

Appendix 4

NIE Electricity Transmission Licence (extracts)

A. 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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B. NIE electricity transmission licence: - Condition 7 Payment of Fees

- 1 The Licensee shall, at the times stated hereunder, pay to the Authority fees of the amount specified in or determined under the following paragraphs of this Condition.
- 2 In respect of each year beginning on 1 April, the Licensee shall pay to the Authority 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**”);
 - (b) an amount which is a proportion, as determined by the Authority, of the amount notified to the Authority by the Consumer Council and approved by the Department as being the 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, the

Energy Order, the SEM Order, the Directive Regulations or the Internal Markets Regulations 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 which is the relevant proportion of the Authority's estimate of such likely costs (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the year in question); and

(c) ~~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 below; and

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

(A) the amount comprised therein under sub-paragraph (a) above 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 this Licence; and

(B) the amount comprised therein under sub-paragraph (b) above been calculated by reference to the relevant proportion of the total costs of the Consumer Council in connection with the functions referred to in sub-paragraph (b) above and, where appropriate, the proportion of those costs actually attributable to this 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,

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and the fee shall be paid by the Licensee to the Authority 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.

- 3 In respect of each year beginning on 1 April 1998, and in 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 fee for that year paid by the Licensee which is attributable to the Authority’s estimate in accordance with paragraph 2(a) and the estimate of the Consumer Council or the Authority (as appropriate) in accordance with paragraph 2(b); and
 - (b) the Authority’s reasonable revised estimate of those costs (taking account of any revised estimate of the costs referred to in paragraph 2(b) which is approved by the Department and notified to the Authority by the 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.

C. NIE transmission licence: Annex 2, paragraph 1.1

“**transmission and distribution charge restriction conditions**”

means the paragraphs set out in this Annex 2 as from time to time modified or replaced in accordance therewith or pursuant to Article 14, ~~14A, 14E~~ or 18 of the Order, under the Energy Order, under the SEM Order or under the Directive Regulations;

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D. NIE transmission licence: Annex 2, paragraph 7

7.1 This Annex shall apply so long as the 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 request (a "Disapplication Request") made in accordance with paragraph 7.3 and:

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- a) the Authority agrees in writing to the request; or
- b) the application of this Annex (or any part of it) is terminated by a notice (a "Disapplication Notice") given by the Licensee in accordance with paragraph 7.4 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:

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- (a) the date occurring 18 months after delivery of the Disapplication Request; and
- (b) 30 September 2017.

7.3 A Disapplication Request pursuant to this paragraph 7 shall:

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

7.4 A Disapplication Notice pursuant to this paragraph 7:

(a) may be given in the circumstances described in either paragraph 7.5 or paragraph 7.6:

(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.

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7.5 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:

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

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(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.

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7.6 The circumstances described in this paragraph are that:

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(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 above ;

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(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. A Disapplication Request or Disapplication Notice served under this paragraph 7 may be served in respect of a specified geographic area.

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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.¶

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Deleted: . 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.¶

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