



Department for  
Business, Energy  
& Industrial Strategy

**Department for Business,  
Energy & Industrial Strategy**

1 Victoria Street,  
London SW1H 0ET

[www.gov.uk/beis](http://www.gov.uk/beis)

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Electricity and gas licensees, National Grid, Smart  
DCC Ltd, the Authority (Ofgem), the SEC Panel, SEC  
Parties and other interested parties

Dear Colleague,

**SMART METERING IMPLEMENTATION PROGRAMME: GOVERNMENT  
CONCLUSIONS ON ESTABLISHING A MECHANISM FOR RECOUPING SMART  
METER COMMUNICATION LICENSEE ADMINISTRATION COSTS**

In July 2019, Government published a consultation<sup>1</sup> proposing a mechanism for the recovery of costs in the unlikely event of a special administration applying to the Smart Meter Communications Licensee (SMCL).

In light of the consultation responses received, we have decided to make the licence changes as proposed with one minor adjustment. Our conclusions document is at **Annex A**.

We are therefore modifying the standard conditions of electricity transmission licences and the special conditions of National Grid's gas transporter licence to allow for recovery of administration costs. We are also modifying the standard conditions of the electricity supply and gas shipper licences to require the charges to be paid by these persons where required. Finally, we are modifying the Data Communications Company (DCC) Licence to make it clear that the security provided by the DCC's holding company would be available for use by a special administrator. The amended licence provisions are at **Annexes B – F**, with changes proposed at consultation and those made in light of comments received shown tracked in different coloured fonts.

The legal instrument giving effect to the licence changes has been signed by the Minister. The changes will come into effect on 5 November 2019. We shall have

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<sup>1</sup> <https://smartenergycodecompany.co.uk/latest-news/beis-smip-consultation-on-establishing-a-mechanism-for-recouping-smart-meter-communication-licensee-administration-costs/>

provided a copy of this document to Ofgem so that it can make the changes to the master copies of the licences hosted on its website.

Yours faithfully,



**Duncan Stone**

Deputy Director & Head of Delivery  
Smart Metering Implementation Programme

**List of Annexes to this letter**

<b>Annex A</b>	Conclusions Document
<b>Annex B</b>	Amended legal text of Standard Conditions of Electricity Transmission Licences
<b>Annex C</b>	Amended legal text of National Grid Gas Transporter (NTS) Licence
<b>Annex D</b>	Amended legal text of Gas Shipper Licence
<b>Annex E</b>	Amended legal text of Electricity Supply Licence
<b>Annex F</b>	Amended legal text of DCC Licence

## **Annex A: Conclusions Document**

### **THE PROPOSED SPECIAL ADMINISTRATION REGIME**

1. In July 2019 Government issued a consultation we explained we considered the risk of a Smart Metering Communication Licensee (SMCL) insolvency low, but that the impact of this could be potentially high for consumers. For example, it might result in a loss of energy billing services (including prepayment services) which would particularly affect vulnerable consumers. The Smart Meters Act 2018 had therefore introduced a Special Administration Regime (SAR) for the SMCL to protect against such an outcome.
2. The objective of the SAR is to ensure the continuity of the smart meter communication service. The SAR allows the Secretary of State (or Ofgem with the Secretary of State's agreement) to apply to the court for a special administration order to be made in relation to the SMCL. Such an order would direct that, while it is in force, the affairs, business and property of the SMCL are to be managed by an administrator appointed by the court.
3. The aim of the administrator would be to ensure that the functions of the SMCL under its relevant licences are performed economically and efficiently pending the SMCL being rescued, or its business being transferred as a going concern to another company (or other companies), as quickly and as efficiently as is reasonably practicable. This protects consumers and the continued provision of the smart meter communication service.
4. Our consultation explained that the Secretary of State may make grants and loans, or provide guarantees, to the SMCL whilst it is in administration and may also agree to indemnify persons in respect of liabilities incurred for loss or damage sustained in connection with the exercise of the administrator's powers and duties.
5. Any SMCL subject to a SAR may not be in a position to repay some or all of the funding it receives from the Government in the event of its insolvency, and so the Smart Meters Act 2018 provides for any such funding, and other SMCL administration costs, to be recovered from industry via a licence mechanism. The same licence mechanism is used to recover the costs of special administration of an energy supply or network company.
6. The licence mechanism through which it was proposed the costs would be recovered was via charges for electricity transmission and gas transportation. Changes were proposed to standard conditions of electricity transmission licences and to special condition 11D of National Grid's gas transporter licence to allow for recovery of the costs. Changes were also proposed to standard conditions of electricity supply and gas shipper licences to require the charges to be paid by these persons.
7. Additionally, the consultation proposed a change to Condition 26.8 of the DCC Licence. This was to enable the Authority to direct that funds provided in respect of financial security could be released for any purpose specified by a Smart Meter Communication Administrator as being necessary for enabling the Smart

Meter Communication Administrator to meet its responsibilities. We also proposed a consequential amendment to Condition 26.17 of the DCC Licence to define Smart Meter Communication Administrator with reference to the meaning given to that term in the Smart Meters Act 2018.

