



Department for
Energy Security
& Net Zero

Regulated Asset Base Licence Consultation

Modifications to Sizewell C Limited's
electricity generation licence

Closing date: 29 January 2024

November 2023



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Foreword / Introduction

This consultation seeks views on proposed modifications to Sizewell C Limited Company's electricity generation licence.

In line with duties in the Nuclear Energy (Financing) Act 2022, the Secretary of State is required to consult on any proposed modifications ahead of granting the modified licence to Sizewell C Limited.

These modifications seek to allow Sizewell C Limited to collect revenue through a Regulated Asset Base (RAB) model and put in place a series of incentives and penalties to drive the efficient construction, commissioning and operation of the planned Sizewell C nuclear power plant in Suffolk.

The use of a RAB funding model will impact consumers across Great Britain. These modifications will also impact upon the licensee (Sizewell C Limited) and the Office for Gas and Electricity Markets (Ofgem) in the role as regulator. The Government is also seeking the input of other statutory consultees, the Environment Agency and the Office for Nuclear Regulation from a safety and environmental perspective and other appropriate parties detailed in the following sections of this document.

Consultees should respond to this consultation by following the steps outlined within this document. The consultation will run for 12 weeks from 06 November 2023, closing on 29 January 2024.

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General information

Why we are consulting

In November 2022, the Secretary of State took the decision to designate NNB Generation Company (now renamed Sizewell C Limited) as a designated nuclear company under powers included in the Nuclear Energy (Financing) Act 2022. This designation allows the Secretary of State to modify the terms and conditions of the company's generation licence under section 6 of the Nuclear Energy (Financing) Act 2022.

Following this decision, the Secretary of State is now seeking views from statutory consultees and persons whom the Secretary of State has determined should also be consulted pursuant to her powers under section 8(1)(h) of the Nuclear Energy (Financing) Act 2022 on the proposed modification to a licence necessary to allow the company to benefit from economic regulation.

Consultation details

Issued: 06 November 2023

Respond by: 29 January 2024

Enquiries to: RABconsultation@energysecurity.gov.uk

Nuclear Projects and Development
Department for Energy Security and Net Zero
3-8 Whitehall Place
London
SW1A 2AW

Email: RABconsultation@energysecurity.gov.uk

Consultation reference: Regulated Asset Base Licence Consultation

Audiences:

Statutory consultees under the Nuclear Energy Financing Act 2022. These are the Gas and Electricity Markets Authority (Ofgem's governing body), the Office for Nuclear Regulation (ONR), the Environment Agency (EA), Sizewell C Limited.

Other persons whom the Secretary of State has determined should also be consulted, namely EDF, investors who have prequalified for the equity raise process, Citizens Advice on behalf of consumers in England and Wales and Consumer Scotland on behalf of consumers in Scotland. The rationale for the above-mentioned consultees is detailed in the below sections. This is not a public consultation.

Territorial extent: The RAB funding model will impact consumers in Great Britain.

How to respond

When responding, please state the organisation or persons you are responding on behalf of or representing the views of.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Respond online at: <https://beisgovuk.citizenspace.com/clean-electricity/regulated-asset-base-licence>

or

Email to: RABconsultation@energysecurity.gov.uk

Write to:

Nuclear Projects and Development
Department for Energy Security and Net Zero
3-8 Whitehall Place
London
SW1A 2AW

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request. As the equity raise process is a confidential process, any responses received by potential equity investors in Sizewell C Limited will be treated as confidential and appropriate redactions will be made when publishing any consultation response.

We will process your personal data in accordance with all applicable data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on [GOV.UK](#). The summary will include a list of organisations that responded, but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#). If you have any complaints about the way this consultation has been conducted, please email: bru@energysecurity.gov.uk.

Sizewell C and the RAB model

Nuclear power plays a key role in the UK energy system, providing energy security through the production of stable and low-carbon baseload power.

Over the past six years, nuclear has typically generated between 15-20% of GB's electricity. However, eight of the nine remaining reactors – which produce 4.6 Gigawatts (GW) of the UK's current 5.8GW current nuclear capacity – will be closed within this decade. To deliver on our Net Zero goals, new plants are required to replace those going offline.

As set out in “Powering Up Britain”¹, the UK is committed to delivering a programme of nuclear projects. A key part of ensuring this commitment can be met is to create a sustainable approach to financing new nuclear in a way that can deliver value for money for electricity consumers, whilst achieving a fair and appropriate allocation of risks between investors, consumers and taxpayers. The Regulated Asset Base ('RAB') financing model seeks to provide this.

The RAB model was introduced in the Nuclear Energy (Financing) Act 2022 (“the Act”). The objective of the RAB model is to bring private investment into nuclear companies who are designing, constructing and operating new nuclear plant at relatively low cost. Given that the cost of finance is one of the main drivers of overall project costs, this can reduce the cost of project financing, whilst helping to attract private sector investment into the sector, leading to better value for money for consumers over the lifetime of a nuclear RAB project.

Under the RAB, a nuclear company can receive an “Allowed Revenue” for the purposes of facilitating investment in the design, construction, commissioning and operation, including decommissioning, of a new nuclear energy generation project. During construction, such payments would be funded by electricity suppliers, who would be expected to pass these costs onto consumers through their electricity bills. During operations, the project will sell electricity into the market. If market revenues fall below the Allowed Revenue, then suppliers will provide a “difference payment” to make up the Allowed Revenue. If this is exceeded, suppliers will be reimbursed.

Nuclear RAB payments will be regulated by the Gas and Electricity Markets Authority (Ofgem), which has statutory duties to protect the interests of all existing and future consumers. Ofgem has extensive experience in the regulation of economic licences within the energy sector. Its role as regulator will help to ensure that the interests of consumers are protected.

The Sizewell C project is expected to be an above-ground replica of the United Kingdom (UK) European Pressurised Water Reactor (EPR), currently under construction at Hinkley Point C. It is intended for the Sizewell C project to consist of a 3.2GW, equivalent to 7% of the UK's current requirements for electricity, power station with two UK EPR reactors. The project would utilise and repurpose the execution design, safety case and supply chain from Hinkley Point C.

In November 2022, the Secretary of State designated the project under section 2(1) of the Act. This made the project eligible for funding through the RAB model. Pursuant to Section 6(1) of the Act, this designation also allows the Secretary of State to make modifications to the company's electricity generation licence to put in place the RAB funding.

¹ <https://www.gov.uk/government/publications/powering-up-britain>

Modifications may include provisions about the revenue a nuclear company may receive in respect of its activities where such activities include the design, construction, commissioning and operation of the plant, including compliance with its statutory decommissioning obligations. As specified in Section 6(9) of the Act, modifications do not take effect unless the company whose licence is modified enters into a revenue collection contract. The Secretary of State has designated the Revenue Collection Counterparty in this instance to be the Low Carbon Contracts Company Ltd ('LCCC').

The proposed modifications to Sizewell C Limited's generation licence are the subject of this consultation. The final modifications may vary from those that are proposed here in light of the consultation responses. Any subsequent changes will be outlined within the government consultation response.

The current version of the draft licence, with appropriate redactions, has been published alongside this consultation document. The draft licence has been made publicly available for transparency and awareness.

Scope of Consultation

In line with section 8 of the Act, the Government is required to consult on the proposed licence modifications. In undertaking this consultation process, SoS is seeking to ensure that the RAB licence will ensure value for money and denotes an acceptable risk allocation between consumers, taxpayers and investors into the project.

The Act specifies the Secretary of State must consult with Sizewell C Limited (“the licensee”), the Gas and Electricity Markets Authority (Ofgem’s governing body), the Office for Nuclear Regulation (ONR) and the Environment Agency (EA) before modifying Sizewell C’s licence.

