

CONSENTS/AGREEMENTS REQUIRED FOR GENERATION PROJECTS IN NORTHERN IRELAND

The following notes are intended for the guidance of prospective electricity generators. However, you are strongly advised to study the relevant provisions of the Electricity (Northern Ireland) Order 1992 and the Exemptions Order and Regulations referred to below. The provisions applicable to prospective generators mentioned below are not exhaustive.

1. Generation Licences - Articles 8 to 13 of the Electricity (Northern Ireland) Order 1992

1.1 Under the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1))* ("the Parent Order") a generation licence is needed to cover the production of electricity and a supply licence to cover its provision to premises unless one or other of certain exemptions applies. These exemptions are set out in a Statutory Rule, the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992 (S.R. 1992 No. 88) ("the Exemptions Order"). One significant exemption is set out in Schedule 1 to the Exemptions Order, which provides that persons who do not under normal operating conditions provide more than 10 megawatts of electrical power, disregarding power provided to a single on-site consumer or to two or more on-site consumers who form a qualifying group, are exempt from the need to hold a generation licence. Would-be generators are advised to study the Exemptions Order themselves.

1.2 Whether a supply licence is needed requires a careful examination of the destination of the output. The generator needs to consider whether it is for on-site consumption (if so by whom), for delivery to a licensed supplier (e.g. NIE plc), or delivery to the premises of a customer, or a combination of these. The guidance note at Annex A may be of help. The exemptions from the need for a supply licence are set out in Schedule 2 to the Exemptions Order, and are described in the guidance note.

* copies of the Orders and Regulations mentioned in these notes are available from The Stationery Office, 16 Arthur Street, Belfast BT1 4GD. Telephone 01232 238451.

- 1.3 Licence application procedures are laid down in a Statutory Rule, the Electricity (Applications for Licences and Extensions of Licences) Regulations (Northern Ireland) 1992 (S.R. 1992 No.1777). Guidance on applications can be obtained from the Office for the Regulation of Electricity and Gas (OFREG), Brookmount Buildings, 42 Fountain Street, BELFAST BT1 5EE. Telephone 028 9031 1575.
- 1.4 Currently a fee of £100 is payable when applying for a generation or second-tier supply licence and a fee of £50 is payable when applying for an extension to a second tier supply licence. The applicant will have to publish the application in the Belfast Gazette, and in a newspaper or newspapers circulating in the area where the generating station may be located. Licensees will also be liable for subsequent annual fees.

2. Consent of the Department of Enterprise Trade and Investment (formerly the Department of Economic Development ("the Department"))

(a) Power Stations - Article 39 of the Electricity (Northern Ireland) Order 1992

(i) Anyone intending to construct, extend or operate a generating station with a capacity of over 2 megawatts will require the consent of the Department under Article 39 of the Parent Order. The Electricity (Applications for Consent) (Fees) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 178) specify the fee payable with applications (currently £100), and Schedule 8 to the Parent Order sets out the manner in which application is to be made. Enquiries about Article 39 consents should be made to Electricity Division, Department of Economic Development, Netherleigh, Massey Avenue, Belfast, BT4 2JP, Telephone (028) 9052 9900.

(b) Overhead lines - Article 40 of the Electricity (Northern Ireland) Order 1992

(i) Anyone intending to install or keep installed an electric line above ground will require the consent of the Department under Article 40 of the Parent Order except where the electric line is intended to supply a single customer and has a nominal voltage of 20kV or less, or the line is within the installer's own premises. Further

exemptions from the need for such a consent are set out in the Overhead Lines (Exemption) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 118). A fee is payable with each application (currently £20), as provided for in the Electricity (Applications for Consent) (Fees) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 178), and Schedule 8 to the Parent Order sets out the manner in which application is to be made. Enquiries about Article 40 consents should be made to Electricity Division, Department of Economic Development, Netherleigh, Massey Avenue, Belfast, BT4 2JP, Telephone (01232) 529900.

3. Planning Consent

Promoters of generating projects are strongly advised to contact the Special Studies Unit, Planning Headquarters, Department of the Environment for Northern Ireland, Clarence Court, 10/18 Adelaide Street, BELFAST, BT2 8GB. Telephone (028) 9054 0540, about planning consent.