## **CONSULTATION RESPONSES AND GOVERNMENT RESPONSE**

8. We received eleven responses to the consultation from the following organisations:
  - Centrica
  - EDF Energy
  - Energy UK
  - Eon
  - ESB
  - National Grid
  - National Grid ESO
  - Npower
  - Scottish Power
  - SGN
  - Smartest Energy
9. Most respondents were supportive of the proposed changes and none disagreed in principle with the need to have in place arrangements to be able to recover the costs. All respondents who commented on the proposed changes to the DCC licence agreed with the proposed changes.
10. Three respondents raised concerns over the need to ensure that the costs were recovered in a manner that would allow energy suppliers to manage the financing of any additional charges and in particular raised issues over the interaction with the energy supplier price cap.
11. We acknowledge the need to ensure that costs are recovered in a manner that would allow energy suppliers to manage the financing of any additional charges and recognise that there are interactions with the energy supplier price cap. In the unlikely event that these powers are ever exercised, and should the energy supplier price cap still be in force, we would ensure that any directions to recover costs are appropriately coordinated and we would engage with Ofgem and those who would be affected (directly or indirectly) in doing so. This could include taking into consideration the timescale for any repayment terms in the light of the timing with which any necessary changes to the energy supplier price cap can be secured.
12. Four respondents disagreed with the detail of the proposed charges. One suggested that costs should be recovered from users of distribution rather than transmission/transportation systems and a further three raised concerns over

whether the proposed arrangements would be consistent with paragraph 1 of Article 18 of the new Electricity Regulation<sup>2</sup>, which forms part of the Clean Energy Package. Another suggested that the charges were inconsistent with the requirements of Article 4 of the 2017 regulation on establishing a network code on harmonised transmission tariff structures for gas<sup>3</sup>.

13. The national smart meter data and communication network is, as the number of meter points expand, increasingly important to the energy market and as a platform to smart grids. The objectives of a SMCL Administration are inextricably linked to the continued proper functioning of the electricity and gas supply chain in GB both now and in future, to the benefit of all participants including network operators and users. As such, we consider that the recovery of the costs of a SMCL Administration from the charges of the national system operator is compatible with the domestic and EU legislation regulating network operator charges.
14. Two respondents noted that modification UNC 0687 would, if implemented, result in the discontinuation of the System Operator Commodity Charge on gas shippers. We acknowledge this, and recognise that if this modification is made, it would be necessary to consider alternative charges through which the costs should be recovered.
15. We recognise that these charges are subject to change and that this would potentially affect the mechanism for cost recovery for both a SMCL special administration as well as for other energy administrations. Our understanding is that any modification would not be implemented until some time in 2020 and that it will be appropriate to reconsider the cost recovery arrangements for all energy related SARs (including SMCL) if such a modification is made.
16. One respondent suggested that the title of condition 11D of the relevant special condition in National Grid's gas transportation licence was "Energy Administration and Energy Supply Company Administration: NTS Shortfall Contribution Obligations" and that it could be revised to add a reference to the SMCL Administration. We agree with the respondent and will modify the title of the licence condition accordingly.
17. One respondent asked what arrangements were in place to cover the insolvency of a DCC service provider. The special administration regime applying to the Smart Meter Communication Licensee does not extend to DCC service providers. This is essentially because such organisations are not licensees and their business activities are not narrowly constrained by licence. A financial failure of such companies might therefore be caused by reasons that are wholly unrelated to their service provision to DCC and it would not therefore necessarily be appropriate for energy consumers to underwrite the companies' operation.

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<sup>2</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R0943&from=EN>

<sup>3</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32017R0460>

18. The principles by which DCC is required to procure Relevant Service Capability<sup>4</sup> are set out in condition 16 of the DCC licence. These include requirements for DCC to procure Relevant Service Capability from “suitable organisations” having regard, amongst other things, to their financial capacity. Furthermore, condition 16.12 requires Relevant Service Capability to be procured under contractual arrangements that make provision for the full and enduring protection of business continuity, including appropriate provision to secure the DCC’s ability to exercise all of its relevant functions in the event of a material financial default of a service provider. It also needs to be procured in a manner that makes appropriate provision to secure the DCC’s ability to exercise all of its relevant functions in the event of any operational failure of an External Service Provider.
19. Consistent with these requirements the contracts for Fundamental Service Capability that were established by Government and that DCC has in place with the Data Service Provider and SMETS2 WAN Providers include, for example, provisions requiring financial guarantees from the service providers, the requirements for regular financial reporting, and detailed provision for how the continuity of services will be maintained in times of financial distress.

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<sup>4</sup> Relevant Service Capability is defined in the DCC licence and is essentially the resources that the DCC has to provide its services.

## **ANNEX B: STANDARD CONDITIONS OF ELECTRICITY TRANSMISSION LICENCES**

### ***Condition C24: Energy Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: National Electricity Transmission System Operator Shortfall Contribution Obligations***

1. The purpose of this condition is to require the licensee, in specified circumstances, to modify the charges imposed by it in carrying on its licensed activities ("charges") to raise such amounts as are specified by the Secretary of State in a shortfall direction:

- (i) ~~from~~ from the persons; and

- (ii) in the manner,

specified in such shortfall direction, and to pay such amounts to the persons specified in the shortfall direction.

