

# **Compliance Statement**

## **National Grid Electricity Transmission plc**

Prepared pursuant to Special Condition C2 of the electricity transmission licence treated as granted to National Grid Electricity Transmission plc (registered in England with number 2366977) whose registered office is at 1-3 Strand, London WC2N 5EH under section 6 of the Electricity Act 1989

**2<sup>nd</sup> September 2009**

## Version Control

Version	Date of change	Summary of changes
1	24 <sup>th</sup> June 2009	Compliance Statement implemented
2	21 <sup>st</sup> August 2009	Further detail included
3	2 <sup>nd</sup> September 2009	Further detail included to address specific queries from Ofgem.

## Introduction

This Compliance Statement (“Statement”) has been prepared to secure compliance with paragraphs 1, 2 and 4 of Special Condition C2 of the electricity transmission licence held by National Grid Electricity Transmission plc (“NGET”). The purpose of this statement is to describe the practices, procedures and systems which NGET has adopted (or intends to adopt) to secure compliance with its obligations under:

- Standard Condition B5 (Prohibition of Cross -subsidies);
- Standard Condition B6 (Restriction on activity and financial ring fencing); and
- Special Condition C1 (Prohibited Activities and Conduct of the Transmission Business)

of its electricity transmission licence (together, “the Conditions”).

As required by paragraph 4 of Special Condition C2, this statement sets out how NGET shall:

1. maintain appropriate managerial and operational independence of the licensee in undertaking its activities under its licence from any Relevant Offshore Transmission Interest;
2. secure that no breach of the requirements of the Conditions occurs as a result of any arrangements for access by any Relevant Offshore Transmission Interest or by any person engaged in, or in respect of, the Relevant Offshore Transmission Interest with respect to;

- (i) premises or parts of premises occupied by persons engaged in, or engaged in respect of, the management or operation of the national electricity transmission system under this licence;
  - (ii) systems for the recording, processing or storage of data to which persons engaged in, or engaged in respect of, the management or operation of the national electricity transmission system under this licence have access;
  - (iii) equipment, facilities or property employed for the management or operation of the national electricity transmission system under this licence; or
  - (iv) the services of persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the national electricity transmission system under this licence.
3. manage the transfer of employees from the transmission business of the licensee to any Relevant Offshore Transmission Interest.

NGET will use its best endeavours to ensure compliance with the terms of this statement.

This statement can be amended only with the approval of the Authority.

## Definitions

For the purposes of this statement, the following definitions apply:

**Relevant Offshore Transmission Interest** Means an affiliate, related undertaking or business unit of an ultimate controller of NGET which:

- a) is participating in, or intends to participate in, a competitive tender exercise to determine a person to whom an offshore transmission licence is to be granted; or
- b) is an offshore transmission owner.

**Commercially Sensitive Information** Includes information that is specific to NGET, the possession of which could confer an unfair commercial advantage to any Relevant Offshore Transmission Interest BUT excludes information which:

(i) is made available to all offshore transmission owners on an equal basis; or

(ii) is publicly available.

**Shared Business Services**

means the business units within National Grid plc that provide support services to NGET including human resources, legal, IS and supply chain management. A list of National Grid's Shared Business Services is attached in Appendix 1.

**1. Managerial independence of NGET from any Relevant Offshore Transmission Interest**

NGET has an organisational structure to secure that Standard Special Condition C1 is not breached through any inappropriate managerial decision.

NGET is a separate legal entity from the Relevant Offshore Transmission Interest. NGET and the Relevant Offshore Transmission Interest operate within entirely separate management structures to remove the possibility of a conflict of interest. This segregation is a key aspect of ensuring independence of the separate businesses and the independent management and operational decisions of each business.

NGET has separate statutory accounts, which are subject to relevant accounting standards which underpin separation of function, cost and revenues.

