in respect

of generation set no. 3 at

Coolkeeragh power station

Agreement dated 1 April 1992 between 31 March 2002

Coolkeeragh Power Limited and the

power procurement manager in respect

of generation set no. 4 at

Coolkeeragh power station

Agreement dated 1 April 1992 between 31 March 2003

Coolkeeragh Power Limited and the

power procurement manager in respect

of generation set no. 6 at

Coolkeeragh power station

Agreement dated 1 April 1992 between 31 March 2004

Coolkeeragh Power Limited and the

power procurement manager in respect

of generation set no. 7 at

Coolkeeragh power station

Cancellable Generating Unit Agreement Earliest Cancellation Date

Agreement dated 1 April 1992 between 1 November 2010

Coolkeeragh Power Limited and the

power procurement manager in respect

of generation set no. 8 at

Coolkeeragh power station

Agreement dated 1 April 1992 between 1 November 2010

Kilroot Power Limited and the

power procurement manager in respect

of generation set no. 1 at Kilroot

power station

Agreement dated 1 April 1992 between 1 November 2010

Kilroot Power Limited and the

power procurement manager in respect

of generation set no. 2 at Kilroot

power station

Agreement dated 1 April 1992 between 1 November 2010

Kilroot Power Limited and the

power procurement manager in respect

of gas turbine generation set no. 1

at Kilroot power station

Agreement dated 1 April 1992 between 1 November 2010

Kilroot Power Limited and the

power procurement manager in respect

of gas turbine generation set no. 2

at Kilroot power station

|  |  |  |
| --- | --- | --- |
| Revised Generating Unit Agreement in respect of Ballylumford Power Station: CCGT Generating Unit No. 10 (formerlyAgreement dated 1 April 1992 between the licensee and the power procurement manager in respect of generation set no. 1 at Ballylumford power station) |  | 31 March 2012 |
| Agreement dated 1 April 1992 between the licensee and the power procurement manager in respect of generation set no. 2 at Ballylumford power station |  | 1 November 2010 |
| Agreement dated 1 April 1992 between the licensee and the power procurement manager in respect of generation set no. 3 at Ballylumford power station |  | 1 November 2010 |
| Revised Generating Unit Agreement in respect of Ballylumford Power Station: Generating Unit No. 4 (formerly theAgreement dated 1 April 1992 between the licensee and the power procurement manager in respect of generation set no. 4 at Ballylumford power station). |  | 1 November 2010  |
| Revised Generating Unit Agreement in respect of Ballylumford Power Station: CCGT Generating Unit No. 20 (formerly theAgreement dated 1 April 1992 between the licensee and the power procurement manager in respect of generation set no. 5 at Ballylumford power station)***.*** |  | 31 March 2012  |
| Revised Generating Unit Agreement in respect of Ballylumford Power Station: Generating Unit No. 6 (formerly theAgreement dated 1 April 1992 between the licensee and the power procurement manager in respect of generation set no. 6 at Ballylumford power station)***.*** |  | 1 November 2010 at all times prior to the amendment of this agreement in accordance with Clause [3.3] of the re-powering agreement and thereafter, this revised agreement shall terminate no later than 31 October 2009 (and there shall be no Earliest Cancellation Date in respect of this revised agreement). |
| Agreement dated 1 April 1992 between the licensee and the power procurement manager in respect of gas turbine generation set no. 1 at Ballylumford power station |  | 1 November 2010 |
| Agreement dated 1 April 1992 between the licensee and the power procurement manager in respect of gas turbine generation set no. 2 at Ballylumford power station |  | 1 November 2010 |

 SCHEDULE 9

PLANS OF LAND COMPRISING THE LAND BANK

The land for the purposes of identification shown edged red on the plans on the following seven pages.

 SCHEDULE 1010210[[103]](#footnote-103)0

NOTIFIED VALUES (FOR BULK SUPPLY TARIFF RESTRICTION CONDITIONS IN SCHEDULE 5A AND SCHEDULE 7 AND SYSTEM SUPPORT SERVICES CHARGE RESTRICTION CONDITION IN SCHEDULE 5B)10310[[104]](#footnote-104)1

1. The notified values are as set out in the following table.

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 1991/92 | 1992/93 | 1993/94 | 1994/95 | 1995/96 | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 and subsequent relevant years thereafter |
| XBt |  |  |  |  |  |  |  |  |  |  |  | 0 | 0.5 | 0.5 |
| XCAt |  |  |  |  |  |  |  |  |  |  |  | 0 | 0.5 | 0.5 |
|  | 1991/92 | 1992/93 | 1993/94 | 1994/95 | 1995/96 | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 | 2004/05 and subsequent relevant years thereafter |
| CAt | n/a | n/a | n/a | n/a | n/a | N/a | n/a | n/a | n/a | 0.02 pence | n/a | n/a | n/a | n/a |
| CBt | n/a | n/a | n/a | n/a | n/a | N/a | n/a | n/a | n/a | 0.12 pence | n/a | n/a | n/a | n/a |
| BTSOt | n/a | n/a | n/a | n/a | n/a | N/a | n/a | n/a | n/a | £5.95m | £6.02m | n/a | n/a | n/a |

