

# Notice and Consultation on Energy Theft Codes of Practice Licence Modifications

31 July 2018



# About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries and to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

## Our Mission

Value and sustainability in energy and water.

## Our Vision

We will make a difference for consumers by listening, innovating and leading.

## Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

## Abstract

The Utility Regulator finalised its Energy Theft Codes of Practice (CoP) in March 2018. The decision paper included the implementation of a licence modification to ensure compliance with the Energy Theft CoP.

This paper sets out the proposed licence modifications for all relevant electricity and gas distribution licence holders and all electricity and gas supply licence holders.

We are required by law to consult and give notice to the relevant licensees of our intention to introduce licence modifications. This paper and separate legal notices meet that requirement.

## Audience

This licence modification consultation paper will be of interest to gas and electricity suppliers, distribution companies and organisations representing consumer interests.

## Consumer impact

We expect that the introduction of an Energy Theft CoP licence condition will enhance consumer protection arrangements in relation to energy theft.

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## Glossary

Name	Definition
CoP	Codes of Practice
CPS	Consumer Protection Strategy
DNO	Distribution Network Operator
ETIP	Electricity Theft Industry Procedure working group
FOIA	Freedom of Information Act
GTWG	Gas Theft Working Group
NIEN	Northern Ireland Electricity Networks
PSNI	Police Service of Northern Ireland
UR	Utility Regulator

# 1. Executive Summary

Energy theft can have serious safety consequences and the value of the energy stolen is paid for by other domestic consumers within their bills, increasing the costs for all energy consumers.

The Utility Regulator (UR) committed to protecting consumers from these issues by prioritising the implementation of an Energy Theft Code of Practice (CoP) within our Consumer Protection Strategy (CPS)<sup>1</sup>.

We consulted on the Energy Theft CoP in July 2016 and again in February 2017. We also met separately with industry and consumer groups to discuss their views on the development of the codes.

The Energy Theft CoP was finalised with our decision paper in March 2018.

The objective of the Energy Theft CoP is to provide transparency on the obligations on electricity and gas network operators and suppliers to work together to establish and implement detailed and best-practice industry procedures to prevent, detect, investigate and manage the outcome of investigation into energy theft.

We consider that the best approach to achieving this objective is to place a licence condition on licensees to comply with the Energy Theft CoP. This approach has been fully supported by responses received through our consultation process.

We are required by law to consult and give notice to the relevant licensees of our intention to introduce licence modifications. This paper and separate legal notices meet that requirement.

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<sup>1</sup> [UR Forward Work Plan 2017/18 Decision Paper, March 2017](#)

## 2. Background

- 2.1. We consulted extensively as part of the development of the Energy Theft CoP. An initial Consultation Paper<sup>2</sup> was published in July 2016 followed by a Second Consultation Paper in February 2017<sup>3</sup>. We also met separately with industry and consumer groups to discuss their views on the relevant issues.
- 2.2. Following consideration of the responses we published our final decisions in the Energy Theft CoP Decision Paper<sup>4</sup> on 20th March 2018. The decision paper set out that supplier and Distribution Network Operator (DNO) licences (both gas and electricity) will be modified to include a condition to comply with the Energy Theft CoP.
- 2.3. Before making any licence modification the UR is required to consult on its proposals under and in accordance with Article 14(2) of the Electricity (Northern Ireland) Order 1992 and Article 14(2) of the Gas (Northern Ireland) Order 1996.
- 2.4. This consultation is therefore issued under, and in accordance with, Article 14(2) of the Electricity Order and Gas Order and sets out the licence modifications we propose to make to NIE Network's distribution licence, the three gas conveyance (distribution) licences<sup>5</sup> and all electricity and gas supply licences.
- 2.5. The reasons for and effect of the proposed modifications are set out in Section 3 of this paper. The legal notices required under Article 14(2) of the Electricity Order and Gas Order and the specific licence conditions for each type of licence are set out in separate appendices to this paper.
- 2.6. The UR proposes to consult for a period of 31 days from the publication date of this document. Any responses, representations or objections to this consultation will be considered prior to any decision.

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<sup>2</sup> [Energy Theft Code of Practice First Consultation Paper, July 2016](#)

<sup>3</sup> [Energy Theft Code of Practice Second Consultation Paper, February 2017](#)

<sup>4</sup> [Energy Theft Code of Practice Decision Paper, March 2018](#)

<sup>5</sup> firmus Energy (Distribution) Limited, Phoenix Natural Gas Limited, Scotia Gas Networks Northern Ireland Ltd