The following is a non-exhaustive indication of the types of input that the Secretary of State expects that these organisations will be able to provide in relation to the proposed licence modifications:

- The licensee will be able to provide technical input on the Sizewell C project and detail on the capital costs and operating costs, and other expenditure and liabilities, associated with the design, construction, commissioning, financing, operation and decommissioning of the Sizewell C project and comment on the detailed licence modifications;
- The Gas and Electricity Markets Authority will be able to provide input through Ofgem from the perspective of protecting the interests of consumers in relation to the Sizewell C project, including their interests in relation to the cost and security of supply of electricity in line with its principal objective and statutory duties that are set out at section 3A of the Electricity Act 1989;
- The ONR will be able to provide detailed input on the nuclear safety and regulatory matters engaged by the proposed licence modifications, including the likelihood of the grant of the Nuclear Site Licence, the Generic Design Assessment, the establishment and governance of Sizewell C Limited and their nuclear safety case;
- The EA will be able to provide input on those environmental aspects of the Sizewell C project which are relevant to the licence.

The statutory consultees are not limited to the areas mentioned above but are free to make any response to the consultation that they consider appropriate.

The Secretary of State has considered carefully whether it would be appropriate to consult any other person, as permitted by section 8(1)(h) of the Act. The Secretary of State has considered whether they should consult (a) consumer groups, (b) environmental non-governmental organisations, (c) the general public, (d) potential investors, and (e) any other persons.

Consumer and Public Interest

The Secretary of State has decided not to consult with the general public. Instead, consumer groups will be consulted allowing expert input that will reflect the interests of the public. This decision was based on the highly technical nature of the modifications. As such, it is considered appropriate to undertake a highly focused consultation with a limited number of consultees who can provide targeted feedback using their existing knowledge and experience.

As such the Secretary of State has decided that it is appropriate to consult Citizens Advice in order to gain their additional input on behalf of consumers in England and Wales. Citizens Advice will be able to further reflect the interests of both consumers and the wider public within their assessment of the proposed modifications, providing an assessment of the risk allocation set out within the licence and the impacts and cost implications for consumers over time.

Similarly, as the independent statutory body established to improve outcomes for current and future consumers in Scotland, Consumer Scotland will both be able to reflect the interests of Scottish consumers within their consultation response and comment on how the proposed modifications may impact upon consumers in Scotland. The Secretary of State is therefore seeking their views through this consultation.

Both of these organisations have a specialist and experienced team who would be able to review and provide comments on the detailed proposed modified terms and associated financial model on behalf of consumers. This will enable the Secretary of State to have due regard to the interests of existing and future consumers when determining the final modifications to Sizewell C's generation licence.

Under the Act, when exercising the power to modify the nuclear company's licence, the Secretary of State is required to have due regard the interests of existing and future consumers of electricity, including their interests in relation to the cost and security of supply of electricity. The Secretary of State has already carried out a full public consultation with regard to the RAB model itself where individual consumers have had the ability to comment on the scope and extent of the RAB model.

Ofgem will also reflect the interests of consumers and the wider public given Ofgem's principal objective under the Electricity Act 1989 to protect the interests of existing and future electricity consumers. The Secretary of State notes that those interests are taken as a whole, including in relation to the reduction in emissions of targeted greenhouse gases, security of supply of electricity and Ofgem fulfilling its statutory duties. Ofgem also has experience in acting as an economic regulator for many aspects of the modified licence. It will be able to draw on this experience as part of the consultation process.

In making these licence modifications, section 6(4)(b) of the Act obliges the Secretary of State to have regard to the interest of consumers relating to the cost and supply of electricity. The Secretary of State previously outlined the project's Value for Money case in the ["Reasons for Designation"](#) document published in November 2022. The Secretary of State has also considered the interests of consumers in considering the most appropriate licence modifications. These considerations are outlined throughout this document.

Environment and safety

The EA and ONR will be able to provide input on the relevant environmental and safety matters related to the licence modifications. This will include whether the financing provided by the licence will be sufficient to ensure the safe operation of the project.

DESNZ officials and Ministers have established engagement with Non-Governmental Organisations through regular forums. These forums enable members to present their views on prospective nuclear projects to DESNZ, and to ask questions about current and future policy, including the proposed licence modifications.

The Secretary of State has decided that it is not necessary to seek views from Non-Governmental Organisations in respect of the proposed licence modifications, as the specialist views of the EA and the ONR as regulators will be taken into consideration. Moreover, given that the proposed modifications are highly technical in nature, it is considered appropriate to undertake a highly focused consultation with a limited number of consultees who can provide targeted feedback using their existing knowledge and experience.

Potential investors in the company

As part of this formal consultation process, the Secretary of State has decided that it would be appropriate to seek views from potential investors who have progressed through the pre-qualification questionnaire stage of the equity raise process. The rationale for this decision is as described below:

Under the Act, when exercising the power to modify the nuclear company's licence, the Secretary of State is required (amongst others) to have due regard to (i) the costs, expenditure or liabilities of any description that the nuclear company may reasonably be expected to incur in carrying out its activities; (ii) the need to secure that the nuclear company is able to finance its activities; and (iii) the need to secure that the nuclear company has appropriate incentives in relation to the carrying out of its activities.

It is therefore important that the Secretary of State has due regard to the views of potential investors in the company. Securing financial backing from investors with expertise and experience will ensure that the project can benefit from their knowledge and expertise, driving efficiencies and delivering cost effective decisions. We believe that consulting pre-qualified investors will ensure that Government has identified any risks to the objectives surrounding actively managed investment and that they can be mitigated as needed. It will also help ensure that the licence obtains the right balance of risk between investors, consumers and taxpayers.

When considering the views of investors, it will also be important to balance the economic licence in the wider context of the Government Support Package, which does not form part of this consultation.

EDF

The Secretary of State is also seeking the input of EDF.

EDF will be able to provide input due to their role as shareholder and their extensive experience in the nuclear sector. They will also be able to give valuable feedback on the suitability of the proposed modifications in delivering the objectives of the RAB and comment on whether the proposed financial model is operable.

Other parties

In determining whether to include any other parties in the consultation process, the Secretary of State has also taken into account other opportunities for parties to provide their views in respect of the licensee, the Sizewell C Project, and the RAB model. These opportunities have included:

- The full public consultation on the application of the RAB model to new nuclear build in summer 2019. This allowed for public input on the principles and approach behind the RAB funding model. DESNZ received over 37,000 responses to that consultation.
- The passage of the Act, where the proposed funding model was scrutinised by MPs and Peers during its passage through Parliament.
- In accordance with Section 3(1) of the Act, the Secretary of State published the “Nuclear regulated asset base (RAB) model: statement on procedure and criteria for designation” document, setting out the procedure they expected to follow in deciding whether a project should be made eligible for RAB funding. Publication of this document allowed for scrutiny and challenge of the Secretary of State’s approach in deciding whether a project should be designated.
- The Secretary of State subsequently published the draft reasons for designating the Sizewell C project, including consulting with statutory bodies. They further published the final reasons for designation, alongside a Government response to the consultation on the draft reasons. This allowed for scrutiny of whether Sizewell C was suitable for the RAB model.
- Local communities and environmental non-governmental bodies have been consulted extensively on Sizewell C. The impact on the environment and local areas has also been assessed through the Development Consent Order and other relevant planning processes.
- The Government undertook a public consultation on secondary legislation to implement the [RAB model revenue arrangements](#). This allowed electricity suppliers and consumers to comment on the proposals for the support provided through the Revenue Collection Contract and revenue regulations.
- DESNZ officials submit key documents on potential projects to internal Governance Boards for scrutiny. Membership of these Boards includes HMT and the Infrastructure Project Authority (IPA), allowing for expert advice to be provided to the Secretary of State on technical, financing and value for money issues. These forums also provide cross-Government scrutiny of the Department’s decisions and further technical feedback. The proposed licence modifications have been subject to this approval process.