1. **1** Licence modification dated 23 August 1999. [↑](#footnote-ref-1)
2. 2 Licence modification dated 6 December 2000. [↑](#footnote-ref-2)
3. **3** Licence modification dated 5 October 2000. [↑](#footnote-ref-3)
4. **4** Licence modification dated 5 October 2000. [↑](#footnote-ref-4)
5. **5** Licence modification dated 5 October 2000. [↑](#footnote-ref-5)
6. 6 Licence modification dated 9 July 2002. [↑](#footnote-ref-6)
7. **7** Licence modification dated 5 October 2000. [↑](#footnote-ref-7)
8. **8** Licence modification dated 5 October 2000. [↑](#footnote-ref-8)
9. **9** Licence modification dated 5 October 2000. [↑](#footnote-ref-9)
10. 10 Licence modification dated 9 July 2002 [↑](#footnote-ref-10)
11. 11 Licence modification dated 5 October 2000. [↑](#footnote-ref-11)
12. 12 Licence modification dated 5 October 2000. [↑](#footnote-ref-12)
13. **13** Licence modification dated 5 October 2000. [↑](#footnote-ref-13)
14. 14 Licence modification dated 22 July 2002 deleted the definition of "Interconnector Business". [↑](#footnote-ref-14)
15. **15** Licence modification 10 March 2003 [↑](#footnote-ref-15)
16. **16** Licence modification 10 March 2003 [↑](#footnote-ref-16)
17. **17** Licence modification 10 March 2003 [↑](#footnote-ref-17)
18. **18** Licence modification dated 10 March 2003. [↑](#footnote-ref-18)
19. **19** Licence modification dated 23 August 1999. [↑](#footnote-ref-19)
20. 20 Licence modification dated 22 July 2002 deleted the reference to "Interconnector Business" in the definition of "permitted purpose". [↑](#footnote-ref-20)
21. 21 Licence modification dated 27 September 2004. [↑](#footnote-ref-21)
22. 22 Licence modification dated 6 December 2000. [↑](#footnote-ref-22)
23. **23** Licence modification dated 23 August 1999. [↑](#footnote-ref-23)
24. 24 Licence modification dated 22 July 2002 deleted the reference to "Interconnector Business" in the definition of "Separate Business". [↑](#footnote-ref-24)
25. 25 Licence modification dated 22 July 2002. [↑](#footnote-ref-25)
26. 26 Licence modification dated 22 July 2002. [↑](#footnote-ref-26)
27. 27 Licence modification dated 9 July 2002. [↑](#footnote-ref-27)
28. 28 Licence modification dated 9 July 2002. [↑](#footnote-ref-28)
29. 29 Licence modification dated 9 July 2002 (the word "limits" was changed to "limit"). [↑](#footnote-ref-29)
30. 30 Licence modification dated 22 July 2002 deleted reference to "Interconnector Business". [↑](#footnote-ref-30)
31. 31 The Licence modifications became effective on 23 August 1999. [↑](#footnote-ref-31)
32. 32 Licence modification dated 5 October 2000. [↑](#footnote-ref-32)
33. 33 Licence modification dated 5 October 2000. [↑](#footnote-ref-33)
34. 34 Licence modification dated 20 April 2004. [↑](#footnote-ref-34)
35. 35 Licence modification dated 20 April 2004. [↑](#footnote-ref-35)
36. 36 The Licence modifications became effective on 23 August 1999. [↑](#footnote-ref-36)
37. 37 1A – 1C Licence modifications dated 23 August 1999. [↑](#footnote-ref-37)
38. 38 Licence modification dated 23 August 1999. [↑](#footnote-ref-38)
39. 39 The Licence modifications became effective on 23 August 1999 [↑](#footnote-ref-39)
40. 40 Licence modification dated 23 August 1999. [↑](#footnote-ref-40)
41. 4139 Licence modification dated 27 September 2004. [↑](#footnote-ref-41)
42. 4240 Licence modification dated 27 September 2004. [↑](#footnote-ref-42)
43. 4341 Licence modification dated 27 September 2004. [↑](#footnote-ref-43)
44. 4442 Licence modification dated 27 September 2004. [↑](#footnote-ref-44)
45. 4543 Licence modification dated 27 September 2004. [↑](#footnote-ref-45)
46. 4644 Licence modification dated 27 September 2004. [↑](#footnote-ref-46)
47. 4745 Licence modification dated 9 July 2002 deleted paragraph 1A of Condition 13 which provided that NIE could not carry out CHP generation except through an affiliate or related undertaking. [↑](#footnote-ref-47)
48. 4846 Licence modification dated 5 October 2000. [↑](#footnote-ref-48)
49. 4947 Licence modification dated 9 July 2002. [↑](#footnote-ref-49)
50. 5048 Licence modification dated 26 May 2000. [↑](#footnote-ref-50)
51. 5149 Licence modification dated 9 July 2002. [↑](#footnote-ref-51)
52. **52****50** Licence modification dated 9 July 2002. [↑](#footnote-ref-52)
53. 5351 Licence modification dated 5 October 2000. [↑](#footnote-ref-53)
54. 5452 Licence modification dated 5 October 2000. [↑](#footnote-ref-54)
