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STATUTORY INSTRUMENTS

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**2020 No. 1401**

**The Electricity and Gas (Internal Markets) (No. 2) Regulations 2020**

**PART 2**

**Modifications of standard conditions of licences granted under the Electricity Act 1989**

**Standard conditions of electricity distribution licences**

- 4.—**(1) The standard conditions of an electricity distribution licence are amended as follows.
- (2) In condition 1 (definitions for the standard conditions)—
- (a) after “Electricity Distributor” insert—
- ““Electricity Markets” means markets for electricity, including over-the-counter markets and electricity exchanges, markets for the trading of energy, capacity, balancing and ancillary services in all timeframes, including forward, day-ahead and intraday markets;”;
- (b) for the definition of “GB System Operator” substitute—
- ““GB System Operator” means National Grid Electricity System Operator Limited (which is the company incorporated in England and Wales under registered number 11014226) in its capacity as operator of the GB Transmission System;”;
- (c) after the definition of “National Consumer Council” insert—
- ““National Electricity Transmission System Operator Area” means the area specified in Schedule 1 to the GB System Operator’s Transmission Licence;” and
- (d) after the definition of “Supply Licence” insert—
- ““Total System” means the national electricity transmission system and the distribution systems of authorised electricity operators which are located in the National Electricity Transmission System Operator Area;”.
- (3) After condition 25A (distributed generation: connections guide), insert—
- “Condition 25B Network Development Plan

**Introduction**

25B.1 The licensee must publish on its website a statement of network development information (“the Network Development Plan”):

- (a) on or before 1 May in the financial year commencing 1 April 2022 or on such date as the Authority may direct; and
- (b) subsequently, on or before 1 May every two years afterwards or on such date as the Authority may direct.

25B.2 This Condition applies to an Electricity Distributor operating a continuous area of network that serves 100,000 or more Customers unless the Authority directs otherwise.

**Part A: Scope and contents of Network Development Plan**

25B.3 The licensee must use reasonable endeavours to ensure that each Network Development Plan published by it covers the investments planned for the next five to ten year period in relation to the 11kV network and above, but it may exclude secondary transformers and all pole mounted transformers. The Network Development Plan must include:

- (a) a description of those parts of the licensee’s Distribution System most suited to new connections and distribution of further quantities of electricity;
- (b) a description of those parts of the licensee’s Distribution System where reinforcement may be required in order to connect new capacity and new loads, including to facilitate the deployment of Electric Vehicle Recharging Points;
- (c) such information as may be necessary for:
  - (i) the Electricity System Operator;
  - (ii) Electricity Distributors; and
  - (iii) Transmission Licensees,with whose system the licensee’s Distribution System is connected or with whom the licensee interfaces, to ensure the secure and efficient operation, coordination development and interoperability of the interconnected system; and
- (d) the Distribution Flexibility Services or Energy Efficiency Services that the Electricity Distributor reasonably expects to need. This includes:
  - (i) demand-side response;
  - (ii) energy efficiency;
  - (iii) energy storage facilities; or
  - (iv) other resources,that the Electricity Distributor will reasonably expect to use as an alternative to reinforcement.

**Part B: Publication of data and information in relation to the Network Development Plan**

25B.4 The licensee must publish on its website at the same time as the Network Development Plan, the relevant data and information used to prepare its Network Development Plan, including:

- (a) the methodology used by the licensee in preparing the Network Development Plan;
- (b) the assumptions made by the licensee in preparing the Network Development Plan;
- (c) information relating to the Distribution Flexibility Services that the Electricity Distributor reasonably expects to need across the network area in respect of each financial year. This includes:
  - (i) demand-side response;
  - (ii) energy efficiency;
  - (iii) energy storage facilities; and
  - (iv) other resources,that the Electricity Distributor will reasonably expect to use as an alternative to reinforcement; and

- (d) information relating to the expected development of distribution infrastructure in respect of each financial year, including the licensee's best view of the design and technical characteristics of the development of the system, considering the likely power flows, capacity, location and timing of the development. This should include developments required in order to connect new generation capacity and new loads, including Electric Vehicle Recharging Points. To the extent that information is available to the licensee, this includes possible routing options for new circuits and locations for potential reinforcements.