In certain circumstances, the Nuclear Energy (Financing) Act requires the Secretary of State to consult with Welsh Ministers, Scottish Ministers, Natural Resources Wales and the Scottish Environment Protection Agency before modifying licences using their powers under the Act. This is not the case in respect of the proposed modifications to Sizewell C Limited’s licence because no part of the site for the proposed nuclear project is in Wales or Scotland.

Therefore, and following careful consideration, the Secretary of State is of the view that the above-mentioned parties are the most appropriate persons to consult on the proposed licence modifications.

This consultation will, alongside the Department’s own assessments and analysis, furnish the Secretary of State with the information necessary to finalise the licence modifications.

In line with section 6(4) of the Act, ahead of proposing the modifications to Sizewell C’s generating licence outlined within this consultation, the Secretary of State has also paid due regard to:

- Duties under sections 1 and 4(1)(b) of the Climate Change Act 2008. The Secretary of State has considered the proposed modifications in light of their duties relating to achieving Net Zero by 2050 and carbon budgets. The Secretary of State has determined that the proposed modifications will allow the Sizewell C plant to be financed sustainably and efficiently, paving the way for cleaner, carbon neutral energy, supporting the journey to Net Zero.
- The interests of existing and future consumers of electricity, including in relation to the cost and security of supply of electricity. The Secretary of State is content that the proposed modifications seek to ensure that the Sizewell C project can deliver reliable, baseload power for consumers for a 60-year period and to secure the supply of clean energy to over 6 million homes. The modifications also seek to strike a balance between protecting consumer interests and enabling investment into the project, supporting delivery and lowering the overall cost for consumers over time.
- Costs, expenditure or liabilities of any description that the nuclear company may reasonably be expected to incur in carrying out its activities. The Secretary of State has concluded that the proposed modifications outlined within this consultation take into account such costs, expenditure and liabilities and seek to mitigate the impact of these costs on consumers, taxpayers and investors.
- The need to secure that the nuclear company is able to finance its activities. The Secretary of State is content that the proposed modifications will support the project company in financing its activities during construction, commissioning and operation and that the modifications put in place the required building blocks, support mechanisms and financing structures to secure financial investment in the project and for the project to operate efficiently and cost effectively.
- The need to ensure that the nuclear company is appropriately incentivised in relation to carrying out its activities. The Secretary of State considers that the proposed modifications set out within this consultation include the required incentives and penalties that will help to ensure that the Sizewell C company is carrying out its activities in an efficient manner.

The Secretary of State has considered other matters which they consider appropriate, including the nature of the licence modification consultation.

The Government will publish the final licence, with appropriate redactions of commercially sensitive information, to allow for full transparency ahead of any Final Investment Decision.

Licence Content

General

The Secretary of State is now seeking to consult on the proposed modifications to Sizewell C's electricity generating licence. These modifications are to be made through the introduction of specific "special conditions". This consultation document provides a summary of the modifications to the licence and should be read in conjunction with the full draft licence, as some information has been summarised or paraphrased. Consultees have also been provided with the proposed Price Control Financial Model, the financial model which gives effect to the licence conditions. A glossary of terms and definitions can be found in the opening pages (pages 6-99) of the draft licence.

The project's 'Allowed Revenue' is calculated through a series of 'building blocks' that vary dependent on the phase of the project.

As a means of differentiating between these phases, the licence is divided into two sections:

- **Pre-Post Construction Review phase [Part II]:** This is the phase of the project leading up to the Post Construction Review (PCR) Determination; this primarily covers construction and commissioning, including the pre-PCR phase incentives. It also includes a 3-year period following the Commercial Operations Date (COD). At this point, the first price control review that will govern the initial five-year operational price control period will be conducted by Ofgem (the PCR). This period from COD, until the 1st April following the PCR Determination, allows the project to settle into steady state operations before the range of operational incentives go live.
- **Operations phase [Part III]:** This is the operational phase of the project, which commences following the end of the pre-PCR phase. It covers the full life of the project up to decommissioning and applies the full range of operational incentives.

This consultation document mirrors this structure, detailing the aims of the proposed licence modifications by phase, as well as setting out other licence provisions of general application.

General Licence Provisions

The proposed modifications include the introduction of a series of general provisions that the licensee must comply with from the licence modification date. The full detail of each provision is included within the draft RAB licence. The below sections of this document outline the purpose of and policy intent behind these modifications.

The licence modifications include a special condition that sets out the terms and definitions used throughout the modified licence (Special Condition 1). The purpose of this condition is to assist in the interpretation of the terminology and technical elements of the licence.

General licence obligations – Special Condition 2

As part of the modifications, the licence specifies a series of core obligations to be placed on the licensee. These obligations must be complied with from the point of the licence modification date. They include provisions in relation to regulated activities, timely delivery of regulated assets and electricity trading obligations.

The aim of these obligations is to ensure that the licensee is seeking to drive efficiencies in the delivery and operation of the project.

Fees – Special Condition 3

This special condition sets out the payments, or 'Fees', that the licensee must make to Ofgem. This provision will define the basis upon which the 'Fee' will be calculated and the manner and timeframe within which the 'Fee' is to be paid. This condition seeks to ensure that there is a reliable and clear process in place for the licensee to make the required payments to Ofgem. This provision is in line with other Ofgem licences.

Directors – Special Condition 4

This special condition sets out the licensee's obligations in respect of its Directors. The primary aim of this condition is to preserve the effective operation of the board of the licensee. These include obligations on the licensee to:

- (a) ensure the independence of directors (from other associates of the licensee);
- (b) manage and put in place procedures to manage conflicts of interests;
- (c) report changes to Board constitution; and
- (d) maintain and ensure the independence of the licensee's non-executive directors.

Ringfencing – Special Condition 5

This special condition sets out the requirements on the licensee in respect of ringfencing. These are similar to those applied in regulated energy network businesses. The aim of this special condition is to limit the ability of the project to conduct activity outside the scope of the regulated activities under the licence and promote the ongoing financial resilience of regulatory functions sitting inside the ringfence.

For Sizewell C, there are a limited set of specific carve outs for justifiable exemptions. For example, it allows for the creation of FundCo, which is the entity which holds the funds for future decommissioning costs.

The types of provisions which will apply include:

- (a) a requirement to hold an investment grade credit rating;
- (b) restrictions on activities that can be performed within the ringfence;
- (c) restrictions on the licensee's investments and shareholdings;
- (d) obligations to maintain the resources, processes and procedures required to efficiently operate the regulated assets;
- (e) standalone regulatory accounts to be provided to Ofgem on an annual basis; and
- (f) a requirement to certify that the licensee has sufficient resources on a 24-month forecast basis.

The licence provides for carve-outs to the restriction in certain circumstances, to cater for arrangements which have been pre-approved by DESNZ and Ofgem at the final investment

date. If required in future, the licensee can also apply to Ofgem for specific derogations or consents.

Associate Transactions – Special Condition 6

This special condition sets out the licensee's obligations in respect of Associate Transactions (being a transaction between the licensee and an "Associate"). The definition of "Associate" covers in relation to the licensee, its affiliates, related undertakings, ultimate controllers, participating owners; common control company and members of the licensee's Group, to the extent the Group controls a certain percentage of the shareholding in the licensee. The licence includes detailed definitions on the thresholds and criteria that a person must meet in order to constitute an "Associate".

The aim of this special condition is to ensure the licensee remains independent from the business activities of its Associates. Given the ringfenced nature of the asset, this aims to limit the impact of external or internal business activities carried out by the licensee and its associates, that is not part of its regulated activities and where there could be a leakage in value for the consumers. It seeks to achieve this whilst still allowing for learning to be taken from the delivery of other nuclear projects, including Hinkley Point C.