The members of the managerial Board of NGET (Transmission Executive Committee), at present, are as follows:

- Executive Director, Transmission
- Finance Director, Transmission
- Company Secretary and UK General Counsel
- Director of Asset Management
- Director of Network Operations
- Commercial Director, Transmission
- Director of UK Construction
- Director of US Transmission
- UK Director of Regulation
- Director of UK Safety, Health, Environment and Corporate Security

The Relevant Offshore Transmission Interest has a separate managerial Board, no members of which are members of the managerial Board of NGET.

NGET has appointed the Commercial Director, Transmission as Responsible Director for System Operation who is a member of the NGET managerial Board. The Responsible Director for System Operation will assume day to day responsibility for maintaining appropriate managerial and operational independence of the licensee (NGET).

NGET has established a compliance committee, to which the Business Separation Compliance Officer (whose role is described below) shall report twice yearly. The Compliance Committee shall report to the NGET Board of Directors and shall include among its members the Responsible Director for System Operation and the director responsible for management of regulatory issues.

This governance structure is set out in Appendix 2.

NGET has appointed a Business Separation Compliance Officer (“BSCO”) on a permanent basis to perform inter alia all of the duties set out at paragraph 7 of Special Condition C3.

The BSCO will also :

- review recommendations to and decisions made by the NGET managerial Board;
- where appropriate, provide advice and guidance to the members of the managerial Boards who are also directors of National Grid plc in respect of compliance with the conditions;
- undertake monitoring of the business separation arrangements in place between NGET and the Relevant Offshore Transmission Interest;
- provide regular briefings to the management teams on the principles of business separation; and
- report to the compliance committee any instances where a member of either managerial Boards takes into account the interests of a business other than that in respect of which the board of which he is a member has been established.

The BSCO is independent of the management structures of NGET and the Relevant Offshore Transmission Interest. The independence of the BSCO is secured through:

- reporting to the Company Secretary and UK General Counsel;
- a separate reporting line to the Compliance Committee; and
- a strong stewardship link to the NGET Board of Directors.

## **2. Operational Independence of NGET from any Relevant Offshore Transmission Interest**

NGET will implement appropriate systems to ensure that its staff will not unduly discriminate in favour of any Relevant Offshore Transmission Interest over any other offshore transmission owner consistent with paragraph 2 of Special Condition C1.

In particular, NGET will ensure that:

- (i) NGET commercial activities and the activities of any Relevant Offshore Transmission Interest are physically separated and do not share the same accommodation;
- (ii) an appropriate degree of targeted separation will be in place. This is explained in further detail in Paragraph 3 below; and

An Offshore Code of Conduct (Appendix 3) has been implemented which is

- applicable to all NGET staff and prohibits those staff from taking decisions which would unduly discriminate in favour of any Relevant Offshore Transmission Interest against other offshore transmission owners; and
- applicable to staff of the Relevant Offshore Transmission Interest, which prohibits them from soliciting decisions from NGET which would unduly discriminate in favour of the Relevant Offshore Transmission Interest against other offshore transmission owners.

Section 6 outlines the scope for the Offshore Code of Conduct.

- (iii) services that are provided between NGET and the Relevant Offshore Transmission Interest are on an arms length basis and normal commercial terms and are therefore subject to formal written contracts. Pricing of services between NGET and its affiliates (including the Relevant Offshore Transmission Interest) is on a fully absorbed cost basis in line with a formal National Grid Governance Policy for the Pricing of Intra-business and Third Party Services. The fully absorbed cost of NGET's services includes the recovery of the direct costs of providing the service plus a recovery of the appropriate proportion of NGET's overheads. This approach is consistent with the methodology that is applied for the calculation of recovery of costs for Shared Business Services which is described in Section 4 of this statement.

- (iv) advice is proactively sought by NGET from the BSCO to help NGET and the Relevant Offshore Transmission Interest to understand the parameters that any interactions between the two must conform to.
- (v) individual lawyers have been assigned to take instruction from and act on behalf of NGET and the Relevant Offshore Transmission Interest respectively. This approach is taken to ensure that any conflict of interest is avoided and arms length basis, normal commercial terms arrangements are negotiated and observed.