4. Compliance with Industry Codes

- (i) The holder of a generation licence must comply with the Supply Competition Code. This document is binding on all licence holders. It requires all holders of generation licences to contract their entire generation capacity and output to Northern Ireland Electricity plc. It also requires all classes of licensed supplier and certain classes of exempt supplier to acquire their total requirements for electricity from Northern Ireland Electricity plc. Exempt generators are not obliged to comply with this Code.
- (ii) The holder of a Generation Licence and an exempt generator whose apparatus is connected to the transmission or distribution systems of Northern Ireland Electricity plc is obliged to comply with certain provisions of the Northern Ireland Grid Code. This is a technical document which is concerned with the operation of the transmission and distribution systems, connections to those systems and related matters. One of its primary purposes is to ensure technical stability of the Province-wide electrical system. Holders of generation licences are bound to comply with the Grid Code by virtue of provisions to that effect in their licences. Exempt generators connected to Northern Ireland Electricity plc's system will be so bound by virtue of the terms of their connection agreement.

(iii) All holders of electricity licences in Northern Ireland are obliged, by the terms of those licences, also to comply with the provisions of the Northern Ireland Fuel Security Code. This is a document which provides for an altered basis of remuneration or cost recovery for licence holders in respect of period covered by directions issued by the Department under Article 37(4) of the Order. Broadly speaking, such directions require holders of generation licences to operate their generating stations in particular ways and would normally be given only in times of fuel supply disruption.

(iv) Questions on the various industry-wide codes should, in the first instance, be directed to the Office for the Regulation of Electricity and Gas, Brookmount Buildings, 42 Fountain Street, Belfast, BT1 5EE, Telephone: 028 9031 1575.

5. Connection Agreement and Charges

(i) The connection agreement with NIE plc is a technical agreement covering the nature of the connection to NIE plc's transmission or distribution systems. Generators wishing so to connect are likely to have to pay connection charges reflecting the cost of specific assets used in connection. NIE plc is required by its Transmission and Public Electricity Supply Licences to publish statements giving information on the factors likely to affect the level of connection charges. However, actual charges will inevitably reflect the particular circumstances of each site. Charges for new connections are regulated on the basis of providing no more than a reasonable rate of return on the assets involved. If a user believes that the terms offered for connection are unreasonable, he may refer the dispute to the Director General of Electricity Supply for Northern Ireland for determination under the relevant licence.

(ii) Queries on connection to NIE plc's Transmission or Distribution system should be referred to the Network Marketing Manager, NIE plc, 120 Malone Road, Belfast BT9 5HT, Telephone: 028 9066 1100.

THE ELECTRICITY (CLASS EXEMPTIONS FROM THE REQUIREMENT FOR A LICENCE) ORDER (NORTHERN IRELAND) 1992

GUIDANCE NOTES

1. Introduction

- (i) Under Article 8 of the Electricity (Northern Ireland) Order 1992 it is an offence to generate or supply electricity without a licence unless exempt by order under Article 9.
- (ii) “Supply” under the Electricity Order is defined as supply through electric lines otherwise than to premises occupied by a licence holder for the purpose of carrying on his licensed activities. Provision of electricity to a licence holder, such as NIE plc or another licensed supplier, does not therefore constitute "supply" and no supply licence (or exemption) is required.
- (iii) The Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1992 (S.R. 1992 No. 88) ("the Exemptions Order") sets out the classes of generators and suppliers who are exempt from the requirement for a licence.
- (iv) These notes are intended to explain the exemptions set out in the Exemptions Order but do not form part of the Order and have no formal standing.

2. General Information

- (i) Since a generator or supplier is either licensed or exempt i.e. he cannot be part-licensed or part-exempt, any activities which bring a person or company within the licensing framework will require a licence to cover all generating or, as the case may be, supply activities. If a licence is held and subsequently the generator or supplier falls within an exempt class, he will need to seek the agreement of the

Director General of Electricity Supply for Northern Ireland for the revocation of his licence.

(ii) Class exemptions are automatic under the Exemptions Order. In other words, an exemption does not need to be applied for - a generator/supplier is either exempt or he is not. A person who falls within two or more classes of exemption is still exempt.

(iii) Applications for licences should be made in accordance with the Electricity (Applications for Licences and Extensions of Licences) Regulations (Northern Ireland) 1992 (S.R. 1992 No. 177). The Schedules to those Regulations form the application forms for the various types of licence.