2. Where there is a shortfall during or at the completion of an energy administration, ~~or~~ energy supply company administration or smart meter communication licensee administration, the Secretary of State, after consultation with the Authority and the licensee, may issue one or more shortfall directions (including one or more shortfall directions to modify or replace any previously issued shortfall direction or directions) to the licensee specifying:

- (a) the amount of the shortfall (including the amount of any interest accruing on the shortfall calculated to the date specified in sub-paragraph (f));
  - (b) the amount to be raised by the licensee and applied in making good the shortfall;
  - (c) the persons to whom the amount referred to in sub-paragraph (b) above is to be paid ("shortfall payment recipients");
  - (d) the rate or rates of interest applicable to any part or parts of the amount referred to in sub-paragraph (b) above, and any other relevant information to enable the licensee to calculate liability (if any) for payment of any interest in respect of any late payment of such amount to or by the licensee;

- (e) the method or methods by which the licensee may raise the amount referred to in sub-paragraph (b) above (including, without limitation, the manner in which and persons from whom it is to be raised and whether such amount is to be raised within or outside the licensee's normal billing cycle);
- (f) the date by which the licensee is required to pay the shortfall payment recipients the amount referred to in sub-paragraph (b) above (or, where payment of the amount is required in instalments, the dates on which the licensee is required to make payment of each instalment);
- (g) where the shortfall includes relevant debts owed to more than one shortfall payment recipient, the priority in which the amount referred to in sub-paragraph (b) above is to be applied in discharging those debts;
- (h) the extent to which a subsequent shortfall direction modifies or replaces a previously issued shortfall direction;
- (i) where a shortfall direction is to modify or replace any previously issued shortfall direction, where appropriate, a requirement not to modify charges further pursuant to paragraph 5 below; and
- (j) the amount the licensee is permitted to raise and retain for administering the mechanism contained in this condition ("permitted administration fee") and the manner in which the permitted administration fee is to be raised,

and the licensee shall comply with any such shortfall direction.

3. As soon as reasonably practicable after receiving a shortfall direction, the licensee shall:

- (a) modify its charges (in accordance with any method or methods specified in the shortfall direction) so as to secure that, in its reasonable estimation (such estimate to be agreed with the Authority), the change in its revenue resulting from the modification will equal the amount to be raised by it as specified in the shortfall direction (including, at the licensee's discretion, any permitted administration fee); and
- (b) notify the persons who are subject to the charges so modified of:



- (i) the modifications made to the charges;
  - (ii) any modification to the date or time period within which such charges shall be paid;
  - (iii) the reason for those modifications; and
  - (iv) the interest rate applicable to late payment of such modified charges.
- 4. The licensee shall on or before the date (or dates) specified in the shortfall direction pay the amount raised under sub-paragraph 3(a), (excluding any permitted administration fee), to the shortfall payment recipients, in accordance (where applicable) with any priority set out in the shortfall direction. For the avoidance of doubt the licensee shall not at any time be under any liability:
  - (i) to make any payments to any shortfall payment recipient, to the extent that those payments exceed the amount of additional revenue which the licensee has already received pursuant to the modification of its charges in accordance with this condition (excluding any permitted administration fee); or
  - (ii) to pay interest to any shortfall payment recipient in respect of any period for which any payment is late (in whole or in part) where the delay to such payment arises from the late payment of monies to the licensee.
- 5. Save where the Secretary of State specifies otherwise in a shortfall direction modifying or replacing a previously issued shortfall direction, if the amount raised by the licensee under sub-paragraph 3(a) (excluding any permitted administration fee):
  - (a) is less than the amount the licensee is obliged to raise by the shortfall direction to be applied in making good the shortfall (other than as a result of late, partial or non-payment of the modified charges by one or more party subject to those charges), the licensee shall:
    - (i) as soon as reasonably practicable, modify its charges (in accordance with any method or methods specified in the shortfall direction) so as to secure that, in its reasonable estimation (such estimate to be agreed with the Authority), the change in its revenue effected by such

modification will equal the amount of that deficit together with any interest as specified in the shortfall direction; and

(ii) pay that amount to the shortfall payment recipients as soon as reasonably practicable but otherwise in accordance with the shortfall direction; or

(b) is more than the amount the licensee is obliged to raise by the shortfall direction to be applied in making good the shortfall, the licensee shall, as soon as reasonably practicable, further modify its charges so as to secure that, in its reasonable estimation (such estimate to be agreed with the Authority), the change in its revenue effected by such modification will equal the amount of the excess together with any accrued interest thereon.

6. For the purposes of sub-paragraph 3(a) and paragraph 5:

(a) the licensee may modify its charges notwithstanding that it has not given prior notice of such a variation required by any other condition of this licence and/or the CUSC and any charges levied by the licensee after modification pursuant to sub-paragraph 3(a) or paragraph 5 of this condition shall be deemed to be compliant with the licensee's obligations under Condition C4 (Charges for use of system), Condition C5 (Use of system charging methodology) and Condition C13 (Adjustments to use of system charges (small generators)) as from time to time amended;

(b) the licensee shall not enter into any agreement with another party which does not permit it to vary its charges in pursuance of this condition and shall take all steps within its power to amend, where necessary, any existing agreement to permit such variation; and

(c) in modifying its charges for the purposes of this condition the licensee shall not discriminate between any person or class or classes of person, except in so far as any differences in charges reasonably reflect objective differences between such persons or classes of persons or such differences in charges are required to give effect to the shortfall direction.