This condition includes obligations on the licensee to:

- (a) ensure that any Associate Transaction is at arm's length, on commercial terms and does not prejudicially impact the safe and proper carrying out of any of the regulated activities and/or the regulated business;
- (b) ensure that the regulated business does not give any cross-subsidy to Associates;
- (c) limit the circumstances when payments are made to Associates in excess of the market price, subject to certain pre-agreed permitted payments;
- (d) collect and retain information in relation to Associate Transactions;
- (e) restrict transfers of rights, benefits and assets to Associates unless the conditions and requirements set out in the licence are met;
- (f) appoint a Managing Director of the Regulated Business, who meets certain independence criteria; and
- (g) comply with a process for the approval of amendments or variations of certain contracts which have been approved on or prior to FID.

Compliance Obligations – Special Condition 7

This special condition sets out compliance obligations. The purpose of this provision is to provide a framework for the licensee to ensure that it is in compliance with various duties and obligations under the licence. This includes compliance reporting obligations, requirements to appoint a Compliance Officer, and the obligations of the Compliance Officer.

Independent Technical Adviser – Special Condition 8

This special condition sets out the licensee's obligations to appoint the Independent Technical Adviser ("ITA") during the pre-PCR phase. The aim of this special condition is to set out the role the ITA will play. In the ordinary course, the ITA provides independent scrutiny of the licensee's costs and will make recommendations to Ofgem as to what costs should be logged to

the RAB each year. There are also requirements placed on what the terms of the ITA appointment should provide for, such as the requirement that the ITA will owe a duty of care to Ofgem, the Secretary of State and the licensee, and a duty of candour to the ONR and the Environment Agency.

Given the role of the ITA, the licence also provides that the ITA's appointment cannot be terminated without the consent of the Secretary of State. It also includes reporting obligations to the ITA. In the event that the licensee disagrees with the assessment made by the ITA, it will be subject to the dispute resolution process under the ITA deed of appointment.

Whilst the ITA will make recommendations to Ofgem about the costs which should be logged to the RAB, it is ultimately Ofgem's role to economically regulate the licensee.

Disposals – Special Condition 9

The purpose of this special condition is to ensure that disposals of relevant assets are subject to a level of scrutiny to ensure that there is no loss to consumers, while allowing the licensee to run its regulated business in an efficient manner. The condition achieves this by setting out the circumstances, procedures and parameters based on which the licensee may dispose or relinquish operational control of relevant assets and grant security over receivables. The special condition also includes additional obligations where there is a disposal of land to related parties when additional scrutiny by Ofgem is required to ensure that there is no value leakage to Associates of the licensee.

In accordance with the terms of the special condition, the whole of the proceeds of any disposal are deducted from the RAB value.

Indebtedness – Special Condition 10

The purpose of this special condition is to set out the restrictions that apply to the licensee in respect of incurring Indebtedness, in the same way as for network licences. There are limited and specific exceptions permitted for arrangements that have been pre-approved, or are on an arm's length basis, on commercial terms and for a permitted purpose. Where there is an Associate involved, the licence places additional obligations on the licensee to ensure that the regulatory ringfence is protected and maintained.

Revocation – Special Condition 12

This special condition sets out the circumstances and procedure by which Ofgem can revoke the special conditions, in whole or in part. It also includes the circumstances in which Ofgem's right to revoke the standard or special conditions may be restricted.

Licence revocation is limited to a small number of specific failure events. The circumstances in which Ofgem may have a right to revoke the special conditions of the Economic Licence are limited to the following remote circumstances:

- revocation or surrender of the Nuclear Site Licence;
- a permanent early closure of the plant;
- implementation of a nuclear transfer by scheme (Section 40 of the Energy Act 2004); and
- discontinuation of the project in accordance with the terms of the Government Support Package.

Ofgem would also have the right to revoke standard conditions in accordance with Ofgem's standard generation licence revocation rights (e.g. for insolvency of the licensee). However, it should be noted that Ofgem's right to revoke for insolvency would be suspended at any time whilst the licensee is in a nuclear administration.

In addition, if at the time of revocation, there remains a shortfall in the Funded Decommissioning Programme (FDP) fund, Ofgem may only partially revoke the licence until a pre-agreed sum of money, which is sized to meet the FDP shortfall outstanding, is paid. In such a scenario, the special conditions that are required for the purposes of maintaining the licensee's entitlement to an Allowed Revenue equal to the FDP Allowance Building Block and any associated obligations to fund the FDP Account remain in place. This ensures that the revenue can continue to be collected even if the plant is no longer in operation, up until the point that de-commissioning is fully funded.

Funded Decommissioning Programme – Special Condition 13

The aim of the FDP condition is to set out the obligations on the licensee in relation to the FDP. This includes requirements on the licensee to:

- provide accurate contribution values to Ofgem in respect of the FDP fund, in line with the Decommissioning Waste Management Plan (DWMP) in accordance with the Funding Arrangements Plan (FAP).
- promptly transfer to a ringfenced "FDP Account" amounts that the licensee is required to contribute to the FDP Fund under the FAP;
- notify Ofgem of approved modifications to the FDP and provide other reporting prepared under the FAP; and
- provide to Ofgem prior to implementing a partial revocation its estimation of the amount of the shortfall in the FDP at the time of any expected partial revocation. This is in order to assist Ofgem to determine the period for which a partial revocation is to continue to fund the FDP.

Information and Reporting

The modified licence sets out several obligations on the licensee in relation to information sharing and reporting requirements to Ofgem.

Reporting – Special Conditions 15-20 & 22-23

This group of conditions set out the licensee's obligations to provide certain reports and information to Ofgem and other key stakeholders, including a general obligation on the licensee to provide all information Ofgem reasonably requires in relation to the licence.

The overall purpose of these conditions is to increase transparency and the accountability of the licensee.

Specific obligations on the licensee include requirements to:

- monitor and report on the availability of the regulated assets;
- report on the status of any work in relation to a relevant change of circumstance;

- provide business plans, and annual updates on the impact of its activities on the environment and its engagement with stakeholders;
- develop and amend an asset management plan, covering, for example, how the licensee will maintain the regulated assets for the target operational life; and
- fund a maintenance reserve account so that it can fund its maintenance costs, in accordance with the licence and relevant Ofgem guidance (including, as applicable, the Regulatory Instructions and Guidance).

There are also obligations placed on the licensee to meet minimum performance targets and capacity requirements. The licensee must also conduct tests and report on the operational life and capacity of the regulated assets. Where either is expected to change by more than a set amount, the licensee must also notify Ofgem of the change and the reasons for it. Financial incentives in relation to performance targets are also covered in the sections on PCR Capacity Incentive and Through Life Capacity Incentive.

This set of conditions further details the management of confidential and commercially sensitive information. It confirms the steps that the licensee must take to mitigate the risk, and subsequent impact, of inaccurate, incomplete or misreported information. For example, the licensee is required to maintain appropriate systems, processes and procedures and comply with any specific data assurance activity requirements directed by Ofgem.

Regulatory Instructions and Guidance (RIGs) – Special Condition 21

This special condition sets out the scope, contents and common governance arrangements for the RIGs. The RIGs are the primary means by which Ofgem may direct the licensee to provide it with certain information it needs to administer the licence. The licence sets out a non-exhaustive list of the matters that may be covered by the RIGs, and the licensee must provide, and retain, the information required pursuant to the RIGs. The special condition also sets out how the licensee may be relieved of such obligations.

Revenue Stream

Allowed Revenue – Special Condition 24

Under the RAB model, Sizewell C is entitled to receive a regulated revenue stream. The purpose of the proposed modifications to the licence is to set out the general provisions regarding the calculation and notification of the Allowed Revenue. The licence also aims to set out the conditions under which modifications may be made to the Allowed Revenue and the licensee's rights to make an appeal to the CMA.

The Allowed Revenue will be calculated by Ofgem annually based on “building blocks” set out in the licence special conditions. The building blocks which comprise the Allowed Revenue are different for the pre-PCR phase and the operations phase. Each building block will be calculated in accordance with formulae set out in the licence. These are included in the sections on Allowed Revenue during the pre-PCR and operations phase.

