

Appendix 10

SONI Transmission Licence (extracts)

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 8. Payment of Fees

General Duty

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

Calculation of Fees

- 2 In respect of the year beginning on 1 April 2008, and in each subsequent year, the Licensee shall pay to the Department a fee which is the aggregate of the following amounts:
 - (a) an amount equal to the proportion which the Authority shall determine 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 in the exercise of its functions relating to electricity conferred on, or assigned or transferred to, it by or under any legislation (“**electricity functions**”); and
 - ~~(b) 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 to the Licence; and~~

~~(e)(b)~~ 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 less any refund paid to the Licensee in respect of that year under paragraph 3; and

(ii) the amount which that fee would have been in respect of that year had the amount comprised in that fee in accordance with sub-paragraph (a) been calculated by reference to the total costs of the Authority in connection with its electricity functions and the proportion of those costs actually attributable to the Licence (such total costs being apportioned as determined by the Authority according to a method previously disclosed in writing to the Licensee).

Payment of Refund

3 In respect of the year beginning on 1 April 2009 and for each subsequent year, the Department may pay to the Licensee an amount (“**the refund**”) calculated in accordance with a method previously disclosed in writing to the Licensee and by reference to the difference between:

(a) the proportion of the fee for that year paid by the Licensee which is attributable to the Authority’s ~~estimate~~estimate in accordance with ~~paragraphs~~paragraph 2(a) and 2(b); and

(b) the Authority’s reasonable revised estimate of those costs,

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

ANNEX 1 Charge Restrictions

5. Duration of SSS/TUoS charge restriction conditions

5.1 This Annex other than this paragraph 5 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 5.23 and:

- (a) the Authority agrees in writing to the ~~disapplication~~ request; or
- (b) the application (~~in whole or in part~~) of this Annex (~~other than this paragraph 5 or any part of it~~) is terminated by a notice (a "Disapplication Notice") given by the Licensee in accordance with ~~either paragraph 5.4 and not withdrawn 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 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 the specified paragraphs of this Annex shall cease to have effect.~~

~~5.3~~ Save where the Authority ~~agrees~~ otherwise agrees, no disapplication following delivery of a ~~disapplication request~~ Disapplication Request pursuant to this paragraph 5 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~~ Disapplication Request; and
- (b) 30 September 2015.

~~5.4~~ ~~If the Authority has not made a reference~~ 5.3 ~~to the Competition Commission under Article 15 of the Order relating~~ A Disapplication Request pursuant to this paragraph 5.3 shall:

- (a) be in writing addressed to the ~~modification of the relevant paragraphs of Authority;~~
- (b) specify this Annex ~~before the or any part of it to which the request relates (excluding in either case this paragraph 5); and~~
- (c) state the date from which the Licensee wishes the Authority to agree that this Annex or the specified part of it shall cease to have effect.

5.4 A Disapplication Notice pursuant to this paragraph 5.4:

(a) may be given in the circumstances described in either paragraph 5.5 or paragraph 5.6;

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

(c) where it is given, shall:

(i) be in writing addressed to the Authority;

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

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

5.5 The circumstances described in this paragraph are that, by the beginning of ~~12~~the period of six 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 5) as are specified in the disapplication request with effect from the Disapplication Date or a later date. Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:

5.5 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 5) with effect from the Disapplication Date or a later date.

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

(b) this paragraph 5, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.

5.6 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 5.5;

(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.

~~5.6 A disapplication request or notice served under this paragraph 5 may be served in respect of a specified geographic area.~~