25B.5 The licensee must provide a copy of the Network Development Plan on request and free of charge to any person.

#### **Part C: Information exclusions**

25B.6 The licensee must include the information required by 25B.3 in every Network Development Plan and must publish the relevant data and information referred to in 25B.4 except if it receives the Authority's consent to:

- (a) omit any details about circuit capacity, power flows, loading, or any other information the disclosure of which would, in the Authority's view, seriously and prejudicially affect the commercial interests of the licensee or any third party;
- (b) omit any information the disclosure of which would place the licensee in breach of standard condition 42 (independence of the distribution business and restricted use of confidential information).

#### **Part D: Use of the most recent Long-Term Development Statement**

25B.7 In preparing the Network Development Plan, the licensee must use the most recent version of the Long-Term Development Statement prepared under standard condition 25 (long term development statement) to ensure that the data and information used for the Network Development Plan is consistent with that used in the Long-Term Development Statement, so that there is a clear progression from the final year of the Long-Term Development Statement to the start of the Network Development Plan.

#### **Part E: Consultation**

25B.8 The licensee must:

- (a) consult interested parties on the proposed Network Development Plan for a period of at least 28 days before publishing as required by 25B.1; and
- (b) publish the non-confidential consultation responses received, a summary of the responses and how it has taken them into account.

#### **Part F: Changes to the Network Development Plan**

25B.9 The Authority may:

- (a) within 28 days of the licensee publishing its Network Development Plan under 25B.1, issue a direction to the licensee that the Network Development Plan requires further development; and
- (b) direct the licensee to:
  - (i) revise the Network Development Plan;
  - (ii) further consult with interested parties;

- (iii) submit the revised Network Development Plan to the Authority by the date specified by the Authority; and
  - (iv) publish the revised Network Development Plan and the relevant data and information used to prepare the same, subject to the information exclusions in 25B.6.”.
- (4) In condition 31D (prohibition on generating by licensee)—
- (a) in paragraph 31D.1(a), before “operates assets situated” insert “owns or”;
  - (b) in paragraph 31D.1(b)—
    - (i) for “owns and operates assets” substitute “owns or operates assets”; and
    - (ii) after “or energy management” insert “and the assets are not used to buy or sell electricity in the Electricity Markets”;
  - (c) after paragraph 31D.3, insert—
 

“31D.3A Where a licensee operates assets under a Category C exception, it must, prior to the expiry of the period of 5 years from the date on which the exception came into force, or such other period as the Authority may direct, prepare a report detailing the willingness of third parties to own, develop, operate or manage such assets in a cost effective manner and provide it to the Authority.

31D.3B Where the Authority uses the report under 31D.3A to consult to assess the potential availability and interest of third parties in investing in such assets and on the costs of such investment and, as a result of that consultation, decides that the criteria in 31D.2 are no longer met, the licensee must ensure that its activities in this regard are phased out within 18 months of that decision, including by way of a transfer to another undertaking and as part of the conditions of that procedure the Authority may allow the licensee to receive reasonable compensation, in particular to recover the residual value of its investment in the assets.”;
  - (d) in paragraph 31D.5, after “31D.2,” insert “31D.3A”; and
  - (e) in paragraph 31D.6—
    - (i) in subparagraph (e), after “31D.4;” omit “and”;
    - (ii) in subparagraph (f), after “31D.4” insert “; and”;
    - (iii) after subparagraph (f), insert—
      - “(g) the process and procedures for the preparation of a report under 31D.3A”.

- (5) After condition 31D (prohibition on generating by licensee), insert—

“Condition 31E. Procurement and use of Distribution Flexibility Services

31E.1 The licensee must coordinate and direct the flow of electricity onto and over its Distribution System in an efficient, economic and coordinated manner. This includes the following:

- (a) procuring and using Distribution Flexibility Services where it is economic and efficient to do so;
- (b) procuring Distribution Flexibility Services in the most economic manner possible;
- (c) subject to 31E.3, procuring Distribution Flexibility Services in accordance with objective, transparent and market-based procedures;
- (d) promoting the uptake of measures to improve Energy Efficiency, where such services cost-effectively alleviate the need to upgrade or replace electricity capacity and support the efficient and secure operation of the Distribution System. This may include procuring Energy Efficiency Services, where it is economic and efficient to do so;