55. 5553 Licence modification dated 20 April 2004. [↑](#footnote-ref-55)
56. 5654 Licence modification dated 17 May 2000. [↑](#footnote-ref-56)
57. 5755 Licence modification dated 5 October 2000. [↑](#footnote-ref-57)
58. 5856 Licence modification dated 5 October 2000. [↑](#footnote-ref-58)
59. 5957 Licence modification dated 9 July 2002. [↑](#footnote-ref-59)
60. 6058 Licence modification dated 23 August 1999. [↑](#footnote-ref-60)
61. 6159 Licence modification dated 23 August 1999. [↑](#footnote-ref-61)
62. 6260 Licence modification dated 23 August 1999. [↑](#footnote-ref-62)
63. 6361 Licence modification dated 23 August 1999 – deletion of old para 7. [↑](#footnote-ref-63)
64. 6462 Paras 8 – 11 Licence modification dated 23 August 1999. [↑](#footnote-ref-64)
65. 6563 Licence modification dated 22 July 2002 deleted the reference to "Interconnector Business" in the definition of core business. [↑](#footnote-ref-65)
66. **66****64** Licence modification dated 27 September 2004 – insertion of new Condition. [↑](#footnote-ref-66)
67. **67****65** Licence modification dated 6 December 2000. [↑](#footnote-ref-67)
68. 6866 Licence modification dated 20 April 2004. [↑](#footnote-ref-68)
69. 6967 Licence modification dated 20 April 2004. [↑](#footnote-ref-69)
70. 7068 Licence modification dated 20 April 2004. [↑](#footnote-ref-70)
71. 7169 Licence modification dated 5 October 2000. [↑](#footnote-ref-71)
72. 7270 Licence modification dated 5 October 2000. [↑](#footnote-ref-72)
73. 7371 Licence modification dated 20 April 2004. [↑](#footnote-ref-73)
74. 7472 Licence modification dated 6 December 2000. [↑](#footnote-ref-74)
75. 7573 Licence modification dated 20 April 2004. [↑](#footnote-ref-75)
76. 7674 Licence modification dated 6 December 2000. [↑](#footnote-ref-76)
77. 7775 Licence modification dated 20 April 2004. [↑](#footnote-ref-77)
78. 7876 Licence modification dated 20 April 2004. [↑](#footnote-ref-78)
79. 7977 Inserted by licence modification dated 20 April 2004. [↑](#footnote-ref-79)
80. **80****78** Licence modification dated 6 December 2000. [↑](#footnote-ref-80)
81. **81****79** Licence modification dated 22 July 2002 (to give effect to the concept of relevant access arrangements). [↑](#footnote-ref-81)
82. **82****80** Licence modification dated 10 March 2003. [↑](#footnote-ref-82)
83. **83****81** Licence modification dated 22 July 2002 (to give effect to the concept of relevant access arrangements). [↑](#footnote-ref-83)
84. **84****82** Licence modification dated 22 July 2002 (to give effect to the concept of relevant access arrangements). [↑](#footnote-ref-84)
85. **85****83** Licence modification dated 22 July 2002 (to give effect to the concept of relevant access arrangements). [↑](#footnote-ref-85)
86. 8684 Licence modification dated 6 December 2000. [↑](#footnote-ref-86)
87. **87****85** Licence modification dated 10 March 2003. [↑](#footnote-ref-87)
88. **88****86** Licence modification dated 10 March 2003. [↑](#footnote-ref-88)
89. **89****87** Licence modification dated 10 March 2003. [↑](#footnote-ref-89)
90. 9088 Licence modification dated 10 March 2003. [↑](#footnote-ref-90)
91. 9189 Licence modification dated 10 March 2003. [↑](#footnote-ref-91)
92. 9290 Licence modification dated 10 March 2003 – the references to "maximum regulated transmission and distribution revenue" in the definition of the term KDt were deleted and replaced by references to "maximum core revenue". [↑](#footnote-ref-92)
93. 9391 Licence modification dated 10 March 2003. [↑](#footnote-ref-93)
94. 9492 Licence modification dated 10 March 2003. [↑](#footnote-ref-94)
95. 9593 Licence modification dated 20 April 2004 [↑](#footnote-ref-95)
96. 9694 Licence modification dated 6 December 2000. [↑](#footnote-ref-96)
97. 9795 Licence modification dated 20 April 2004 [↑](#footnote-ref-97)
98. 9896 Licence modification dated 6 December 2000. [↑](#footnote-ref-98)
99. 9997 Licence modification dated 6 December 2000. [↑](#footnote-ref-99)
100. 10098 Deleted by licence modification dated 20 April 2004. [↑](#footnote-ref-100)
101. 101 Licence modification dated [September 2003]. [↑](#footnote-ref-101)
102. 99 Licence modification dated [September 2003]. [↑](#footnote-ref-102)
103. 102100 Licence modification dated 20 April 2004. [↑](#footnote-ref-103)
104. 103101 Licence modification dated 6 December 2000. [↑](#footnote-ref-104)