Difference Payments – Special Condition 25

Difference Payments (DP) are the mechanism by which payments will be made to the licensee from consumers and vice versa (i.e. to, or from, energy suppliers via the Revenue Collection Counterparty). DPs are the amounts which represent the difference between the licensee's Allowed Revenue and its Forecast Market Revenue (FMR) and any other Forecast Supplemental Revenue.

The purpose of this special condition is to set out the information to be provided to LCCC, the Revenue Collection Counterparty, from Ofgem for the purposes of calculating the DP payable under the Revenue Collection Contract.

This condition also seeks to outline the obligation on the licensee to provide an appropriate estimate of the FMR on the basis of the market reference price, along with supporting information required by Ofgem. Ofgem will decide whether or not to approve the licensee's estimate of its forecast revenue, having regard to the supporting information provided by the licensee. Ofgem will provide the licensee with its determination, along with reasons for any variations to the calculation submitted by the licensee.

The special condition seeks to set out the timing, and deadlines for this process. Ofgem will communicate to the LCCC: (a) the revenue amount before power (being the Allowed Revenue after any supplemental revenue, other than from power sales, of the licensee is deducted); and (b) the volume of electricity output assumptions, to enable the Revenue Collection Counterparty to calculate the Difference Payment. The LCCC calculates the Difference Payments under the Revenue Collection Contracts by reference to the prevailing Reference Price (this is currently expected to be the Baseload Market Reference Price) in respect of each Charging Year. This will be calculated in accordance with the formulae set out in the Revenue Collection Contract.

For each Charging Year up to and including the Charging Year in which COD occurs, the licensee will receive a DP from suppliers equal to its full Allowed Revenue, as its forecast electricity revenue will be treated as zero.

However, following COD, difference payments will be calibrated to cover the difference between the Allowed Revenue and the licensee's forecast revenues for that year. If the licensee's revenues exceed the Allowed Revenue, it will be required to make 'negative difference payments', i.e. it is required to pay the difference back to the LCCC. Difference payments will be made to or from the licensee on a monthly basis under the Revenue Collection Contract.

If, due to a Significant Unavailability Event, the licensee considers it will achieve less than an agreed floor level, it may submit an application to Ofgem for in-year revenue support under the conditions of its licence. Where an application is approved, Ofgem would communicate to the Revenue Collection Counterparty an updated revenue amount before power and volume assumption to apply to its DP calculation for the remainder of the Charging Year. The licence and the Revenue Collection Contract further sets out the requirements and timing guidelines for in-year revenue support.

Any reconciliation to the difference payments to account for differences between the forecast and actual power output of the licensee would flow through the Allowed Revenue in subsequent years through the K-Factor.

Price Control Financial Model (PCFM) – Special Condition 26

The RAB is underpinned by the PCFM. The licence sets out the governance provision for the PCFM, including the process for introducing amendments.

The PCFM, which forms part of the licence, facilitates Ofgem in setting the Allowed Revenue each year. The PCFM is supported by:

- guidance, which sets out (amongst others) the process and timeframe for submitting the required data and instructions on how to populate the model's variable values; and

- a handbook, which (amongst others) provides details of the assumptions, calculations and methodology included in the PCFM.

Ownership, format, and availability of the PCFM

The PCFM is an Ofgem owned and operated model. An up to date, digital version of the PCFM will be published on Ofgem's website, with redactions of any commercially sensitive information following any future FID. Any modifications will be incorporated as soon as reasonably practicable into the published version.

Variance of the PCFM

The PCFM shall, subject to Ofgem's approval, be varied on the occurrence of certain specified events. This could include a Relevant Change of Circumstance, issuance of a revocation notice, approval of an IAR Application, the PCR Determination, each PR Determination and an extension to Scheduled COD or the Longstop Date.

Conflict

In the event of any conflict between the provisions of the licence and the PCFM, the provisions of the licence prevail. The licensee must notify Ofgem of any conflict as soon as reasonably practicable. Ofgem may take appropriate actions to resolve any conflict, including by amending the licence or the PCFM.

Modification of the PCFM

The licence sets out the process for making modifications to the PCFM and confirms which modifications may be appealed by the licensee.

Modifications to the RAB licence

Housekeeping Modifications – Special Condition 14

This special condition sets out the process to be followed in order for Ofgem to make minor ("housekeeping") changes to the licence, such as renumbering paragraphs, capitalising defined terms, deleting transitional provisions that have expired, correcting obvious mistakes (e.g. typographical errors, incorrect cross-references and formatting errors), updating version numbers of other documents, and updating titles of re-enacted legislation or names of bodies that have been renamed. The special condition explains how Ofgem will make any such modifications. This special condition aligns with the approach in other Ofgem licences.

References to the Competition and Markets Authority (CMA) – Special Condition 11

Under this provision, the licensee is permitted to refer certain Ofgem decisions to the CMA during the pre-PCR phase, in addition to the existing referral rights set out in the Electricity Act 1989. The licensee may refer to the CMA certain Ofgem decisions that relate to a relevant change of circumstance, the calculation of the Allowed Revenue (including following a revocation notice), potential extensions to the commercial operations date or longstop date, and modifications to the model. This means that the licensee would have enhanced appeal rights during the pre-PCR phase compared with other Ofgem licences, in line with the provisions set out in section 10 of the Nuclear Energy (Financing) Act 2022.

Pre-PCR Phase

Regulated Asset Base

This section of the consultation provides further information on the building blocks that are used to calculate the Allowed Revenue during the pre-PCR phase.

Valuation of the RAB during the Pre-PCR phase – Special Condition 27

The purpose of this special condition is to provide clarity on the definitions required to calculate the RAB. During the pre-PCR phase, the RAB value accretes as more capital spend is incurred to develop and construct the project.

This special condition seeks to provide clarity on the definitions required to calculate the Opening and Closing RAB value on an annual basis during the pre-PCR phase. The RAB will be confirmed by Ofgem each year on the basis of the amount of Allowable Capital Spend incurred by the licensee. As per Ofgem's Economic Guidance, Ofgem generally expects to follow the ITA's recommendations regarding the Allowable Capital Spend during the pre-PCR phase.

The logging regime is designed to be mechanistic and operates so that all capital spend is logged to the RAB (i.e. "allowable" capital spend) with only a limited category of specific types of cost which are excluded. Certain categories of costs are expressly excluded from allowable capital spend and are therefore not logged up to the RAB. These costs are set out in full in the definition of "Excluded Capital Spend" in the licence. They broadly fall into several categories:

- costs which are excluded because Ofgem does not regard them as capital expenditure (such as distributions);
- costs for which the licensee receives a fast money allowance through another building block (e.g. the Opex Building Block) or is otherwise remunerated (e.g. certain financing costs are reflected in the WACC);
- costs which are funded by receipts from third parties (such as costs funded by insurance proceeds); and
- costs which Ofgem considers should not be recoverable as a matter of principle (for example, fines or costs incurred due to the licensee's wilful misconduct or costs which are excluded due to regulatory ringfencing, i.e. costs which do not relate to the regulated assets).

This condition also includes principles for the process and timing for accurate RAB calculations for each Charging Year during the pre-PCR phase including the Opening, Closing, Present Value Closing and Average Present Value RAB.

Incentives in the Pre-PCR Phase

Capex Incentive – Special Condition 28

The purpose of this special condition is to calculate the Capex Incentive building block, designed to incentivise Sizewell C to construct the project on budget. The condition establishes how the Capex Incentive will be calculated and applied during the pre-PCR phase. The Capex Incentive seeks to incentivise the licensee to manage its capital expenditure during the pre-PCR period by implementing a pain/gain share on allowable capital spend relative to the Lower

Regulatory Threshold (LRT) up to the Higher Regulatory Threshold (HRT). The LRT is the threshold which triggers the application of the capex incentive and the HRT is the cap on capital spend that can be logged to the RAB in the absence of an approval of an IAR application. Commentary on this is included in Special Condition 32.