### **3. NGET accommodation and information systems**

NGET will ensure that appropriate controls are put in place so that no unfair commercial advantage arises from access to Commercially Sensitive Information by any staff or agents of any Relevant Offshore Transmission Interest as a result of access to:

- (i) premises occupied by the staff and agents of NGET; or
- (ii) Information systems used by NGET.

NGET will implement the following controls to ensure that no unfair commercial advantage accrues to any Relevant Offshore Transmission Interest:

#### (A) NGET accommodation :

- NGET has ensured that NGET and Relevant Offshore Transmission Interest staff operate from separate wings of the same building to prevent any inappropriate sharing of Commercially Sensitive Information through shared printer use, shared filing or overheard conversations. In September 2009, prior to the start of the Offshore tender process, employees of the Relevant Offshore Transmission Interest will move to a physically separate location to that occupied by NGET; and
- NGET has ensured that a process is in place with National Grid's office facilities team which requires appropriate consideration to be given to NGET's business separation licence obligations prior to office space being re-allocated to National Grid's businesses.

#### (B) NGET information systems:

- NGET has restricted access to computer systems as required by the provisions of Condition C2 to prevent the illegitimate sharing of Commercially Sensitive Information. Employees of the Relevant Offshore Transmission Interest do not have access to NGET information systems or electronic filing systems. NGET's commercial team has policies in place

to ensure no access is granted to employees of the Relevant Offshore Transmission Interest. Access to these systems is actively managed and periodic reviews of access rights is undertaken to ensure only appropriate access rights are retained.

- NGET has a process in place to ensure that business separation requirements are captured at the point of information system design to ensure that relevant data/information is ring-fenced. This proactive step is designed to ensure that business separation issues are addressed at the point of system design.
- NGET will ensure that it does not circulate management accounting information about NGET to the Relevant Offshore Transmission Interest.

#### **4. Use of equipment, facilities, property and personnel employed by NGET**

National Grid operates a number of Shared Business Services which are available to all group companies. A list of Shared Business Services is defined in Appendix 1. The costs of Shared Business Services are allocated between the National Grid businesses that consume these services using a fully absorbed cost allocation methodology which includes a recovery of the direct costs of providing the Shared Business Services that are consumed plus a recovery of the appropriate proportion of overheads.

The Direct costs of Shared Business Services primarily consist of Shared Business Service full time employee costs which are identified through the use of time sheets or by calculating the percentage of time spent by a Shared Business Services employee on supporting any National Grid business. Recovery of overheads, such as the use of IS equipment and property, is calculated on the number of full time employees in each National Grid business which utilise those services as a proportion of the aggregate number of full time National Grid employees who use those Shared Business Services.

Consistent with National Grid policy, a General Services Agreement will be set up between the Relevant Offshore Transmission Interest and the shared service provider. This will detail any Shared Business Services received by the Relevant Offshore Transmission Interest and will form the basis of the recovery of costs that will be applied in respect of such services. A General Services Agreement will form the basis on which arm's length arrangements and normal commercial terms for the provision of any Shared Business Services will be implemented, managed and monitored.

To ensure information pertaining to NGET is not made available to staff or agents of any Relevant Offshore Transmission Interest in a preferential or discriminatory

way, by employees or agents of Shared Business Services, the following measures have been implemented:

- Individual employees and agents of National Grid's Shared Business Services will not concurrently serve both NGET and any Relevant Offshore Transmission Interest where they have access to Commercially Sensitive Information. The rules of client confidentiality are understood and applied within Shared Business Services;
- Shared Business Service employees and agents have a reporting line which is independent of NGET and any Relevant Offshore Transmission Interest, to ensure there is no conflict of interest;
- Information sharing restrictions are communicated to employees across National Grid's businesses via education programmes and compliance awareness briefings; and
- A Code of Conduct is in place across National Grid making it a disciplinary offence to share information about NGET with affiliate National Grid businesses in a preferential or discriminatory way.