- (e) when procuring Distribution Flexibility Services, the licensee must have regard, insofar as is practicable, to the following considerations:
  - (i) the impact any actions taken will have on the ability of undertakings to effectively participate in retail, wholesale and balancing markets; and
  - (ii) the impact any actions taken will have on the Total System;
- (f) using all reasonable endeavours, in coordination with the GB System Operator, other Distribution Licensees, and undertakings participating or intending to participate in the provision of Distribution Flexibility Services or, where relevant, Energy Efficiency Services, to establish as soon as reasonably practicable and thereafter maintain relevant:
  - (i) objective, transparent, cost-reflective and non-discriminatory rules, including terms and conditions and rules and tariffs where applicable, governing the procurement and use of Distribution Flexibility Services and, where relevant, Energy Efficiency Services by Distribution Licensees, such rules to be published; and
  - (ii) technical requirements for participation in the Distribution Flexibility Services market on the basis of technical characteristics of the market and the capabilities of participants in the market, such technical requirements to be published;
- (g) taking all reasonable steps to ensure the effective participation of all undertakings participating or intending to participate in the provision of Distribution Flexibility Services or, where relevant, Energy Efficiency Services, including not unduly restricting new and existing providers of those services from competing in the provision of such services, and in doing so, the licensee must use all reasonable endeavours to:
  - (i) cooperate with the GB System Operator to ensure the effective participation in retail, wholesale and balancing markets of undertakings connected to the licensee's grid; and
  - (ii) as soon as is reasonably practicable, establish and thereafter maintain, in a transparent and participatory process that includes the GB System Operator, other Distribution Licensees, and undertakings participating or intending to participate in the provision of Distribution Flexibility Services, the relevant specifications for Distribution Flexibility Services and, where appropriate, standardised market products for such services at national level;
- (h) taking all reasonable steps to establish and thereafter ensure the exchange of all necessary information and coordinate with the GB System Operator in order to ensure the optimal utilisation of resources, to ensure the secure and efficient operation of both the Distribution System and Transmission System, and to facilitate market development; and
- (i) anticipating the future electricity requirements of its Distribution System and developing competitive approaches to procuring Distribution Flexibility Services and, where applicable, Energy Efficiency Services, wherever this is in the best interests of current and future electricity consumers in Great Britain.

31E.2 Having taken into account relevant price and technical differences, the licensee must not discriminate as between any persons or classes of persons in its procurement or use of Distribution Flexibility Services.

31E.3 The Authority may, at its own discretion, or on an application by a licensee, grant a derogation from the licensee's obligation to procure Distribution Flexibility Services using market-based procedures (as required under 31E.1(c)) where the Authority has determined that compliance with the market-based provision is:

- (i) economically not efficient; or
- (ii) would lead to severe market distortions or to higher levels of constraints.

31E.4 The licensee may request that the Authority grants such a derogation, by providing appropriate reasoning and justification within its Distribution Flexibility Services Procurement Statement submitted to the Authority in accordance with 31E.8.

31E.5 Where, during the term of any Distribution Flexibility Services Procurement Statement submitted to the Authority pursuant to 31E.8, the licensee wishes to amend its statement to request such a derogation from the Authority, the licensee must prepare a revised statement and submit it to the Authority for determination.

31E.6 If the Authority fails to determine any request for a derogation from the use of market-based procedures within one month of receipt, the request is to be treated as approved.

31E.7 If the request is refused, the Authority may require the licensee to prepare a revised Distribution Flexibility Services Procurement Statement in accordance with 31E.8.