The LRT and HRT are set by the Secretary of State at FID in real terms. These values will be included in the final licence modification. The licensee has conducted detailed modelling work to support its cost estimate analysis, including modelling a target outturn cost, a moderate outturn cost and its own view of a remote outturn cost. The Secretary of State is expected to set the LRT at a point above the target outturn cost, and the HRT at a significantly remote scenario above the licensee's view of an extreme outturn cost.

Pursuant to the capex incentive:

(a) if costs exceed the LRT, only a specified proportion of allowable capital spend incurred between the LRT and the HRT will be logged to the RAB (i.e. the penalty will be applied each Charging Year once cumulative allowable capital spend incurred together with the Day-1 RAB value, exceeds the LRT); and

(b) at the Post Construction Review, if the aggregate allowable capital spend, together with the Day-1 RAB value, is lower than the LRT, the licensee will receive a gain share by way of an uplift to the RAB calculated by reference to a specified proportion of the value of any savings.

PCR Capacity Incentive – Special Condition 29

The aim of this special condition is to set out the financial incentives on the licensee to meet a performance target for the delivered capacity level for either unit (PCR Capacity Incentive). Shortly before the PCR, the licensee will be required to conduct output testing to demonstrate the plant's performance (see Reporting section above). The PCR Capacity Incentive is to be applied at PCR, based on the variance between the actual delivered capacity level of the units, and the baseline target capacity level set out within the condition. The baseline target capacity level is the capacity level against which the Project's value for money assessment was made by the Secretary of State.

The capacity incentive results in an uplift or a deduction from the RAB value based on the performance against the baseline calculated in accordance with the formulae set out in the licence. The capacity incentive is subject to an overall cap and floor on the extent of the uplift deduction which is set at a proportion of the RAB value at PCR, as specified in the licence. If the licensee can demonstrate that plant capacity improves in future, the application of the incentive can be modified, either during the RAB deduction application period set by Ofgem or by way of applying the Through Life Capacity Incentive.

Delay Incentives

Please see the section below on the Commercial Operations Date (COD) for the incentives on the licensee for the timely achievement of COD.

Allowed Revenue

Allowed Revenue during the Pre-PCR phase – Special Condition 30

The purpose of this special condition is to provide an overview of the formula that Ofgem will use to calculate the licensee's Allowed Revenue for each Charging Year during the pre-PCR phase and to set out the K-Factor true-up mechanics.

Return on Capital (RoC) – Special Condition 31

This special condition sets out the calculation for the value of the RoC building block applicable to the pre-PCR phase. The RoC reflects the initial weighted average cost of capital or IWACC multiplied by the RAB, where the IWACC is determined by the Secretary of State prior to licence modification, having regard to elements of price discovery, unless substituted by the delay WACC in a delay scenario.

The special condition also includes details on how the year average RAB will be calculated for different charging years and what the applicable rate of return would in a delay scenario. The purpose of this special condition is to provide clarity to the licensee and its investors regarding how the RoC building block will be calculated.

Additional Return on Capital (ARoC) – Special Condition 32

This special condition sets out the calculation of the ARoC building block applicable during the pre-PCR phase. The Additional Return on Capital is applicable in cases where the licensee incurs Additional Allowable Spend (i.e. allowable capital spend in excess of the HRT which has been approved by the Secretary of State in response to an Increase in Allowed Revenue (IAR) Application).

The IAR mechanism allows the licensee to apply to the Secretary of State, in their statutory capacity, for “Additional Allowable Spend” under Section 7 of the Act to enable it to finance the predicted overrun where the implementation of the mitigation plan does not eliminate the predicted overrun. The procedure for applying for an Increase in Allowed Revenue is set out in the Act and the statement which the Secretary of State will publish in accordance with section 7(6) of the Nuclear Energy (Financing) Act 2022.

The ARoC reflects IWACC to the average present value of the additional Allowable Spend which has been incurred. There is no difference to the IWACC which is applied pursuant to the RoC (i.e. for spend up to the HRT) and the Additional Allowable Spend.

Tax – Special Condition 33

The purpose of this special condition is to set out information on the calculation, mechanism and process for an allowance on Corporation Tax to compensate the licensee each Charging Year during the pre-PCR phase. This condition also highlights that the approach to calculating Tax Building Block amount will be determined in accordance with the Price Control Financial Instruments (i.e. the PCFM, the price control financial guidance and the price control financial handbook).

FDP Allowance – Special Condition 34

This special condition sets out how the FDP Allowance building block will be calculated during this phase in any given Charging Year. The aim of this special condition is to set out how FDP contributions are funded through the licensee's Allowed Revenue during the pre-PCR phase.

The FDP building block is not switched on until the first payment is expected to be made under the FAP. This is expected to be once the first Unit is close to achieving first criticality, being, the point at which nuclear fuel is introduced into the first Unit for the purposes of commissioning the plant.

The FDP building block is effectively a pass-through to cover the annual contribution amount set under the FAP (i.e. FDP amounts will be fully funded through the Allowed Revenue) and the costs of running FundCo.

Pass-Through Costs – Special Condition 35

The purpose of this special condition is to ensure that certain costs outside of the licensee's control can be passed through to consumers. These passed through costs are certain fees payable by the licensee to the ONR, the Secretary of State and the Environment Agency, the costs of the ITA and Revenue Collection Counterparty, the business rates payable by the licensee in each relevant Charging Year, the costs of complying with civil nuclear constabulary requirements for security at the Site, grid costs such as balancing services use of system charges (BSUoS Charges) and transmission network use of system charges (TNUoS Charges) and certain amounts payable to the electricity system operator.

The special condition will also specify the details of the Pass-Through costs audit and the review process that will be conducted by Ofgem in respect of the licensee's Pass-Through costs during the pre-PCR phase.

Liquidity Allowance – Special Condition 36

The purpose of this special condition is to allow the licensee to earn a return, through additional income, on its forecast incremental increase in RAB in the next Charging Year to compensate the licensee for the cost of drawing-down funding in advance of expenditure in order to meet liquidity requirements.

This special condition sets out the formula by which the Liquidity Allowance building block can be calculated. The purpose of the Liquidity Allowance is to provide the licensee with additional income to bridge the gap between the raising of finance and the time at which spend is logged on the RAB.

Operational Expenditure (Opex) – Special Condition 37

This special condition sets out the formula by which the Operational Expenditure (Opex) building block can be calculated as part of the Allowed Revenue. The Opex building block represents the licensee's allowance in respect of allowable operational spend during the pre-PCR phase.

This special condition sets out the treatment of costs classified as Opex. This includes an allowance for operating expenditure (set at FID) (i.e., the Opex pre-PCR Allowance) subject to a sharing mechanism for cost overruns and underruns. The original Opex allowance will be subject to a reopener, around the time of mechanical completion of Unit 1, where there is material change from the Opex costs assumed at FID.

Social Benefits and Communications Costs – Special Condition 38

As part of its Allowed Revenue entitlement, the licensee will receive an annual, use it or lose it allowance (set prior to licence modification) in respect of social benefits and communications costs.

Allowable Social Benefits and Communications costs include costs in respect of:

- social value and other initiatives incurred in the course of delivering the Project in a manner which promotes environmental and social goals;
- initiatives to promote the pipeline of available workforce for the Project;
- costs in respect of PR, advertising or publicity which solely relate to the Project or any initiatives put in place on either of the above two areas.

Cost of Debt Adjustment (CDA) – Special Condition 39

The aim of this special condition is to establish the CDA building block during the pre-PCR phase. The purpose of the CDA building block is to provide an allowance which protects the licensee against movements in the market cost of debt for factors outside the licensee's control. The adjustment will also incentivise the licensee to lower its debt costs and raise debt efficiently.

The special condition sets out the condition by which the CDA building block is calculated during the pre-PCR phase and the licensee's obligations in relation to managing its cost of debt.

