

Appendix 1

Power NI – Electricity Supply Licence (extracts)

ANNEX 1

The contents to this annex will be deleted and marked as 'not used'

ANNEX 2

~~7~~ DURATION OF SUPPLY CHARGE RESTRICTION CONDITIONS~~Duration of Supply Charge Restriction Conditions~~

~~7.1~~ This Annex ~~other than this paragraph 7~~ shall apply so long as this 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 (a "Disapplication Request") made in accordance with paragraph ~~7.27.3~~ and:

- ~~(a)~~ the Authority agrees in writing to the ~~disapplication~~ Disapplication Request; or
- ~~(b)~~ the application ~~(in whole or in part)~~ of this Annex (~~other than this paragraph 7 or any part of it~~) is terminated by a notice (a "Disapplication Notice") given by the Licensee in accordance with ~~either paragraph 7.4 or paragraph 7.5~~ paragraph 7.4 and not withdrawn.

~~7.2~~ Save where the Authority otherwise agrees, no disapplication following delivery of a Disapplication Request pursuant to this paragraph 7 shall have effect earlier than the date (the "Disapplication Date") which is the later of:

- ~~(a)~~ the date occurring 18 months after delivery of the Disapplication Request; and
- ~~(b)~~ 31 March 2017.

~~7.3~~ A Disapplication Request pursuant to this paragraph 7.3 shall:

- ~~(a)~~ be in writing addressed to the Authority;
- ~~(b)~~ specify this Annex or any part of it to which the request relates (excluding in either case this paragraph 7); and
- ~~(c)~~ 7.2 A disapplication request pursuant to this paragraph 7 shall (a) be in writing addressed to the Authority, (b) specify this Annex (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 this Annex or the specified ~~paragraphs~~ part of this Annex shall cease to have effect.

~~7.4~~ 7.3 Save where the Authority otherwise agrees, no disapplication following delivery of a disapplication requestA Disapplication Notice pursuant to this paragraph 7 shall have effect

earlier than the date (the "Disapplication Date") which is the later of 7.4:

~~(a) the date occurring 18 months after delivery of the disapplication request; and may be given in the circumstances described in either paragraph 7.5 or paragraph 7.6;~~

~~(a)(b) may be withdrawn by the Licensee at any time prior to the Disapplication Date; and~~

~~(b)(c) 31 March 2017, where it is given, shall:~~

~~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 relevant paragraphs of this Annex 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 this Annex (or any part or parts thereof other than this paragraph 7) as are specified in the disapplication request with effect from the Disapplication Date or a later date.~~

~~(i) be in writing addressed to the Authority;~~

~~(ii) specify this Annex, or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates; and~~

~~(iii) state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.~~

~~7.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of this Annex (or any part or parts thereof) specified in the disapplication request and such report does not include a conclusion that the cessation of this Annex, 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 this Annex (or any part or parts thereof other than this paragraph 7) with effect from the Disapplication Date or a later date. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:~~

~~(a) this Annex, or any part of it to which the Disapplication Request request relates; or~~

~~(b) this paragraph 7, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.~~

7.6 The circumstances described in this paragraph are that:

(a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 7.5;

(b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;

- (c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
- (i) quashed the decision of the Authority under Article 14E(2)(a) of the Order; and
- (ii) neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
- (d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

7.7 ~~7.6~~ A ~~disapplication request or notice~~ Disapplication Request or Disapplication Notice served under this paragraph 7 may be served in respect of a specified geographic area.

Condition 1: Interpretation and Construction

The following definition will be inserted:

<u>Competition and Markets Authority or CMA</u>	<u>means the body of that name established by section 25 of the Enterprise and Regulatory Reform Act 2013.</u>
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Condition 11.3(c): Payment of fees

This is to be deleted.

Condition 15: Duration of discrimination conditions

1. Condition 14 shall cease to have effect (in whole or in part, as the case may be) if the Licensee ~~makes a disapplication~~ delivers to the Authority a request (a "Disapplication Request") made in accordance with this Condition and:
 - (a) the Authority agrees in writing to ~~that the Disapplication Request~~ request; or
 - (b) the application of Condition 14 (~~in whole or in part~~ of it) is terminated by a notice (a "Disapplication Notice") given by the Licensee in accordance with paragraph ~~3 or 4 of this Condition~~ 5 and not withdrawn.
2. A ~~disapplication request~~ Disapplication Request pursuant to this Condition may be made by the Licensee only where the Authority has notified ~~it~~ the Licensee, in accordance with paragraph 8 of Condition 14, of its determination that the Licensee is dominant in a specified market, ~~and any such request shall:~~

~~(a) be made in writing to the Authority;~~

~~(b) specify whether the request relates to the whole of Condition 14 or any part or parts thereof; and~~

~~3. (c) state the date (the disapplication date) from which the Licensee wishes the specified provisions of Condition 14 to cease to have effect, which date shall be not earlier than the date (the "Disapplication Date") which is 12 months after the date on which the request is made.~~

~~3. If the Authority has not by the date which is six months prior to the disapplication date made a reference to the Competition Commission (under Article 15 of the Order) relating to the modification of Condition 14, the Licensee may give to the Authority a notice in writing terminating the application of such of the provisions of Condition 14 as are specified in the disapplication request with effect from the disapplication date or from any later date specified in the notice.~~

~~4. If the Competition Commission reports on a reference made by the Authority relating to the modification of Condition 14 and does not conclude that the disapplication of any of the provisions of that Condition (being provisions specified in the disapplication request) would or may be expected to operate against the public interest, the Licensee may within 30 days of the publication of the report under Article 16 of the Order give to the Authority notice in writing terminating the application of such provisions with effect from the disapplication date or any later date specified in the notice. A Disapplication Request pursuant to this Condition shall:~~

~~(a) be in writing addressed to the Authority;~~

~~(b) specify Condition 14, or any part of it to which the request relates; and~~

~~(c) state the date from which the Licensee wishes the Authority to agree that Condition 14 (or the specified part of it) shall cease to have effect.~~

~~5. A Disapplication Notice pursuant to this Condition:~~

~~(a) may be given in the circumstances described in either paragraph 6 or 7;~~

~~(a)(b) may be withdrawn at any time prior to the Disapplication Date; and~~

~~(b)(c) where it is given shall:~~

~~(i) be in writing addressed to the Authority;~~

~~(ii) specify Condition 14 (or any part of it, which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates; and~~

~~(iii) state the date from which the notice to take effect, which shall not be earlier than the Disapplication Date.~~

6. The circumstances described in this paragraph are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:

- (a) Condition 14, or any part of it to which the Disapplication Request relates; or
- (b) this Condition 15, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.

7. The circumstances described in this paragraph are that:

- (a) by no later than the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in paragraph 6;
- (b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
- (c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
 - (i) quashed the decision of the Authority under Article 14E(2)(a) of the Order; and
 - (ii) neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
- (d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

8. For the purposes of this Condition 15, any reference to a Disapplication Request or Disapplication Notice relating to the application of Condition 14 'in part' shall be interpreted as including a reference both to a part of that Condition and to the application of that Condition in respect of one or more specified markets.