31E.8 The licensee must before each Annual Submission Date prepare, and submit to the Authority for approval, in a form approved by the Authority, a Distribution Flexibility Services Procurement Statement setting out:

- (a) the kinds of Distribution Flexibility Services and Energy Efficiency Services which it reasonably expects it may be interested in purchasing in the period from that Annual Submission Date to the next Annual Submission Date and the mechanisms by which it reasonably expects to purchase them; and
- (b) a statement demonstrating its compliance with its obligations under 31E.1, including:
  - (i) a summary of the rules and technical requirements governing the procurement and use of Distribution Flexibility Services and, where relevant, Energy Efficiency Services, which have been established in accordance with 31E.1(f);
  - (ii) a description of the steps taken to ensure the effective participation of undertakings participating or intending to participate in the provision of Distribution Flexibility Services or Energy Efficiency Services, in accordance with 31E.1(g); and
  - (iii) a description of the engagement that has taken place in the preceding twelve months with the GB System Operator, other Distribution Licensees and undertakings participating or intending to participate in the provision of Distribution Flexibility Services in respect of establishing and maintaining the relevant specifications governing the procurement of Distribution Flexibility Services, in accordance with 31E.1(g)(ii).

31E.9 For the purposes of 31E.8, the licensee must outline any changes to its practises or intended changes to its practises resulting from engagement in accordance with 31E.8(b)(iii).

31E.10 Where the licensee reasonably expects that it will not procure Distribution Flexibility Services in the twelve month period following an Annual Submission Date, the licensee must prior to that date write to the Authority informing it of this position.

31E.11 Paragraph 31E.10 is without prejudice to the obligation of the licensee to submit a Distribution Flexibility Services Procurement Statement on each Annual Submission Date, in accordance with the provisions of 31E.8.

31E.12 Where during the term of any Distribution Flexibility Services Procurement Statement the licensee's intentions change regarding the information contained within the Distribution Flexibility Services Procurement Statement, the licensee must review the statement and consider whether any revision to the statement is necessary to ensure it remains an accurate reflection of the licensee's intentions and, if so, promptly seek to prepare a revised statement and submit it to the Authority for approval.

31E.13 Where the licensee has written to the Authority in accordance with 31E.10 and the licensee's intentions in respect of the procurement of Distribution Flexibility Services change, the licensee is

to promptly prepare a Distribution Flexibility Services Statement in accordance with the provisions of 31E.8 and submit it to the Authority for approval.

31E.14 Within one month after each Annual Submission Date, the licensee must prepare a report (a “Distribution Flexibility Services Procurement Report”) setting out the Distribution Flexibility Services and Energy Efficiency Services which the licensee has tendered for, contracted and dispatched in the period of 12 months preceding the Annual Submission Date, or such other period as the Authority may have directed, if any.

31E.15 The licensee must:

- (a) publish, in such manner as the Authority may approve from time to time, the Distribution Flexibility Services Procurement Statement and Distribution Flexibility Services Procurement Report and each subsequent revision, and
- (b) send a copy of each of the Distribution Flexibility Services Procurement Statement and Distribution Flexibility Services Procurement Report, or the latest revision thereto, to any person who requests the same, provided that the licensee excludes, so far as is reasonably practicable, any matter which relates to the affairs of any person where the publication of that matter would or might seriously and prejudicially affect that person’s interests,

and, for the purposes of 31E.15(b), the licensee is to refer to the Authority for determination any question as to whether any matter would or might seriously and prejudicially affect the interests of any person unless the Authority consents to the licensee not doing so.

31E.16 The licensee may make a charge for any copy of a Distribution Flexibility Services Procurement Statement, Distribution Flexibility Services Report or revision thereto provided pursuant to 31E.15 of an amount reflecting the licensee’s reasonable costs of providing such a copy, which must not exceed the maximum amount specified in directions issued by the Authority for the purpose of this condition.

31E.17 The licensee must publish in a transparent manner the outcomes of any concluded Distribution Flexibility Services procurement processes within one month of contractual agreement. This must include, where relevant, and subject always to the licensee’s compliance with laws relating to data protection and commercial confidentiality, confirmation of:

- (a) The counterparty to the contract;
- (b) The technology type of the counterparty;
- (c) The capacity and volume procured;
- (d) The length of the contractual agreement;
- (e) The payment structure of the contract; and
- (f) The price agreed for the provision of services.

31E.18 The licensee must, unless the Authority otherwise consents, maintain for a period of at least six years:

- (a) particulars of all Distribution Flexibility Services and Energy Efficiency Services offered to it;
- (b) particulars of all contracts for Distribution Flexibility Services and Energy Efficiency Services which it entered into; and
- (c) records of all Distribution Flexibility Services and Energy Efficiency Services called for and provided.