## 3. Licence Modifications

### Overview

- 3.1. The objective of the Energy Theft CoP is to protect consumers and the wider industry from the safety issues and costs related to energy theft. To achieve compliance with this code, we are now consulting on an additional licence condition within electricity and gas conveyance (distribution) licences and electricity and gas supply licences that requires compliance with the Energy Theft CoP.
- 3.2. In order to comply with the licence condition the licensees will be required to establish and comply with detailed industry procedures to facilitate the prevention, detection, investigation and manage the outcome of an investigation into energy theft. These industry procedures will ensure compliance with the Energy Theft CoP.
- 3.3. The licence condition places a requirement on the licensee to comply with the obligations of the relevant Energy Theft CoP. It also requires that the licensee procures that its agents or sub-contractors comply with the obligations of the relevant Energy Theft CoP.
- 3.4. There is also provision with the new licence condition for the UR to modify the Energy Theft CoP following consultation with stakeholders.
- 3.5. We welcome that licensees in the gas and electricity sectors have already set up the Electricity Theft Industry Procedures (ETIP) working group and Gas Theft Working Group (GTWG) as a pro-active measure to develop the industry procedures ahead of this licence modification consultation and the condition taking effect. The UR attends the industry working groups in an observer capacity and notes the progress that is being made in both working groups.

### Proposed Licence Modification

- 3.6. The proposed licence conditions for the relevant electricity and gas licences are presented below. The numbered licence conditions for each type of licence, together with the legal notice to modify a licence, are also set out in separate appendices to this paper.



**Condition x: Code of Practice for the Theft of Electricity**

1. The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Electricity.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for the Theft of Electricity, as the Authority considers are necessary or expedient.
3. In this Condition:

**Code of Practice for the Theft of Electricity** means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity

In order to comply with the obligations of the Code of Practice for the Theft of Electricity, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity

**Agent or Subcontractor** means any person directly or indirectly authorised to represent the Licensee in its dealings with electricity customers or other Licensees.

## Condition x: Code of Practice for the Theft of Gas

1. The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Gas.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for the Theft of Gas, as the Authority considers are necessary or expedient.

3. In this Condition:

**Code of Practice for the Theft of Gas** means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation and managing the outcome of investigation into the theft of gas;

In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of gas.

**Agent or Subcontractor** means any person directly or indirectly authorised to represent the Licensee in its dealings with gas consumers or other Licensees.

## Electricity Distribution Licence Modifications

### Proposed changes

3.7. We propose to amend the electricity distribution licence to insert a new condition to reflect the introduction of the Energy Theft CoP. The affected licence is outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"><li>Northern Ireland Electricity Networks Ltd</li></ul>	Introduction of Condition 39 (Number not currently in use)

## Electricity Supply Licence Modifications

### Proposed changes

3.8. We propose to amend all electricity supply licences to insert a new condition to reflect the introduction of the Energy Theft CoP. The affected licences are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"><li>AES Ballylumford Ltd</li><li>Bord Gais Energy Ltd</li><li>Brookefield Green Energy Ltd</li><li>Budget Energy Ltd</li><li>Click Energy (Project Plug Ltd)</li><li>Electric Ireland (ESBIE NI Ltd)</li><li>Electricity Supply Board (ESB)</li><li>ElectroRoute Energy</li><li>Energia (Viridian Energy Supply Ltd)</li><li>Firmus Energy (Supply) Ltd</li><li>Gaelectric Green Energy Ltd</li><li>Go Power (LCC Power Ltd)</li><li>LCC Group Ltd</li><li>ONI (OVO) Electricity Ltd</li><li>SSE Airtricity Energy Supply Ltd</li><li>Vayu Ltd</li><li>3T Power Ltd</li></ul>	Introduction of new Condition 46
<ul style="list-style-type: none"><li>Power NI (includes PPB)</li></ul>	Introduction of new Condition 71

## Gas Conveyance Licence Modifications

### Proposed changes

3.9. We propose to amend all gas (distribution) conveyance licences to insert a new condition to reflect the introduction of the Energy Theft CoP. The affected licences are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"><li>Firmus Energy (Distribution) Limited</li></ul>	Introduction of new Condition 2.20
<ul style="list-style-type: none"><li>Phoenix Natural Gas Limited</li></ul>	
<ul style="list-style-type: none"><li>Scotia Gas Networks Northern Ireland Ltd</li></ul>	

## Gas Supply Licence Modifications

### Proposed changes

3.10. We propose to amend all gas supply licences to insert a new condition to reflect the introduction of the Energy Theft CoP. The affected licences are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"><li>SSE Airtricity Gas Supply (NI) Limited</li></ul>	Introduction of new Condition 2.30
<ul style="list-style-type: none"><li>Firmus energy (Supply) Limited – Ten Towns</li></ul>	
<ul style="list-style-type: none"><li>Firmus energy (Supply) Limited – Greater Belfast Area</li></ul>	
<ul style="list-style-type: none"><li>Vayu Limited</li></ul>	
<ul style="list-style-type: none"><li>Electric Ireland</li></ul>	
<ul style="list-style-type: none"><li>Equo Energy</li></ul>	
<ul style="list-style-type: none"><li>Go Power</li></ul>	
<ul style="list-style-type: none"><li>Flogas Natural Gas Limited</li></ul>	
<ul style="list-style-type: none"><li>Energia</li></ul>	
<ul style="list-style-type: none"><li>Power NI Energy Limited</li></ul>	

