

Appendix 5

NIE Electricity Distribution Licence (extracts)

A. Condition 1: Interpretation and Construction

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

These modifications are proposed to be the same as those set out in Appendix 4 for the NIE electricity transmission licence.

B.C. NIE distribution licence: Annex 1, paragraph 7

7 Duration of Restriction

(a) 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 ~~disapplication~~ request (a “Disapplication Request”) made in accordance with paragraph 7(~~bc~~) and:

- (i) the Authority agrees in writing to the ~~disapplication~~ request; or
- (ii) ~~their~~ application of this Annex ((in whole or in part) or any part of it) or parts thereof is terminated by a notice (a “Disapplication Notice”) given by the Licensee in accordance with ~~either~~ paragraph 7(d) and not withdrawn or paragraph 7(e).

~~(b) A disapplication request pursuant to paragraph 7(a) shall (i) be in writing addressed to the Authority, (ii) specify this Annex (or any part or parts thereof) to which the request relates; and (iii) state the date (being~~

~~not earlier than the date referred to in paragraph 7(c)) from which the Licensee wishes the Authority to agree that the Annex or specified part or parts thereof shall cease to have effect (hereafter referred to as the disapplication date).~~

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

(i) the date occurring 18 months after delivery of the Disapplication Rrequest; and

~~(ii) 30 September 2017~~ March 2002.

(c) A Disapplication Request pursuant to this paragraph 7 shall:

(i) be in writing addressed to the Authority,

(ii) specify this Annex (or any part of it to which the request relates or parts thereof, (excluding in either case this paragraph 7) to which the request relates; and

~~(ii)~~(iii) state the date from which the Licensee wishes the Authority to agree that the Annex or the specified part or parts thereof it shall cease to have effect.

(d) A Disapplication Notice pursuant to this paragraph 7:

(i) may be given in the circumstances described in either paragraph 7(e) or paragraph 7(f);

(ii) may be withdrawn by the Licensee at any time prior to the Disapplication Date; and

(iii) where it is given, shall:

i. be in writing addressed to the Authority;

ii. specify this Annex (or any part of it or parts thereof, (which shall comprise only such part or parts as were 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.

(e) 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:

(i) this Annex (or any part or parts thereof) of it) to which the request relates; or

(ii) 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.

(f) The circumstances described in this paragraph are that:

(i) 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(e) above; and:

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

(iii) 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

(iv) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

~~(d) If the Authority has not made a reference to the Competition Commission under Article 15 of the Order relating to the modification of this Annex 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 this Annex (or any part or parts thereof) as are specified in the disapplication request with effect from the disapplication date or a later date.~~

~~(e) 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 or the specified part or parts thereof, in whole or in part, operate 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 the specified part or parts thereof (as applicable) with effect from the disapplication date or a later date.~~

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

C-D. NIE distribution licence: Annex 2, paragraph 1.1

These modifications are proposed to be the same as those set out in Appendix 4 for the NIE electricity transmission licence Annex 2, paragraph 1.1.

D.E. NIE distribution licence: Annex 2, paragraph 7

These modifications are proposed to be the same as those set out in Appendix 4 for the NIE electricity transmission licence Annex 2, paragraph 7.