31E.19 The licensee must provide to the Authority such information as the Authority may request concerning the procurement and use of Distribution Flexibility Services or Energy Efficiency Services.

31E.20 For the purpose of this condition:

“Annual Submission Date” means:

- (a) 1 April 2021;
- (b) 1 April in each subsequent calendar year; or
- (c) such other date in any calendar year that the Authority may direct.

“Distribution Constraint” means any limit on the ability of the licensee’s Distribution System, or any part of it, to transmit the power supplied onto the licensee’s Distribution System to the location where the demand for that power is situated, such limit arising as a result of any one or more of:

- (a) the need to not exceed the thermal rating of any asset forming part of the licensee’s Distribution System;
- (b) the need to maintain voltages on the licensee’s Distribution System; and
- (c) the need to maintain the transient and dynamic stability of electricity plant, equipment and systems directly or indirectly connected to the licensee’s Distribution System and used by the licensee to operate the licensee’s electricity distribution system in accordance with the Act, this licence, or any other requirement of law;

“Distribution Flexibility Services” means Distribution Non-frequency Ancillary Services and Distribution Constraint management;

“Distribution Non-Frequency Ancillary Services” means a service used by the Distribution Licensee for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability and island operation capability;

“Energy Efficiency” means the ratio of output of performance, service, goods or energy, to input of energy;

“Energy Efficiency Services” means a service contracted to improve the Energy Efficiency of a network user or users.

#### Condition 31F. Requirements relating to Electric Vehicle Recharging Points

31F.1 The licensee must not own, develop, manage or operate an Electric Vehicle Recharging Point, except where:

- (a) the conditions in 31F.2 below apply; or
- (b) the Authority has issued a Provider of Last Resort direction pursuant to 31F.5 and the licensee complies with it.

#### **Electric Vehicle Recharging Points: exception for Licensee’s own use**

31F.2 This paragraph applies where the following conditions are satisfied in respect of an Electric Vehicle Recharging Point:

- (a) it is not generally accessible to the public;
- (b) it is used by the licensee only for the purposes of charging vehicles in connection with its Distribution Business; and
- (c) it is not used in the provision of:
  - (i) any Balancing Services to the GB System Operator; or
  - (ii) any equivalent service in relation to the licensee’s Distribution System.

31F.3 For the purpose of 31F.2 references to:

- (a) the licensee include references to an Affiliate of the licensee; and
- (b) the public do not include employees or contractors of the licensee or any visitors to any premises under the control of any of them in the ordinary course of business.



### **Electric Vehicle Recharging Points: provider of last resort (process)**

31F.4 Paragraph 31F.4 applies where the Authority is satisfied that no person other than the licensee is able to own, develop, manage or operate an Electric Vehicle Recharging Point or could not do so at a reasonable cost and in a timely manner.

31F.5 Where the Authority is satisfied that:

- (a) the circumstances described in 31F.4 are satisfied; and
- (b) the process described in 31F.6 to 31F.11 has been followed,

the licensee must comply with any direction (a “Provider of Last Resort Direction”) issued by the Authority in relation to the ownership, development, management or operation of an Electric Vehicle Recharging Point of a description specified in the direction.

31F.6 Where the licensee considers that 31F.4 may apply to any Electric Vehicle Recharging Point, it must carry out a tender process, in an open, transparent and non-discriminatory manner, to determine whether any person is able to own, develop, manage and operate an Electric Vehicle Recharging Point at reasonable cost and in a timely manner.

31F.7 Prior to carrying out the tender process referred to in 31F.6 the licensee must prepare a statement of its proposed methodology for undertaking the tender process.

31F.8 The licensee must:

- (a) consult publicly on such methodology for a minimum of 28 days or such other period as the Authority may direct;
- (b) take account of the representations it receives in response to the consultation and revise the methodology as appropriate; and
- (c) within 28 days following the conclusion of the consultation, provide the Authority with the methodology together with any representations it has received during the consultation.

31F.9 The Authority may by direction, approve that methodology, with or without amendments.

31F.10 The licensee must carry out the tender process in accordance with the approved methodology.