7. The licensee shall, immediately after making any payment under paragraphs 4 or 5 above, send a notice to the Authority and to the Secretary of State specifying the

amount of that payment, the shortfall payment recipients to whom it was paid, the date on which it was paid and whether any of the payment was made up of interest resulting from late payment.

8. In calculating the licensee's revenue during any period for the purposes of any charge restriction condition, any change in the licensee's revenue attributable to the licensee's compliance with this condition shall be treated as if it had not occurred.
9. The licensee shall prepare, in respect of each period of 12 months ending on 31 March in which its charges are modified in pursuance of sub-paragraph 3(a) or paragraph 5, a statement showing:
  - (a) the aggregate amount of its revenue derived from any modification to charges in pursuance of sub-paragraph 3(a);
  - (b) the aggregate amount of its revenue derived from any modification to charges in pursuance of sub-paragraph 5(a);
  - (c) the aggregate amount of the change in its revenue resulting from any modification to charges in pursuance of sub-paragraph 5(b); and
  - (d) the aggregate payments made by the licensee during that period of 12 months ending on 31 March in accordance with paragraph 4 and, where applicable, subparagraph 5(a),

and shall give the statement to the Authority within four months of the expiration of the period to which it relates.

10. On giving the statement mentioned in paragraph 9 to the Authority, the licensee shall also publish it on its website.
11. In this condition:
  - (a) any words or expressions used in Chapter 3 of Part 3 of the Energy Act 2004 shall, unless the contrary intention appears, have the same meaning as they do in that Chapter when used in this condition;
  - (b) any words or expressions used in Chapter 5 of Part 2 of the Energy Act 2011 shall, unless the contrary intention appears, have the same meaning as they do in that Chapter when used in this condition;

(c) any words or expressions used in the Smart Meters Act 2018 shall, unless the contrary intention appears, have the same meaning as they do in that Act when used in this condition;

(ed) “charge restriction condition” means any condition (including, without limitation, any revenue restriction condition) of this licence which places a monetary limitation on the revenue which may be recovered by the licensee during a given period; and

(de) “shortfall direction” ~~in relation to energy administration~~ means a direction issued by the Secretary of State for the purpose of meeting any “relevant debt”, within the meaning given to those words;

(i) in relation to energy administration, in section 169(4) of the Energy Act 2004; ~~or,~~

(ii) in relation to energy supply company administration, section 99 (4) of the Energy Act 2011;

(iii) in relation to smart meter communication licensee administration, in section 7(4) of the Smart Meters Act 2018,

-(including (iA) any modifications to such direction made by any subsequent shortfall direction, or (iiB) any shortfall direction replacing a previous shortfall direction).

## **ANNEX C: NATIONAL GRID GAS TRANSPORTER (NTS) LICENCE**

### **Special Condition 11D. Energy Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: NTS Shortfall Contribution Obligations**

- (1) The purpose of this condition is to require the licensee, in specified circumstances, to modify the charges imposed by it in carrying on its licensed activities ("charges") to raise such amounts as are specified by the Secretary of State in a shortfall direction:
  - (i) from the persons; and
  - (ii) in the manner,specified in such shortfall direction, and to pay such amounts to the persons specified in the shortfall direction.
- (2) Where there is a shortfall during or at the completion of an energy administration, ~~or~~ energy supply company administration or smart meter communication licensee administration the Secretary of State, after consultation with the Authority and the licensee, may issue one or more shortfall directions (including one or more shortfall directions to modify or replace any previously issued shortfall direction or directions) to the licensee specifying:
  - (a) the amount of the shortfall (including the amount of any interest accruing on the shortfall calculated to the date specified in sub-paragraph (f));
  - (b) the amount to be raised by the licensee and applied in making good the shortfall;
  - (c) the persons to whom the amount referred to in sub-paragraph (b) above is to be paid ("shortfall payment recipients");
  - (d) the rate or rates of interest applicable to any part or parts of the amount referred to in sub-paragraph (b) above, and any other relevant information to enable the licensee to calculate liability (if any) for payment of any interest in respect of any late payment of such amount to or by the licensee;

- (e) the method or methods by which the licensee may raise the amount referred to in sub-paragraph (b) above (including, without limitation, the manner in which and persons from whom it is to be raised and whether such amount is to be raised within or outside the licensee's normal billing cycle);
- (f) the date by which the licensee is required to pay the shortfall payment recipients the amount referred to in sub-paragraph (b) above (or, where payment of the amount is required in instalments, the dates on which the licensee is required to make payment of each instalment);
- (g) where the shortfall includes relevant debts owed to more than one shortfall payment recipient, the priority in which the amount referred to in sub-paragraph (b) above is to be applied in discharging those debts;
- (h) the extent to which a subsequent shortfall direction modifies or replaces a previously issued shortfall direction;
- (i) where a shortfall direction is to modify or replace any previously issued shortfall direction, where appropriate, a requirement not to modify charges further pursuant to paragraph 5 below; and
- (j) the amount the licensee is permitted to raise and retain for administering the mechanism contained in this condition ("permitted administration fee") and the manner in which the permitted administration fee is to be raised,

and the licensee shall comply with any such shortfall direction.

