

SCHEDULE 4

Conditions to which the exemptions from Article 8(1)(bb) of the Electricity Order are subject

Third party access

3.—(1) The third party supplier referred to in paragraph 2(1) may make a complaint to the Authority under Article 31A of the Electricity Order if—

- (a) the distribution exemption holder has served on the customer a notice under paragraph 1(4)(b); and
- (b) at the end of the period mentioned in paragraph 2(10), the distribution exemption holder is not under a duty (whether by virtue of sub-paragraph (6) or (9) of paragraph 2) to give access to the third party supplier.

(2) The third party supplier may not make a complaint under Article 31A of the Electricity Order unless it has, no later than the 10th working day before the day on which the complaint is made, served on the distribution exemption holder a notice—

- (a) informing the distribution exemption holder that it intends to make a complaint under Article 31A; and
- (b) inviting the distribution exemption holder to provide it with any further evidence it may wish to provide for the purpose mentioned in paragraph 2(8)(a).

(3) The complaint must include—

- (a) any evidence provided by the distribution exemption holder under paragraph 2(8)(a) or sub-paragraph (2)(b) above;
- (b) a description of the nature of the access required by the third party supplier (including any alternative forms of access that would be acceptable to it); and
- (c) any evidence the third party supplier may wish to include—
 - (i) to show that the capacity of the distribution system would not need to be increased in order to give a third party supplier access to it;
 - (ii) to show that a condition in paragraph 1(5) is not met; or
 - (iii) as to the benefits that would be brought by any increase in capacity that may be necessary.

(4) The third party supplier must send a copy of the complaint to the distribution exemption holder and the customer.

(5) If the Authority determines under Article 31A of the Electricity Order that the distribution exemption holder is not entitled to refuse the third party supplier access to its distribution system on the ground of lack of capacity—

- (a) the distribution exemption holder must give the third party supplier such access to its distribution system as is necessary to enable the third party supplier to give a supply of electricity to the customer;
- (b) paragraphs 1(6) to (8) shall apply as if the distribution exemption holder had served a notice under paragraph 1(4)(a) on the customer, and as if the references in paragraph 1(7) and paragraph 1(8)(a) to the “expression of interest” were to the notification of the determination of the complaint by the Authority under Article 31A of the Electricity Order; and
- (c) paragraph 5 shall have effect as if the reference in paragraph 5(3) to the “expression of interest” were to the notification of the determination of the complaint by the Authority under Article 31A of the Electricity Order.

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- (6) Access under sub-paragraph (5)(a) must be given either—
- (a) as soon as is reasonably practicable after the distribution exemption holder receives the notification of the determination of the complaint by the Authority under Article 31A of the Electricity Order; or
 - (b) on a date agreed by the distribution exemption holder, the third party supplier and the customer in writing.