• SSE Airtricity Energy Supply (NI) Limited	Introduction of new Condition 2.30
• ONI Gas Limited	
• SSE Energy Supply Limited	
• Shell Energy Europe Limited	
• Viridian Energy Limited	
• Bord Gais Energy Limited	
• AES Ballylumford Limited	
• British Gas Trading Limited	
• Coolkeeragh ESB Limited	
• Power NI Energy Limited (formally NIE PLC)	

3.11. The specific licence conditions for each licensee and the required legal notices are set out in the separate appendices to this paper.

## Reasons

3.12. Energy theft can have serious safety consequences and the value of the energy stolen is paid for by other domestic consumers within their bills, increasing the costs for all energy consumers. Energy theft is a criminal offence and may result in prosecution and a criminal record for consumers involved in this illegal activity.

3.13. The Energy Theft CoP aims to provide transparency on the obligations on electricity and gas network operators and suppliers to work together to establish and implement detailed and best-practice industry procedures to prevent, detect, investigate and manage the outcome of investigation into energy theft.

3.14. We consider that the best approach to achieving this objective is to place a licence condition on licensees to comply with the Energy Theft CoP. This approach has been fully supported from the responses received through our consultation process.

## Effects

3.15. The Energy Theft CoP licence condition will place an obligation on network operators and suppliers to co-operate and develop best practice arrangements to prevent, detect, investigate and manage the outcome of investigations into energy theft.

- 3.16. In particular the requirement to develop best-practice industry procedures will clarify the roles and procedures between network operators and suppliers. This will create effective arrangements to prevent, detect, investigate and manage the outcome of investigations into energy theft.
- 3.17. Clarification of the roles and procedures between network operators and suppliers has already progressed through discussions at the ETIP and GTWG. Arrangements with external bodies such as the PSNI have also been enhanced through discussions at the working groups. We expect that the arrangements will continue to improve as the industry procedures are finalised.
- 3.18. Once the licence condition takes effect and the industry procedures are operational we expect there will be a robust and effective regulatory framework in place to deal with energy theft.
- 3.19. Additionally the Energy Theft CoP require that licensees keep-up-to-date with the latest methods for preventing, detecting and investigating energy theft. This approach will ensure that procedures remain fit-for-purpose on a continuous improvement basis. The established working groups have indicated that they will continue to meet after the licence condition has come into effect, as a means of keeping up-to-date with relevant issues and to maintain co-operation between parties.
- 3.20. We also expect that the development of a single Energy Theft CoP for each sector will ensure that industry procedures are consistent across network operators and suppliers.
- 3.21. For the reasons set out above, we consider that the introduction of an Energy Theft CoP licence condition will enhance consumer protection arrangements in relation to energy theft.

## 4. Next steps

- 4.1. This consultation seeks to gather stakeholder views on the appropriateness, accuracy and completeness of the Licence modifications set out in Section 3.
- 4.2. The UR proposes to consult for a period of 31 days from the publication date of this document. Any responses, representations or objections to this consultation will be considered prior to any decision.
- 4.3. Responses to this consultation paper should be submitted by 5pm on Friday 31<sup>st</sup> August 2018. Responses should be sent to:

Richard Hume  
Utility Regulator  
Queen's House  
14 Queen Street  
Belfast  
BT1 6ED  
[richard.hume@uregni.gov.uk](mailto:richard.hume@uregni.gov.uk)

Our preference is for responses to be submitted by e-mail.

- 4.4. After consideration of the responses, we will publish our final modification decision stating our reasons and effects. As noted in the final decision paper we intend to align the implementation of the new licence condition with the completion and implementation of the industry procedures. The effective date for the licence modification must be at least 56 days after the publication of the decision to modify the licence is published.
- 4.5. Individual respondents may ask for their responses (in whole or in part) not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, we will also ask respondents to supply the redacted version of the response that can be published.
- 4.6. As a public body and non-ministerial government department, we are required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain.
- 4.7. Note it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as

confidential.

- 4.8. It is therefore important that respondents take account of this and in particular, if asking us to treat responses as confidential, respondents should specify why they consider the information in question should be treated as such.
- 4.9. This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact us and we will be happy to assist.



## 5. Appendices

Appendix Number	Description
Appendix 1	NIE Networks Distribution Licence Modification Notice
Appendix 2	Electricity Suppliers Licence Modification Notice
Appendix 3	Gas Suppliers Licence Modification Notice
Appendix 4	Gas Conveyance (Distribution) Licence Modification Notice