- (3) As soon as reasonably practicable after receiving a shortfall direction, the licensee shall:
  - (a) modify its charges (in accordance with any method or methods specified in the shortfall direction) so as to secure that, in its reasonable estimation (such estimate to be agreed with the Authority), the change in its revenue resulting from the modification will equal the amount to be raised by it as specified in the shortfall direction (including, at the licensee's discretion, any permitted administration fee); and
  - (b) notify the persons who are subject to the charges so modified of:

- (i) the modifications made to the charges;
  - (ii) any modification to the date or time period within which such charges shall be paid;
  - (iii) the reason for those modifications; and
  - (iv) the interest rate applicable to late payment of such modified charges.
- (4) The licensee shall on or before the date (or dates) specified in the shortfall direction pay the amount raised under sub-paragraph 3(a), (excluding any permitted administration fee), to the shortfall payment recipients, in accordance (where applicable) with any priority set out in the shortfall direction. For the avoidance of doubt the licensee shall not at any time be under any liability:
  - (i) to make any payments to any shortfall payment recipient, to the extent that those payments exceed the amount of additional revenue which the licensee has already received pursuant to the modification of its charges in accordance with this condition (excluding any permitted administration fee); or
  - (ii) to pay interest to any shortfall payment recipient in respect of any period for which any payment is late (in whole or in part) where the delay to such payment arises from the late payment of monies to the licensee.
- (5) Save where the Secretary of State specifies otherwise in a shortfall direction modifying or replacing a previously issued shortfall direction, if the amount raised by the licensee under sub-paragraph 3(a) (excluding any permitted administration fee):
  - (a) is less than the amount the licensee is obliged to raise by the shortfall direction to be applied in making good the shortfall (other than as a result of late, partial or non-payment of the modified charges by one or more party subject to those charges), the licensee shall:
    - (i) as soon as reasonably practicable, modify its charges (in accordance with any method or methods specified in the shortfall direction) so as to secure that, in its reasonable estimation (such estimate to be agreed with the Authority), the change in its revenue effected by such

modification will equal the amount of that deficit together with any interest as specified in the shortfall direction; and

- (ii) pay that amount to the shortfall payment recipients as soon as reasonably practicable but otherwise in accordance with the shortfall direction; or
  - (b) is more than the amount the licensee is obliged to raise by the shortfall direction to be applied in making good the shortfall, the licensee shall as soon as reasonably practicable, further modify its charges so as to secure that, in its reasonable estimation (such estimate to be agreed with the Authority), the change in its revenue effected by such modification will equal the amount of the excess together with any accrued interest thereon.
- (6) For the purposes of sub-paragraph 3(a) and paragraph 5:
- (a) the licensee may modify its charges notwithstanding that it has not given prior notice of such a variation required by any other condition of this licence and/or the uniform network code and any charges levied by the licensee after modification pursuant to sub-paragraph 3(a) or paragraph 5 of this condition shall be deemed to be compliant with the licensee's obligations under Standard Special Condition A4 (Charging - General) and Standard Special Condition A5 (Obligations as Regard Charging Methodology) as from time to time amended;
  - (b) the licensee shall not enter into any agreement with another party which does not permit it to vary its charges in pursuance of this condition and shall take all steps within its power to amend, where necessary, any existing agreement to permit such variation; and
  - (c) in modifying its charges for the purposes of this condition the licensee shall not discriminate between any person or class or classes of person, except in so far as any differences in charges reasonably reflect objective differences between such persons or classes of persons or such differences in charges are required to give effect to the shortfall direction.
- (7) The licensee shall, immediately after making any payment under paragraphs 4 or 5 above, send a notice to the Authority and to the Secretary of State specifying the amount of that payment, the shortfall payment recipients to whom it was paid, the date



on which it was paid and whether any of the payment was made up of interest resulting from late payment.

- (8) In calculating the licensee's revenue during any period for the purposes of the charge restriction conditions, any change in the licensee's revenue attributable to the licensee's compliance with this condition shall be treated as if it had not occurred.
- (9) The licensee shall prepare, in respect of each period of 12 months ending on 31 March in which its charges are modified in pursuance of sub-paragraph 3(a) or paragraph 5, a statement showing:
  - (a) the aggregate amount of its revenue derived from any modification to charges in pursuance of sub-paragraph 3(a);
  - (b) the aggregate amount of its revenue derived from any modification to charges in pursuance of sub-paragraph 5(a);
  - (c) the aggregate amount of the change in its revenue resulting from any modification to charges in pursuance of sub-paragraph 5(b); and
  - (d) the aggregate payments made by the licensee during that period of 12 months ending on 31 March in accordance with paragraph 4 and, where applicable, subparagraph 5(a), and shall give the statement to the Authority within four months of the expiration of the period to which it relates.
- (10) On giving the statement mentioned in paragraph 9 to the Authority, the licensee shall also publish it on its website.
- (11) In this condition:
  - (a) any words or expressions used in Chapter 3 of Part 3 of the Energy Act 2004 shall, unless the contrary intention appears, have the same meaning as they do in that Chapter when used in this condition;
  - (b) any words or expressions used in Chapter 5 of Part 2 of the Energy Act 2011 shall, unless the contrary intention appears, have the same meaning as they do in that Chapter when used in this condition;

