

NGGT Standard Specials

Part A

Condition	Comment
SSC A3 Definitions and Interpretation	<p><i>“DN Operator”</i> and <i>“NTS Operator”</i> - Paragraph 5.2 of the reasons and effects document states that it is intended to amend the definition of these terms in SSC A3 in order to remove references to conditions that are no longer in force. However, no such amended definitions appear in the licence text that is being consulted on</p> <p><i>“Financial Resilience Report”</i> – The definition has been omitted in error. This should be <i>“means the report prepared by the licensee pursuant to Part C of Standard Special Condition A38.”</i></p> <p><i>“Instrument Credit Rating”</i> – For clarity, instead of <i>‘a rating which, the Authority directs, is equivalent...’</i>, we propose <i>‘a rating <u>which the Authority directs as being equivalent...</u>’</i>.</p> <p><i>“Issuer Credit Rating”</i> – As above for clarity, instead of <i>‘a rating which, the Authority directs, is equivalent...’</i>, we propose <i>‘a rating <u>which the Authority directs as being equivalent...</u>’</i>.</p> <p><i>“Investment Grade”</i> - As above for clarity, instead of <i>‘a rating which, the Authority directs, is equivalent...’</i>, we propose <i>‘a rating <u>which the Authority directs as being equivalent...</u>’</i>.</p> <p><i>“Potential Mitigating Actions”</i> - This definition should be extended to include reference to improvement of the Significant Instrument Credit Rating as this is a potential trigger for the requirement to set out such actions. We propose: <i>“means actions designed to improve the Issuer Credit Rating, <u>Significant Instrument Credit Rating</u> or financial resilience;...”</i>.</p> <p><i>“Price Control Period”</i> – This defined term is used in proposed SSC A38 but is currently defined only in Special Conditions. The definition should be added in SSC A3.</p>
SSC A8 Emergency Services and Enquiry Service Obligations	No Comments
SSC A14 Availability of Data Formats	No Comments
SSC A15 Central Data Service Provider	<p>A15.5 - Formatting issues 5(c) (i) and (ii) not (v) and (vi)</p> <p>A15.6 - Formatting issues 6(d) (i) and (ii) not (vi) and (vii)</p>
SSC A28 Gas Network Innovation Strategy	

	<p>General Formatting: Margin numbers and cross references within the condition can simply refer to paragraph numbers rather than to “A28” throughout. This is consistent with other standard special conditions.</p> <p>9: Definition of “Innovation Project” in paragraph 9:</p> <ul style="list-style-type: none"> • The cross reference to Special Condition 11 of the GT Licence in force as at 31/3/21 is incorrect. It is believed that this reference is intended to point to the NIC condition which is Special Condition 2F of the current NGGT GT licence; • In addition to the reference to Special Condition 5.2 (RIIO2 NIA) we query whether this definition should also refer to Special Condition 5.3 (Carry over NIA) <p>The gas strategy doesn’t currently reference the SIF mechanism and any expected linkages between the innovation strategy and NIA. SIF is solution led, with specific challenges, which will need to complement the gas strategy.</p>
SSC A31 Supply Point Information Service	No Comments
SSC A36 Restriction on Activity and Financial Ring Fencing	No Comments
A37 Availability of Resources	No Comments
SSC A38 Credit rating of the licensee and resulting obligations	<p>Title – It appears to us that ‘...<i>resulting obligations</i>’ is unclear (as the obligations are not the result of credit ratings). We propose changing the heading to ‘<i>Credit rating of the licensee and Negative Rating Actions</i>’.</p> <p>1. – ‘<i>Negative Rating Actions</i>’ can be removed here, since Negative Rating Actions lead to obligations in respect of Published Rating Reports and Financial Resilience Reports (already included in the paragraph).</p> <p>3. – It appears to us that ‘...<i>related Published Rating Report...</i>’ might be misconstrued. Our understanding is that ‘...<u>relevant</u> <i>Published Rating Report</i>’ is the intention and we propose changing to this wording. We have not been provided with a capitalised definition for “<i>Working Days</i>” and we suggest that this is lower case.</p> <p>3(a) – Our understanding is that the obligation here is to ‘<i>notify the Authority of the Negative Rating Action...</i>’ and we request that this change is made. If the obligation is broader, we request that 3(a) should also apply only where permitted by the relevant rating agency (as with 3(b)).</p> <p>4 – The licence drafting here does not clearly align with the intent stated in Ofgem’s <i>reasons and effects</i> document (para 2.24). This is because the paragraph reads as if the obligation applies only where the circumstances in (a)-(c) arise <u>and there is a subsequent</u> Negative Rating Action, rather than as intended that the obligation applies whenever those circumstances arise. We propose changing paragraph 4 to ‘...<i>If paragraph [5] applies, the licensee must provide the Authority with a Financial Resilience Report during the period of [60] days beginning with the date of the Negative Rating Action referred to in</i></p>