## **5. Transfer of employees from NGET**

NGET will manage the transfer of employees to ensure that any NGET employee who transfers to any Relevant Offshore Transmission Interest does not possess Commercially Sensitive Information. Where a transfer occurs, the BSCO will consider each particular case and will provide advice as to measures which NGET should apply during the transitional period, prior to the transfer taking effect, to ensure the employee is distanced from any Commercially Sensitive Information which could provide an unfair advantage in their new role. A transitional time period appropriate to the circumstances will be agreed by the BSCO on a case by case basis. To prevent use of Commercially Sensitive Information, prior to the transfer, the BSCO will seek positive confirmation that access to NGET systems has been removed and electronic or hard copy information relating to their NGET role has not been retained. In addition briefings are provided to new starters on business separation principles and information sharing restrictions.

## **6. Offshore Code of Conduct**

NGET has put in place an Offshore Code of Conduct to drive the correct staff behaviour and reinforce business separation as set out in this statement. The Offshore Code of Conduct includes guidance on:

- Information sharing restrictions;

- Correct allocation of costs to avoid cross subsidy between NGET and any Relevant Offshore Transmission Interest; and
- Conduct of employees to ensure no undue preference is given to any Relevant Offshore Transmission Interest over that of any other offshore transmission owner.

The Offshore Code of Conduct provides that any deliberate breach of the rules will be treated by NGET as a disciplinary offence. The Offshore Code of Conduct (at 2<sup>nd</sup> September 2009) is attached as Appendix 3

**Further information**

Requests for further information about this statement should be addressed for the attention of the Business Separation Compliance Officer at :

National Grid Electricity Transmission plc  
Legal Department  
National Grid House  
Warwick Technology Park,  
Gallows Hill  
Warwick CV34 6DA