(c) any words or expressions used in the Smart Meters Act 2018 shall, unless the contrary intention appears, have the same meaning as they do in that Act when used in this condition;

(ed) “charge restriction condition” means any condition (including, without limitation, any revenue restriction condition) of this licence which places a monetary limitation on the revenue which may be recovered by the licensee during a given period; and

(de) “shortfall direction” ~~in relation to energy administration~~ means a direction issued by the Secretary of State for the purpose of meeting any “relevant debt”, within the meaning given to those words;

(i) in relation to energy administration, in section 169(4) of the Energy Act 2004; ~~or,~~

(ii) in relation to energy supply company administration, section 99 (4) of the Energy Act 2011;

(iii) in relation to smart meter communication licensee administration, in section 7(4) of the Smart Meters Act 2018,

(including (iA) any modifications to such direction made by any subsequent shortfall direction, or (iB) any shortfall direction replacing a previous shortfall direction).

## **ANNEX D: GAS SHIPPER LICENCE STANDARD CONDITIONS**

### **Condition 19. Energy Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: Shortfall Contribution Obligations**

1. Pursuant to Chapter 3 of Part 3 of the Energy Act 2004, ~~and~~ Chapter 5 of Part 2 of the Energy Act 2011 and the Smart Meters Act 2018 and in accordance with this condition, the licensee shall, for the purpose of raising any sums specified in a shortfall direction, pay to the NTS operator such monies as result from any modification or modifications to the charges of the NTS operator made pursuant to Special Condition 11D (Energy Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: National Electricity Transmission System Operator Shortfall Contribution Obligations) of the NTS operator's gas transporter licence.
2. For the avoidance of doubt, the modified charges to be paid by the licensee in accordance with paragraph 1 above shall be payable in accordance with the licensee's obligations governing the payment of those charges to the NTS operator, except insofar as required by the shortfall direction and so notified to the licensee by the NTS operator.
3. If it does not make the payment or payments required by this condition on or before the date required in accordance with paragraph 2 above, the licensee shall pay to the NTS operator an amount representing the rate or rates of interest applicable to any part or parts of the amount to be raised by the NTS operator, specified in the shortfall direction issued to the NTS operator pursuant to Special Condition 11D (Energy Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: National Electricity Transmission System Operator Shortfall Contribution Obligations) of the NTS operator's licence and set out in the notice given to the licensee by the NTS operator, which interest payment shall be made by the licensee as soon as possible after, and in any event within 28 days, of the date of the invoice from the NTS operator for such payment.
4. In this condition:

- (a) any words or expressions used in Chapter 3 of Part 3 of the Energy Act 2004 shall, unless the contrary intention appears, have the same meaning as they do in that Chapter when used in this condition;
- (b) any words or expressions used in Chapter 5 of Part 2 of the Energy Act 2011 shall, unless the contrary intention appears, have the same meaning as they do in that Chapter when used in this condition;
- (c) any words or expressions used in the Smart Meters Act 2018 shall, unless the contrary intention appears, have the same meaning as they do in that Act when used in this condition;
- (ed) “NTS operator” shall have the same meaning as in Standard Special Condition A3 of National Grid Gas plc’s gas transporter licence in respect of the NTS; and
- (de) “shortfall direction” shall have the same meaning as in the Special Condition 11D (Energy Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: National Electricity Transmission System Operator Shortfall Contribution Obligations) of National Grid Gas plc’s gas transporter licence in respect of the NTS.

## **ANNEX E: STANDARD CONDITIONS OF ELECTRICITY SUPPLY LICENCES**

### **Condition 15. Assistance for areas with high distribution costs scheme, Energy Administration Orders, ESC Administration Orders and SMCL Administration Orders: payments to System Operator**

15.1 This condition sets out the obligations of the licensee in relation to payments to be made to the System Operator for the purpose of:

- (a) providing assistance with the high costs of distributing electricity incurred by a Relevant Distributor in a Specified Area; and
- (b) raising any sums specified in a Shortfall Direction in order to recover costs arising from the application of:
  - (i) an Energy Administration Order to a Protected Energy Company; or
  - (ii) an ESC Administration Order to an Energy Supply Company; or
  - (iii) an SMCL Administration Order to a Smart Meter Communication Licensee.

