

Condition 23. Land Bank

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

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

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

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

5 In this Condition:

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

Condition 24. Payment Security Policy

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

3 In this Condition:

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

“PSO Charges” has the meaning given to that expression in Condition 24A.

Condition 24A. PSO Agreement

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

Setting the PSO Charges

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

PSO Charge Schedule

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

Miscellaneous

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

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

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

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~~No such directions may:~~

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

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

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

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

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

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

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

~~421~~ Where the relevant monthly payment in respect of the NIE Energy Supply Amount or the PPB Amount is a positive number, the Licensee shall pay the relevant amount to NIE Energy (Supply) or NIE Energy (PPB) (as appropriate) in accordance with the agreement referred to in paragraph 9 or 10 (as appropriate).

1312 The agreements referred to in paragraphs 9 and 10, and any amendment to them, shall require to be approved by the Authority.

Definitions

1413 In this Condition, unless the context otherwise requires:

<u>"Maximum Regulated PSO Amount"</u>	<u>has the meaning given to that expression in Annex 1.</u>
"NIE Energy Supply Amount"	means the amount determined as such in accordance with annex 1 of the NIE Energy Supply Licence.
"NIE Energy (Supply)"	means the person authorised, from time to time, under the NIE Energy Supply Licence in its capacity as the holder of that licence, but excluding where it is acting in its capacity as the Power Procurement Business.
"NIE Energy (PPB)"	means the person authorised, from time to time, under the NIE Energy Supply Licence in its capacity as the holder of that licence, but excluding where it is acting otherwise than in its capacity as the Power Procurement Business.
"PPB Amount"	means the amount determined as such in accordance with annex 3 of the NIE Energy Supply Licence.
"PSO Charges"	means the charges set as such in accordance with paragraph <u>32.1 of Annex 1.</u>
<u>"Regulatory Reporting Year"</u>	<u>has the meaning given to that expression in Annex 1.</u>
"relevant <u>Relevant p</u> Persons"	means relevant licensed suppliers and, where directed by the Authority, persons exempt from the requirement to hold a licence under Article 10(1)(c) of the Order.
"relevant year"	has the meaning given to that expression in Annex 1.

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

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

- 6 In this Condition:

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

"Fund" has the meaning given to it in paragraph 1.

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

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

“NISEP Total Amount”	means the total amount of NISEP funding to be made available in any year as may be determined by the Authority in consultation with the Licensee.
“Participating Party”	means a supplier or other person who has the Authority’s approval to participate in, and receive funding from, the NISEP.
“Payment Notice”	means a notice or notices given by the Authority to the Licensee authorising the Licensee to either pay to one or more Participating Parties or the Programme Administrator a sum specified (or otherwise referred to) therein. Such notice shall take the form –of, and contain the kinds of matters referred to in, the notice set out in the appendix to Annex 1.
“Programme Administrator”	means any legal or natural person who has been appointed by the Authority for the purposes of administering on the Authority’s behalf part or all of the NISEP in the terms expressed in the Framework Document or any other contract or agreement concluded with that person.
<u>“Regulatory Reporting Year”</u>	<u>has the meaning given to that expression in Annex 1.</u>