31F.11 No later than 28 days following the conclusion of the tender process, the licensee must provide a report to the Authority setting out whether any person has been awarded the right to own, develop, manage or operate an Electric Vehicle Recharging Point.

31F.12 Any of the steps described in 31F.6 to 31F.11 may be carried out by a person other than the licensee where the Authority considers this appropriate.

### **Electric Vehicle Recharging Points: provider of last resort (review)**

31F.13 Paragraph 31F.14 applies where the Authority has issued a Provider of Last Resort Direction, in respect of an Electric Vehicle Recharging Point.

31F.14 The licensee must within five years of the coming into force of the direction and every subsequent period of five years, or such other date as the Authority may direct, provide a report to the Authority on whether the circumstances described in 31F.4 continue to be satisfied in relation to the Electric Vehicle Recharging Point.

31F.15 The report referred to in 31F.14 is to be informed by a public consultation undertaken by the licensee of at least 28 days, or such other period as the Authority may direct, and must include any representations made in response to such consultation.

31F.16 If having considered the report referred to in 31F.14 the Authority considers 31F.4 is no longer satisfied it may direct that the steps outlined in 31F.6 to 31F.11 are undertaken by the licensee on such terms as may be specified in the direction.

31F.17 Where the Authority, following consideration of the report provided by the licensee pursuant to 31F.14 gives notice of revocation of the Provider of Last Resort Direction, the licensee must ensure that its activities are phased out within 18 months of the notice, including by way of a transfer to another person of the ownership, development, management or operation of the Electric Vehicle Recharging Point, and as part of the conditions of that procedure the Authority may allow the licensee to recover the residual value of its investment.

**Electric Vehicle Recharging Points: provider of last resort (general)**

31F.18 Any Provider of Last Resort Direction may relate to specific premises or premises of a general description, for such period of time and subject to such conditions as may be specified in the direction.

**Interpretation**

31F.19 For the purpose of this condition:

- (a) “Balancing Services” has the meaning given in Condition C1 (interpretation) of the Transmission Licence;
  - (b) “Electric Vehicle Recharging Point” means an interface which is capable of charging one electric vehicle at a time, or exchanging a battery of one electric vehicle at a time; and
  - (c) “Provider of Last Resort Direction” has the meaning given in paragraph 4 of this condition.”.
- (6) In condition 43 (appointment of compliance officer), in paragraph 12—
- (a) in sub paragraph (d), after “Data Services);” omit “and”;
  - (b) in sub paragraph (e), after “Licensee)” insert “; and”;
  - (c) after sub paragraph (e), insert—
    - “(f) the requirements of standard condition 31F (Requirements relating to Electric Vehicle Recharging Points)”.
- (7) In condition 43B (prohibition on generating by licensee)—
- (a) in paragraph 43B.1(a), before “operates assets situated” insert “owns or ”;
  - (b) in paragraph 43B.1(b)—
    - (i) for “owns and operates assets” substitute “owns or operates assets”; and
    - (ii) after “or energy management” insert “and the assets are not used to buy or sell electricity in the Electricity Markets”;
  - (c) after paragraph 43B.3, insert—

“43B.3A Where a licensee operates assets under a Category C exception, it must, prior to the expiry of the period of 5 years from the date on which the exception came into force, or such other period as the Authority may direct, prepare a report detailing the willingness of third parties to own, develop, operate or manage such assets in a cost effective manner and provide it to the Authority.

43B.3B Where the Authority uses the report under 43B.3A to consult to assess the potential availability and interest of third parties in investing in such assets and on the costs of such investment and, as a result of that consultation, decides that the criteria in 43B.2 are no longer met, the licensee must ensure that its activities in this regard are phased out within 18 months of that decision, including by way of a transfer to another undertaking, and as part of the conditions of that procedure the Authority may allow the licensee to receive

reasonable compensation, in particular to recover the residual value of its investment in the assets.”;

- (d) in paragraph 43B.5, after “43B.2,” insert “43B.3A,”; and
- (e) in paragraph 43B.6—
  - (i) in subparagraph (e), after “43B.4;” omit “and”;
  - (ii) in subparagraph (f), after “43B.4” insert “; and”; and
  - (iii) after subparagraph (f), insert subparagraph “(g) the process and procedures for the preparation of a Report under 43B.3A”.