3. GENERATION LICENCE EXEMPTIONS

A generator will be exempt from the requirement to hold a generation licence as long as, under normal operating conditions, he provides no more than 10MW electrical power from a single generator disregarding power provided to a single consumer on the same site - see Schedule 1 of the Exemptions Order. In other words, a generator who produces 100MW electricity and uses 95MW at his own on-site premises, and exports 5MW to a local distribution company will not require a licence. (The term "site" is explained in Schedule 1.) There are provisions which permit supplies to more than one consumer in certain circumstances if the consumers are a group of companies on the same site (see the reference to a "qualifying group" in the definition of "consumer" in Schedule 1; and the explanations of the terms "related company" and "wholly related company" in Article 2(2)).

4. SUPPLY LICENCE EXEMPTIONS

Four classes of supplier are exempt under the Exemptions Order as follows: -

(i) De-Minimis

Persons supplying no more than 500KW capacity either from their own generating capacity or in combination with supplies bought from NIE plc. are exempt - see Class A of Schedule 2. Supplies by associated companies will

count towards the 500KW limit (the meaning of "associated" in this context is clarified in Article 2(2)(a) of the Exemptions Order).

(ii) Re-Supply

Suppliers who re-supply electricity which has been bought from a licensed supplier or who supply from an emergency generator when normal supplies from a licensed supplier are interrupted temporarily, will be exempt - see Schedule 2, Class B.

(iii) Own Generation

Own-generated supplies will be exempt under Class C of Schedule 2. The following criteria need to be met for a supplier to fall within the own generation exemption:

- (a) a single consumer (whether or not the same person as the generator)
- (b) the consumer must use 51% or more of the output of that generating station per year; and
- (c) any remaining output from the generating plant (ignoring aggregated supplies of less than 500KW falling within Class A), must be supplied to a licence holder.

"Consumer" is defined in paragraph C.3.(1) of Schedule 2. Again there are provisions which permit supplies to more than one consumer in certain circumstances if the consumers form a group of companies on the same site.

Where companies that are associated with each other generate electricity at the same generating plant they will be treated as one. Electricity supplies by the associates would then need to be included in determining whether the three conditions mentioned in paragraph 4 (iii) above are satisfied. Generating sets which are on the same site are treated for this purpose as one generating plant - see paragraph C.3(2)(a).

Paragraph C.2 sets out the method to be used in deciding whether 51% of the output of a generating plant is supplied to a single consumer. If someone is supplying electricity from the plant for the first time a reasonable estimate has to be made of the proportion of the output which will go to the single consumer up to the end of the first year. After the end of the first year the

actual figures for the previous year (or part- year if the previous year was the first year when the supplier started to generate electricity at that plant) will determine whether or not the person is exempt. If the output of a plant which supplies a single consumer is less than 51% of its total output in any year the exemption will fall on the following 1 April.

(iv) Large Users

Exemption is also granted to certain consumers of large quantities of electricity. In order to qualify for that exemption, the consumer in question must –

- (a) have an average maximum monthly demand for electricity exceeding 1 MW; and
- (b) supply himself or other members of the group of companies of which he is also a member, on the same site; and
- (c) acquire the electricity in question under an agreement with the Wholesale Supply Division (known as the "power procurement business") of Northern Ireland Electricity plc.

RELEVANT DOCUMENTS

Supply Competition Code

Statement of Basis of Charges for Connection

Statement of Basis of Charges for Use of System

Copies of the above documents can be obtained from Mr Ashley Boggs, Head of Regulatory Affairs, Northern Ireland Electricity plc.

Telephone: 028 9066 1100 Ext 32522: Fax: 028 9066 3780.

Requests for an offer of terms for Use of System or Connection to the system should be directed to Mr Joe Doyle, Network Marketing Manager, Northern Ireland Electricity plc.

Telephone: 028 9066 1100: Fax: 028 9066 1335.

Fuel Security Code

Electricity Division, Department of Economic Development.

Telephone: 028 9052 9900: Fax: 028 9052 9549.

Licences

Mr Gerry Mc Neill , OFREG.

Telephone: 028 9031 1575: Fax: 028 9031 1740.