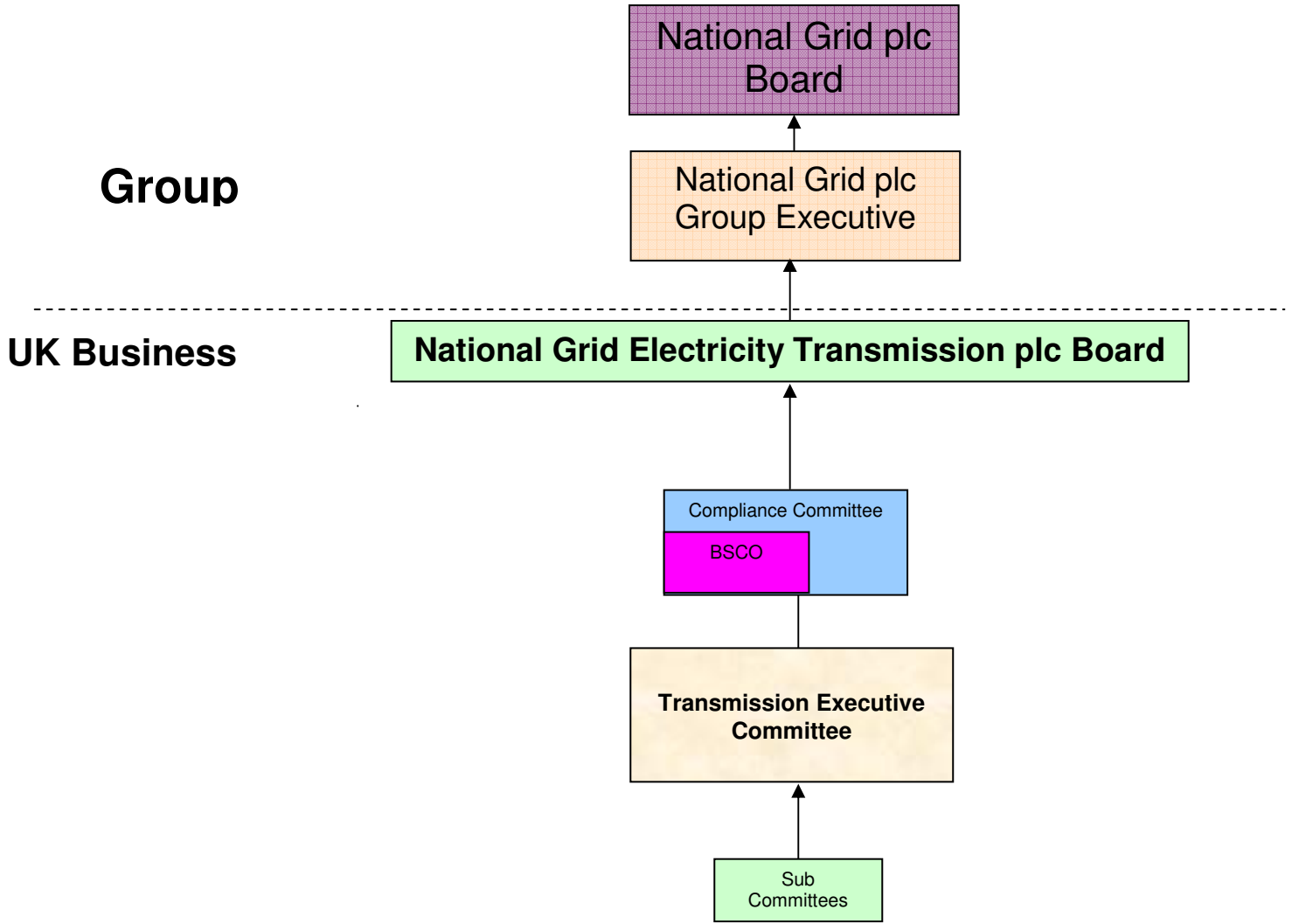
2<sup>nd</sup> September 2009

## **Appendix 1**

### **Shared Business Services**

- Finance
- Human Resources
- Business Development
- Legal
- IS
- Regulation & Government Affairs
- Procurement & Logistics
- Public Relations
- Planning & Environment
- Health & Safety
- Audit
- Insurance
- Tax
- Property Management
- Transactional Finance
- Transactional Human Resources
- Facilities Management
- Services provided by Construction

**Appendix 2  
National Grid plc UK Governance Structure – With Compliance  
Committee**



## Appendix 3

# Code of Conduct NGET & Offshore TO Regime

## 1. Introduction

### Why does the Code exist?

Ofgem and DECC have developed the electricity market regulatory regime to incorporate offshore transmission. This new regime went active on 24 June 2009, and is expected to 'Go-live' 12 months later. Offshore transmission asset owners will be appointed via competitive tenders.

The purpose of this code is to prevent any unfair commercial advantage being provided by National Grid Electricity Transmission plc ("NGET") to any NG Related Business<sup>1</sup> specifically in respect of the offshore transmission regime.

NGET's transmission business is a monopoly and is regulated by Ofgem. This is achieved through the electricity transmission licence and relevant legislation such as the Competition Act.

Key restrictions on NGET include a prohibition against abusing its dominant position or discriminating between Users.

NGET is operating as designate National Electricity Transmission System Operator ("NETSO") for the offshore area. Therefore NGET will be central to the operation of the new regime and will need to provide information to facilitate the running of the competitive tenders by Ofgem.

This Code aims to put existing licence and statutory requirements that apply to NGET into context in respect of NGET's role in the Offshore Transmission Owner ("OFTO") Licensing regime and the operation thereof and to ensure that privileged information is not shared by NGET with any NG Related Business.

### What does the Code cover?

The purpose of this Code is to ensure that NGET, in its role as NETSO, does not provide an unfair commercial advantage to a NG Related Business through:

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<sup>1</sup> NG Related Business comprises of National Grid Business Development or any National Grid affiliate or related undertaking wishing to participate in the offshore TO regime.

- Discrimination in the terms and processes under which offshore TOs, including any NG Related Business, would connect to the onshore transmission system;
- Sharing of Commercially Sensitive Information, including information relating to any transmission works which is not yet in the public domain. Commercially Sensitive Information includes information that is specific to NGET, the possession of which could confer an unfair commercial advantage to any Relevant Offshore Transmission Interest but excludes information which is made available to all offshore transmission owners on an equal basis or is publicly available;
- Sharing information relating to potential offshore generation prior to that information being made available to all potential offshore TOs; and
- Provision of a cross-subsidy to any NG Related Business.