K-factor Reconciliation Adjustment

Some components of the Allowed Revenue, Difference Payments and Market Revenue amounts may be set in advance using forecast data. The aim of the K-factor true-up is to reconcile the divergences between the forecast and actuals data and the correction of errors and revisions of data identified as a result of assurance activities.

The K-factor true-up is applied on a two-year lag through an adjustment to the Allowed Revenue, with an adjustment for the time value of money. During the pre-PCR phase, the K-Factor is applied to the Return on Capital Building Block; the Additional Return on Capital Building Block, the Pass-Through Costs Building Block, the Liquidity Building Block and the Opex Building Block.

COD, PCR and Reopeners

Commercial Operations Date (COD) – Special Conditions 40,41 and 42

The purpose of this special condition is to set out the minimum requirements that must be satisfied (which, amongst other things, includes a requirement to achieve a minimum capacity level specified in the licence) and process that must be followed by the licensee to achieve COD. The Secretary of State and Ofgem will have discretion to waive requirements where they consider this appropriate in the circumstances.

The special condition also sets out the obligations on the timely achievement of COD through timely construction and commissioning, alongside the consequences of failing to do so. This includes obligations to achieve COD by a scheduled date (Scheduled COD) and, in any event, before an agreed Longstop Date. The licensee may apply to Ofgem to extend the scheduled date for completion, and the Longstop Date, if there is a delay to achieving this which is attributable to a qualifying change in law, regulation or specified force majeure events. To be eligible for an extension of time, the licensee must demonstrate to Ofgem that it has appropriately mitigated the delay.

Further incentives on the licensee on timely completion are introduced through the WACC and the Yield Cap. If COD is not achieved by Scheduled COD:

(A) there will be a deduction to the WACC as set out in the licence.

(B) the Yield Cap ratchets down from Scheduled COD until actual COD, also as set out in the licence.

A distribution lock-up will also apply in extreme delay scenarios.

Post Construction Review (PCR) – Special Condition 43

This special condition aims to provide clarity on the expected timing of the PCR and how any respective changes would be communicated to the licensee. The special condition sets out the PCR process (including timings), what should be included within the PCR and the process for issuing the PCR Determination.

Relevant Change of Circumstance (RCC) – Special Condition 44

The special condition sets out the procedure for adjusting the level of the HRT and LRT, as well as the Opex allowance to account for a relevant change of circumstance during the pre-PCR phase. Relevant change of circumstances is defined in the licence to include certain changes in law or regulation and pandemics. Adjustments to relevant thresholds may be upwards or downwards depending on the circumstances. While the process can be initiated either by the licensee or Ofgem, if the adjustment is expected to result in an increase to the relevant thresholds Ofgem may only initiate the process with SZC's consent.

The special condition sets out the process by which Ofgem would determine whether a relevant change of circumstance has occurred and what the effect of this is under the licence.

Operations Phase

Some of the 'building blocks' specified in the pre-PCR phase are also applicable during the operations phase, whilst others are calculated differently or end once the pre-PCR phase is complete. The modified licence sets these remaining building blocks and introduces those that are unique to the operations phase. This section of the consultation provides further information on all areas of the licence relevant to the operations phase.

Regulated Asset Base

Valuation of the RAB during the Operations phase – Special Condition 45

The purpose of this special condition is to provide clarity on the definitions required to calculate the RAB during the operations phase.

This special condition sets out that:

- Any capitalised portion of total allowable expenditure incurred during the operations phase is to be logged onto the RAB value during each Charging Year; and
- Deductions are to be made from the RAB value to take account of depreciation of the RAB during the operations phase.

Similar to the pre-PCR phase, this condition also includes principles for the process and timing for accurate RAB calculations for each Charging Year during the operations phase, including the Opening, Closing, Present Value Closing and Average Present Value RAB.

Allowed Revenue

Allowed Revenue during the Operations phase – Special Condition 47

This special condition sets out the formula by which the Allowed Revenue will be calculated during the operations phase for each Charging Year. This condition also sets out the K-Factor true-up mechanics.

Return on Capital (RoC) during the Operations phase – Special Condition 48

In the same way that the RoC building block is specified within the pre-PCR phase section of the licence, this special condition sets out the formula for the calculation of the RoC and for the Average Present Value RAB for each Charging Year during the operations phase. The purpose of this special condition is to provide clarity to the licensee and its investors regarding how the RoC building block will be calculated.

Regulatory Weighted Average Cost of Capital (RWACC) – Special Condition 48

Unlike the RoC calculation during the pre-PCR phase, during the operations phase, the RoC reflects RWACC multiplied by RAB, where RWACC is the Regulated WACC. The RWACC is the Weighted Average Cost of Capital in real terms, that has been determined by Ofgem at the PCR and at each subsequent review.

Tax during the Operations phase – Special Condition 49

Similarly to the pre-PCR phase, this special condition sets out information on the calculation, mechanism and process for an allowance on Corporation Tax to compensate the licensee each Charging Year during the operations phase. This condition also highlights that the approach to calculating the Tax Building Block amount will be determined in accordance with the Price Control Financial Instruments.

FDP Allowance during the Operations phase – Special Condition 50

Similarly to the pre-PCR phase, this special condition sets out how the FDP Allowance building block is to be calculated during the operations phase. The FDP building block is effectively a pass-through to cover the annual contribution amount set under the FAP (i.e. FDP amounts will be fully funded through the Allowed Revenue) and the costs of running FundCo.

Pass-Through Costs during the operations phase – Special Condition 51

The purpose of this special condition is to ensure that certain costs outside of the licensee's control can be passed through to consumers.

In the same way the modified licence sets out the calculation of Pass-Through Costs during the pre-PCR phase, this condition sets out the formula for the calculation of the Pass-Through Costs building block during the operations phase. It also includes the details of the Pass-Through Costs audit and the review process that will be conducted by Ofgem in respect of the licensee's Pass-Through costs during the operations phase.

Depreciation – Special Condition 52

This special condition licence sets out the approach to depreciation of the RAB following the PCR Determination. Ofgem will first determine regulatory depreciation at the PCR. However, Ofgem will consult with the licensee as part of the PCR process on its approach to depreciation. The purpose of this special condition is to remunerate capitalised expenditure over a specific time horizon in order to preserve intergenerational equity and ensure appropriate incentives exist for management and investors over the duration of the regulatory period.

Totex (Total Expenditure) – Special Condition 53

During the operations phase, Ofgem will apply a 'Totex' approach for all capital and operational expenditure (apart from e.g. tax, FDP and Pass-Through Costs, which are subject to bespoke funding arrangements). This means that Ofgem will assess the efficiency of expenditure set

out in the licensee's business plan on an ex-ante basis as part of the periodic review process, through cost assessment.

This special condition is set out for this purpose. Ofgem will determine the Annual Totex Allowance and the Totex Capitalisation Rate at the PCR and thereafter at each Periodic Review. The Totex Capitalisation Rate will dictate how much of the annual Totex allowance will be provided as fast money (i.e. an allowance in the Allowed Revenue) or slow money (i.e. capitalised to the RAB).

The Totex Building Block provides for the fast money portion of the actual Totex spend to be added to the Allowed Revenue, subject to a painshare/gainshare incentive on the variance between the Totex allowance set by Ofgem and the licensee's actual Totex spend within the price control period. This incentive is further subject to a cap and floor when taken along with the market price incentive (i.e., the ODI Incentive Cap and Floor).

The slow portion of the Totex Allowance will also be subject to a similar sharing incentive relative to the annual allowance before being logged on to the RAB.

Incentives in the Operations Phase

Through Life Capacity Incentive – Special Condition 46

The purpose of this special condition to incentivise the licensee to properly operate and maintain the plant in a manner that promotes plant capacity over the duration of the regulatory period. It works in a very similar way to the capacity incentive applied at the PCR (see PCR Capacity Incentive above). However, in assessing any capacity increases during the operational phase, Ofgem expects to offset the cost of any capex works funded by consumers which were used to secure a related capacity increase to avoid any double funding by consumers.