15.2 The payments to which paragraph 15.1 refers are payments made pursuant to:

- (a) in the case of sub-paragraph 15.1(a), the Energy Act 2004 (Assistance for Areas with High Distribution Costs) Order 2005; and
- (b) in the case of sub-paragraph 15.1(b):
  - (i) in respect of sub-paragraph (i), the provisions of Chapter 3 of Part 3 of the Energy Act 2004; or
  - (ii) in respect of sub-paragraph (ii), the provisions of Chapter 5 of Part 2 of the Energy Act 2011; or;
  - (iii) in respect of sub-paragraph (iii), the provisions of the Smart Meters Act 2018~~as the case may be.~~

### **Licensee's duty to pay**

15.3 In accordance with paragraph 15.1, the licensee must pay to the System Operator:

- (a) the sums resulting from the pence per kWh tariff specified in accordance with the terms set out in standard condition C21 (Assistance for areas with high distribution costs scheme: payments from authorised suppliers) (for this condition only, “standard condition C21”) of the Transmission Licence; and
- (b) where applicable, such additional sums as result from any modification of those charges made pursuant to standard condition C24 (Energy ~~administration~~ Administration, ~~and~~ Energy Supply Company Administration and Smart Meter Communication Licensee Administration: National Electricity Transmission System Operator: ~~GBSO shortfall~~ Shortfall contribution ~~Contribution obligations~~ Obligations) (for this condition only, “standard condition C24”) of the Transmission Licence.

15.4 Subject to paragraph 15.5, the sums to be paid by the licensee in accordance with paragraph 15.3 must be payable on a quarterly basis in each Financial Year (or such other basis as may be specified in standard condition C21 of the Transmission Licence) by:

- (a) the date indicated in each invoice received by the licensee from the System Operator requiring such payment; or
- (b) where no such date is indicated, no later than 28 days after the date of the invoice.

15.5 In the case of sums payable in accordance with sub-paragraph 15.3(b), the licensee must comply with any basis of payment different from that set out in paragraph 15.4 if this is required by the Shortfall Direction and has been notified to the licensee by the System Operator.

### **Late payment charges**

15.6 In relation to sums required to be paid by sub-paragraph 15.3(a), the licensee must pay to the System Operator an amount representing 8% above the Base Interest Rate of any payment not made to the System Operator on the date specified pursuant to paragraph 15.4, calculated for each day after the date on which that payment should have been made, until the payment is made.

- 15.7 In relation to any sums required to be paid by sub-paragraph 15.3(b), if the licensee does not make that payment on or before the date required in accordance with paragraph 15.4 or 15.5, it must pay to the System Operator an amount representing the rate of interest applicable to any part of the amount to be raised by the System Operator that is specified in the Shortfall Direction and set out in the System Operator's notice given to the licensee under standard condition C24 of the Transmission Licence, until the payment is made.
- 15.8 Any interest payment owed under paragraph 15.6 or 15.7 must be made by the licensee as soon as possible after, and in any event no later than 28 days after, the date of the System Operator's invoice for such payment.

### **Definitions for condition**

- 15.9 For the purposes of this condition:

**Act** means the Electricity Act 1989.

**Base Interest Rate** means, in respect of any day, the rate per annum which is equal to the base lending rate from time to time of Barclays Bank plc as at the close of business on the immediately preceding Business Day.

**Business Day** means any day of the week, other than a Saturday, on which banks are open for domestic business in the City of London.

**Energy Administration Order** has the same meaning as in section 154 of the Energy Act 2004.

**ESC Administration Order** has the same meaning as in section 94 of the Energy Act 2011.

**Financial Year** means a period of 12 months beginning on 1 April each year and ending on 31 March of the next calendar year.

**Protected Energy Company** has the same meaning as in section 154 of the Energy Act 2004.

**Energy Supply Company** has the same meaning as in section 94 of the Energy Act 2011.

**Relevant Distributor** has the same meaning as in section 184 of the Energy Act 2004.

**Shortfall Direction** has the same meaning as in standard condition C24 of the Transmission Licence.

[Smart Meter Communication Licensee](#) has the same meaning as the "smart meter communication licensee" in section 2(5) of the Smart Meters Act 2018.

[SMCL Administration Order](#) has the same meaning as a "smart meter communication licensee administration order" in section 2(1) of the Smart Meters Act 2018.

**Specified Area** means the area specified in the Energy Act 2004 (Assistance for Areas with High Distribution Costs) Order 2005.

**System Operator** means the holder, from time to time, of a Transmission Licence.

**Transmission Licence** means a licence granted, or treated as granted, under section 6(1)(b) of the Act and in which Section C of the standard conditions of that licence has effect.



## **ANNEX F: DCC LICENCE**

### **Condition 26. Financial stability and financial security**

#### **Introduction**

- 26.1 This condition applies for the purposes (i) of providing assurance that the Licensee will have sufficient financial stability to enable it to access sources of liquidity and capital on reasonable terms, and (ii) of requiring the Licensee to provide financial security in such form as the Authority may approve.

#### **Part A: Requirement to provide assurance of financial stability**

- 26.2 For the purpose of providing assurance as to its continuing financial stability, the Licensee must, with effect from three months after the Licence Commencement Date, have in place and maintain arrangements with respect to that purpose that it has proposed to the Authority and to which the Authority has consented on the basis that they provide a level of assurance that is sufficient to protect the interests of Energy Consumers.
- 26.3 Any proposal submitted by the Licensee in accordance with paragraph 26.2 must contain sufficient information to enable the Authority to consider and decide whether it would be appropriate for the Authority to consent to the proposal in all the circumstances of the case.
- 26.4 A consent under paragraph 26.2 may be subject to such terms and conditions as the Authority considers appropriate, having particular regard to the purpose that the arrangements that are proposed to be put in place are required to fulfil.