	<p><i>paragraph [5]</i>'. New paragraph 5 would begin '<i>This paragraph applies where:...</i>' and would then include the sub-paragraphs (a)-(c).</p> <p>4.(c) – In addition to the points above, we understand that '<i>negative watch</i>' should be capitalised as this term is defined.</p> <p>6.(e) – There is a typo here. We propose '<i>that the licensee <u>considers to be appropriate</u></i>'.</p>
A39 Indebtedness	No Comments
SSC A40 Regulatory Instructions and Guidance	<p>5: formatting needs correcting after sub-paragraph (l)</p> <ul style="list-style-type: none"> • Text beginning “ a statement..” should be sub paragraph (j) • Text beginning “provision about” should be sub-paragraph (k) • Existing sub-paragraph (k) should be sub-paragraph (l). <p>Missing Part E Interpretation Section: The condition is missing an Interpretation section as per the existing SSC A40 and as per the same condition that is to be introduced into the electricity transmission licences at standard condition B15. This should define:</p> <ul style="list-style-type: none"> • Annual Report • Authority’s website • Examiner • Final Determinations • Regulatory Year) • RIGS • Specified Information (For the purposes of SSC A40. The A3 definition is for the purposes of D10 only)
A48 Last Resort Supply: Payment Claims	No Comments
SSC A55 Data Assurance Requirements	<p>Part A paragraph 3, as a result of the previous text being deleted there is no definition of “Data Assurance Guidance”. Suggest the following is added to the new Part E:</p> <p>“Data Assurance Guidance means the document issued by the Authority from time to time pursuant to a direction under Part B paragraph 6, the scope and conditions of which are set out in paragraph 8;”</p> <p>Part A previous paragraph 4: We note that Ofgem has not provided a response to our previous comment on this in the information licence consultation and no change has been made to the drafting we therefore repeat the comment again below.</p> <p>We would reiterate again our views provided via the LDWG and Issues Logs that equivalent drafting to that which is set out in paragraph 4 of the current ET and GT Licence should be reinstated. This ensures that where data is provided by a licensee under other licence conditions, which themselves provide for a different level of accuracy and/or reliability, the data will be treated as meeting the requirements of Standard Licence Condition B23 or Standard Special Condition</p>

A55 (as appropriate), ensuring the licensee is not found to have breached its Data Assurance obligations whilst complying with any specific licence requirements relating to the particular data in question. Such conflicting obligations create uncertainty under the licence as it is not clear which obligation should apply. We do not agree with the justification that Ofgem previously provided in the Issues Logs for the removal of this drafting and would request again that it is reinstated.

SSC A56
Housekeeping licence
modifications

General – There is a general issue with paragraph numbering and, if the definitions are to sit within the condition, a further heading of “*Part C: Interpretation*” should be added and a further paragraph, beginning “*For the purpose of this condition.*”.

General – We raised serious concerns with the introduction of this mechanism and the lack of clear justification for it in our response to the September informal licence drafting consultation. We have not been able to locate a response in either the *reasons and effects* document or the Final Determinations. In short, the process removes licensees’ right of appeal to the CMA in respect of “*minor*” changes through the housekeeping condition, but what is “*minor*” is not made clear and does not expressly align with non-substantive which is our understanding of the intention. Ofgem has also not explained why the mechanism is justified. The change we propose below would align more closely with our understanding of the policy intention.

3. - Ofgem should be required to (actively) consult the working group on the issue. The current provision does not explain how the working group will be in a position to have and convey views on the issue. We propose changing the drafting to “*the Authority will consult the Housekeeping Modification Working Group*”.

4. - Grammatical error. “*are a Housekeeping Modification*” should be “*is a Housekeeping Modification*”. In addition, to be clear what the direction may cover, we propose the following addition “*..., it may modify the licence by direction to implement the intended modification*”.

6(a) – For consistency, we propose referring to “*the modification...*” (singular).

7. Definition of “*Housekeeping Modification Working Group*” – On the basis that the definitions will be included within the condition, we propose that “*under xxx condition*” should be replaced with ‘*under this condition*’. We note that Ofgem has provided no further detail on this working group and we request that further details on its terms of reference and constitution are provided prior to Ofgem making its licence decision. Our understanding is that representatives from licensees will be able to join the group.

7. Definition of “*Housekeeping Modification*” – We propose that, if Ofgem considers such a mechanism to be justified, the definition of ‘*Housekeeping Modification*’ should be expressly limited to those types of changes which are listed. In other words replacing the opening words with ‘*means any of the following changes:...*’. There should also be an “*and*” connecting the list.

If no change is made given Ofgem has not given further explanation of its policy intention, our understanding is that (in line with accepted legal principles) “*minor changes*” in the condition is to be interpreted in line with the list which follows it and is therefore limited to changes which are non-substantive.

SSC A57 Exit Capacity Planning	No comments
REMOVAL SSC A15 Agency	The licence direction needs to show that this condition is to be removed by the direction as per the approach being taken in relation to standard conditions being removed from the Electricity Transmission Licences. (i.e. Condition Heading followed by [Removed])
REMOVAL SSC A49 Designated Registrar of Pipes	The licence direction needs to show that this condition is to be removed by the direction as per the approach being taken in relation to standard conditions being removed from the Electricity Transmission Licences. (i.e. Condition Heading followed by [Removed])
REMOVAL SSC A51 Information to be Provided to a Designated Registrar of Pipes	The licence direction needs to show that this condition is to be removed by the direction as per the approach being taken in relation to standard conditions being removed from the Electricity Transmission Licences. (i.e. Condition Heading followed by [Removed])