The licensee will be required to conduct Output Testing once each review period and provide the results to Ofgem as part of its business planning reporting. Where the outcome of such testing demonstrates a minimum variance (compared to the last time the capacity incentive was applied), Ofgem may apply the through life capacity incentive.

Totex Incentive – Special Condition 53

Please see the commentary above on the Totex incentive which is applicable for the Totex spend in the operations phase.

Market Price Adjustment – Special Condition 54

The purpose of this special condition is to set out the obligations on the licensee to trade power on market terms, in a manner reflective of an efficient 'baseload' generating plant operating in a competitive market. The condition aims to set out how these obligations are reinforced through a financial incentive 'Market Price Adjustment' to be applied in each Charging Year. If the licensee achieves an average price which is greater than the reference price, it will receive an uplift to the Allowed Revenue, whereas if it is less than the reference price, it will result in a deduction to the Allowed Revenue, subject to a sharing factor. The sharing factor will initially be agreed prior to FID but will be reconsidered by Ofgem at the PCR and each Periodic Review to reflect the licensee's ability to meet the reference price and changes to this over time.

The day 1 Reference Price will be the baseload market reference price ("BMRP"). The BMRP has been selected as the licensee is generally expected to trade in the baseload market.

However, it is recognised that given the extended duration of the regulatory period, it is possible that changes to the wider energy market over time or a shift in the nature of services provided by the licensee result in the BMRP ceasing to be a suitable Reference Price for this incentive. Ofgem will therefore review the suitability of the Reference Price at the PCR and each Periodic Review having regard to the factors set out in its economic guidance.

Further, as noted above, there is a cap and floor on the aggregate impact of the Market Price incentive and Totex incentive implemented through the ODI Incentive cap and floor.

Availability Incentive – Special Condition 55

This special condition seeks to set out the obligation on the licensee to safely optimise both available generating units during the operations phase. This obligation is facilitated through a financial incentive.

The purpose of the Availability Incentive is to incentivise the licensee to operate and maintain the Plant to ensure it remains fully operational at the optimum level so consumers can benefit from the electricity generated. The availability incentive will be applied by comparing the licensee's availability performance against a target level set by Ofgem at the most recent Periodic Review (or, in the case of the first control period, set at the Post Construction Review) based on information provided to it by the licensee as part of its business plan. If the licensee beats the availability target set by Ofgem, the licensee will be entitled to keep a specified proportion of the market revenue generated from power sales in excess of the availability target taking into account the float for unplanned outages. But if the licensee fails to meet the availability target, this will result in a financial penalty, being a deduction to the Allowed Revenue (excluding any FDP amounts and disregarding incentives and any revenue support amounts) calibrated by reference to the level of unavailability for that year as set out in the licence.

The special condition also sets out the licensee's obligations in relation to reporting, availability of power, targets, and the formula for the calculation of the Availability Incentive which forms part of the Allowed Revenue during the operations phase.

Revenue Support

Significant Unavailability Revenue Support – Special Condition 56

The purpose of this special condition is to set out the licensee's rights to apply for revenue support in response to certain unavailability events. A Significant Unavailability Event means an unplanned outage or unexpected capacity reduction that results in: (i) a failure to achieve, or a projected failure to achieve, the availability target for the relevant year; and (ii) the licensee earning, or being projected to earn, less than a specified floor level of revenue for that year.

The purpose of the Significant Unavailability Revenue Support mechanism is to provide the licensee with a mechanism where it can either apply for interim liquidity support in-year or an Allowed Revenue floor top-up to be applied on a two-year lag. This special condition sets out the formula for calculating the amount of any liquidity support provided to the licensee. Much of the formula for calibrating the liquidity support amount is mechanistic and intended to calculate the shortfall between the aggregate revenue the licensee received (or is forecast to receive) from difference payments, market revenues and the specified floor level of revenue for that year, due to an outage or material reduction in availability. A certain amount of any Significant Unavailability liquidity amounts provided to the licensee (excluding FDP related amounts) must be repaid to consumers, as specified in the licence. However, to mitigate the impact of repayments on the licensee's investors and lenders, Ofgem can spread the repayments over a

number of years from the date the liquidity support was provided. The repayment period may be shorter towards the end of the regulatory period.

Buyback of Power revenue support – Special Condition 56

The purpose of the Buyback of power revenue support mechanism is to provide additional liquidity support to the licensee where a Significant Unavailability Event requires the licensee to buy back power in the market, in order to satisfy the trades it entered into prior to the Significant Unavailability occurring, and the cost per MW of buying back power is higher than the average price per MW in the previous 12 months.

As per the approach taken for sizing any Significant Unavailability liquidity amounts, the formula for calculating the amount of any buyback liquidity support is set out in the licence. All of the buyback support will be provided as a loan and the licensee is required to repay such amounts. The buyback repayments are sized at amounts above a floor specified in the licence until the liquidity support is fully repaid. As for Significant Unavailability liquidity, Ofgem may set a shorter repayment period towards the end of the regulatory period

Operational Incentives Adjustment (OIA) – Special Condition 57

The purpose of this special condition is to outline the calculation of the Operational Incentives Adjustment (OIA) building block that forms part of the Allowed Revenue during the operational phase. The purpose of the OIA is to provide liquidity support and it effectively ensures that the licensee will always receive a floor level revenue in any year, as specified in the licence. The floor ensures that the licensee always receives sufficient revenue to remain solvent in any given Charging Year during the operations phase.

This special condition sets out the provision for the OIA mechanism, the formula for its calculation and the terms of repayment for any amount.

In providing any form of revenue support (significant unavailability, buyback of power or OIA), Ofgem can consider adjustments to the amount of support to be provided including to ensure that the aggregate cap (set out in the licence) on the amount of revenue support which can be provided is not breached.

Periodic Reviews and Reopeners

Periodic Reviews (PR) – Special Condition 58

This special condition aims to provide clarity on the expected timing and process of each periodic review during the operations phase, as well as the purpose of the PR Determination and how it will be issued.

Qualifying Change in Law (CIL) or Regulation during the Operations Phase – Special Condition 59

This special condition establishes the procedure for Ofgem to consider whether to make a CiL Adjustment to account for the occurrence of a change in law or regulation during the operations phase. The special condition sets out the circumstances when a CiL Adjustment may be applied. It confirms that Ofgem will issue guidance prior to Scheduled COD describing the process to be followed to determine whether a CiL Adjustment will be made, and the value of such CiL Adjustment.

Consultation questions

The Secretary of State is seeking input from consultees on the particular areas of discussion highlighted below. Consultees are not limited to these questions, and we would welcome comments on all issues associated with the licence.

- 1. Do consultees consider that the licence modifications outlined within this consultation strike a reasonable balance between the need to support the financeability of the licensee and safeguarding consumer interests?**
- 2. Do consultees consider that the incentives and penalties placed on the project through the modifications will support the efficient and timely delivery of the project, ensuring greater value for money for consumers?**
- 3. Do consultees consider that the operational performance incentives included in the proposed modifications encourage the right behaviours?**
- 4. Do the modifications set sufficiently clear expectations and boundaries for how the project company should operate in the market over time, and do the modifications contain sufficient flexibilities to account for future uncertainties in the energy market?**
- 5. Do consultees think that the modifications provide Ofgem sufficient oversight in its capacity as economic regulator of the licensee?**

Next steps

The consultation period will last for 12 weeks and close on 29 January 2024.

Following our analysis of responses, we intend to publish a government response on the outcome of the consultation and how we will take the responses into account in the licence modifications to be made to Sizewell C's licence. Alongside this, we intend to publish a summary of the responses to the consultation received.

This consultation is available from: www.gov.uk/government/consultations/modifications-to-the-sizewell-c-regulated-asset-base-licence

If you need a version of this document in a more accessible format, please email alt.formats@energysecurity.gov.uk. Please tell us what format you need. It will help us if you say what assistive technology you use.