#### **Part B: Additional arrangements in respect of financial security**

- 26.5 Within three months after Licence Commencement Date, the Licensee must propose to the Authority, and obtain its consent to, an arrangement in respect of financial security that is additional to such arrangements as the Licensee may have in place under Part A above in respect of financial stability.
- 26.6 Any proposal for which consent is sought under this Part B must include:
- (a) provision requiring the Licensee to notify the Authority forthwith should any element of the proposed arrangement for whatever reason cease to be legally effective; and
  - (b) sufficient information to enable the Authority to consider and decide whether in all the circumstances of the case it would be appropriate for it to consent to the proposal.
- 26.7 Any arrangement in place under this Part B must be in a form and substance that is approved by the Authority and that contains or is otherwise supported by express provision for the Authority at any time on reasonable Notice to direct:

- (a) that sums of such amount and on such terms as are specified in the direction are to be released from the arrangement; and
- (b) that those sums are to be applied by the Licensee, to such an extent, in such manner, and at such times as may be so specified, for either or both of the purposes referred to in paragraph 26.8.

26.8 Those purposes are:

- (a) the purpose of ensuring that any financial liabilities of the Licensee that remain or fall due to be met during a Handover Period within the meaning of Condition 43 (Arrangements for the handover of business) may be discharged, so far as is possible, before the expiry or any revocation of this Licence; and
- (b) the purpose of securing the Licensee's compliance with any requirement with respect to the application of funds imposed on it by virtue of a direction given by the Authority under Condition 42 (Management Orders for the Licensee) ensuring that any Smart Meter Communication Administrator who may be appointed in respect of the Licensee will have the financial resources necessary to manage the affairs, business and property of the Licensee and to exercise and perform the powers and duties of a Smart Meter Communication Administrator.

26.9 Arrangements arising under this Part B may include (for example only, and subject always to paragraphs 26.10 and 26.11) a Financial Security Instrument, such as:

- (a) a parent company guarantee procured in favour of the Licensee in respect of the Relevant Sum from a Holding Company of the Licensee that has an Investment Grade Issuer Credit Rating; or
- (b) an unconditional and irrevocable letter of credit, or a performance bond, or an insurance policy, in each case issued in favour of the Licensee in respect of the Relevant Sum by a financial institution that has an Investment Grade Issuer Credit Rating; or
- (c) an escrow account containing the Relevant Sum that has been opened with a financial institution that has an Investment Grade Issuer Credit Rating.

26.10 References in paragraph 26.9 to an Investment Grade Issuer Credit Rating are to be read in accordance with the explanatory provisions of Appendix 1 (which has effect as part of this condition).

26.11 A Financial Security Instrument under paragraph 26.9, whether of a type mentioned in that paragraph or otherwise, must be expressed to be exercisable in Great Britain under English law.

26.12 The Authority's consent to a proposal under this Part B may be subject to such terms and conditions as it considers appropriate in all the circumstances of the case.

26.13 An arrangement that is in place in accordance with this Part B must, from the date on which it was put in place, be maintained by the Licensee for the full remaining duration of the Licence Term or (where applicable) of the Licence Term as extended by an Additional Licence Term.

## **Part C: Authority's powers with respect to Part B arrangements**

- 26.14 This Part C applies where it appears to the Authority that there have been changes (or that changes are proposed):
- (a) in the Authorised Business of the Licensee (whether by way of an enlargement of the activities of that business or otherwise); or
  - (b) in the external environment in which that business is or will be carried on,
- that are or are likely to be so significant as to materially affect the basis on which the Relevant Sum mentioned in Part B above was determined.
- 26.15 If this Part C applies, the Authority, where it considers that it is necessary to do so in all the circumstances of the case, may require the Licensee:
- (a) to increase (or reduce, as the case may be) the Relevant Sum by such amount as the Authority thinks would be appropriate; or
  - (b) to propose a variation of any arrangement in respect of financial security to which the Authority has already consented under Part B above.
- 26.16 Before requiring the Licensee to do anything under paragraph 26.15, the Authority must consult the Licensee and SEC Parties and have regard to such views as may be expressed in relation to the matter.

## **Part D: Interpretation**

- 26.17 For the purposes of this condition:

**Financial Security Instrument** has the meaning given to it in paragraph 26.9.

**Relevant Sum** means a monetary amount that:

- (a) was determined by the Secretary of State for the purposes of Part B above during or as a consequence of the Licence Application Process; and
- (b) has been notified to the Licensee and the Authority in a direction issued by the Secretary of State for the purposes of that Part B with effect from the Licence Commencement Date,

and the determination may include an index or other means or method by reference to which the amount of the Relevant Sum may be adjusted (whether upwards or downwards) in such manner and at such intervals of time as may be specified in the determination.

**Smart Meter Communication Administrator** has the meaning given to that phrase in section 10(2) of the Smart Meters Act 2018.

- 26.18 Appendix 1 follows immediately below.