It is possible that individuals within the support functions of National Grid are providing advice to both NGET and a NG Related Business. Whilst such arrangements are not prohibited under this Code of Conduct, all National Grid employees must ensure that commercially valuable information derived in advising NGET is not either passed between NGET and any NG Related Business or used when subsequently advising any NG Related Business.

This Code also covers the provision of information to third parties who are potential offshore TOs.

### **Who should be aware of the Code?**

All employees working within NGET, (particularly those within Commercial, Network Operations, Asset Management) its support businesses (e.g. Regulation, Legal Services) and any NG Related Business that may participate in the offshore TO regime.

### **Where are the relevant requirements stated?**

- Competition Act Chapter II prohibition against abuse of a dominant market position.
- NGET Licence Condition C7: Prohibition on discriminating between users
- NGET Special Licence Condition G: Prohibition on engaging in preferential or discriminatory behaviour
- NGET Licence Condition B5: Prohibition of cross-subsidies
- NGET Licence Condition B6: Restriction on activity and financial ringfencing
- NGET Licence Condition B9: Indebtedness

- NGET Licence Special Condition C1: Prohibited activities and conduct of the transmission business
- NGET Licence Special Condition C2: Separation of National Grid Electricity Transmission plc and Relevant Offshore Transmission Interests
- S105 Utilities Act: General restrictions on disclosure of information

### **What are the consequences of breaching these requirements?**

Failure to comply could result in adverse consequences for National Grid, including:

- Financial penalty
- Criminal prosecution
- Liability payments to a third party for breach of a contract
- Investigations and other enforcement action by Ofgem
- Additional and more onerous Licence conditions, and
- Serious damage to the company's reputation.

Breach of this Code of Conduct may be treated as a disciplinary matter.

### **What should I do if I discover a breach?**

Any breach of the Code of Conduct, whether deliberate or unintentional, must be immediately reported to the Licence Coordination Manager (Andy Cruise):  
Tel: 01926 655 835      email: [andy.cruise@uk.ngrid.com](mailto:andy.cruise@uk.ngrid.com)

## **2. General Rules**

NGET employees **must not**:

- Provide information that is commercially valuable to any NG Related Business unless the equivalent information is provided or made available to all businesses of the same category at the same time and in conformity with relevant legislation.
- Provide or receive any cross subsidy whether by means of direct or indirect financial assistance, or non cost-reflective charges for services, use of facilities or otherwise.
- Deal with any NG Related Business in an unduly preferential or discriminatory way, conveying an undue benefit on a NG Related Business or unduly discriminate against any third party business.

- Enter into any agreement with any person, including a NG Related Business, unless it is on arms length basis and normal commercial terms.

NGET employees **must**:

- Be able to demonstrate that no unfair commercial advantage is conferred on a NG Related Business or any third party.
- Ensure that adequate records are maintained in respect of all services provided to NG Related Businesses so as to demonstrate that these arrangements are at arms length and on normal commercial terms.

NG Related Business employees **must not**:

- Procure, solicit, or otherwise make use of commercially valuable NGET information, for a NG Related Business, unless the equivalent information has been provided or made available to all businesses of the same category at the same time and in conformity with relevant legislation.
- Provide or receive any cross subsidy, whether by means of direct or indirect financial assistance, or non cost-reflective charges for services, use of facilities or otherwise.
- Procure or in any way solicit that any NG Related Business is dealt with in an unduly preferential or discriminatory way by NGET.
- Enter into any agreement with any person unless it is on an arms length basis and normal commercial terms.

NG Related Business employees **must**:

- Be able to demonstrate that no unfair commercial advantage is provided by NGET.
- Ensure that adequate records are maintained in respect of all services provided by NGET so as to demonstrate that these arrangements are at arms length and on normal commercial terms.

### **3. Further Guidance/Advice**

If you need further guidance in the first instance speak to your line manager or a member of the Licence Management team.

Alternatively, please contact the Licence Coordination Manager (Andy Cruise):  
Tel: 01926 65 5835      email: andy.cruise@uk.ngrid.com