

Proposed Modifications to NIE Networks Distribution Licence: Electricity connections review

Consultation Paper
31 May 2017



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, 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

We are publishing a consultation on licence modifications pursuant to our electricity connections review decisions.

Audience

The licensees affected, other regulated companies in the energy industry, government, other statutory bodies and consumer groups with an interest in the energy industry.

Consumer Impact

TABLE OF CONTENTS

1	Introduction	4
	Purpose of this Document	4
	Approach	4
	Remaining document structure	4
2	Details of proposed licence modifications.....	5
	Overview	5
	Licence Condition 30 and 31	5
	Proposed modifications	5
	Reasons and effects	5
3	Next Steps	7
	Submission of Consultation responses	7
	Timelines	7
	Appendices	9
	Appendix 1: Proposed Article 14 modifications to NIE Network's Distribution Licence	9
	Appendix 2: Notice under Article 14(2) of the Electricity (Northern Ireland) Order 1992	15

1 Introduction

Purpose of this Document

- 1.1 We are consulting on licence modifications under Article 14 of The Electricity (Northern Ireland) Order 1992 (The Order).
- 1.2 We are making modifications to Part II Condition 30 and 31 of the NIE Networks Distribution Licence.
- 1.3 The licence modifications proposed in this document refer to a number of decisions we published today in Chapter 1 of our *Review of Electricity Distribution and Transmission Connections Policy* decision ('31 May decision paper').

Approach

- 1.4 We have consulted extensively with stakeholders on the decisions which underpin these proposed licence modifications. We have also provided NIE Networks with details on the proposed licence modifications, including advance sight of the proposed changes to their licence, at as early a stage as possible.

Remaining document structure

- 1.5 This consultation document is structured in a number of chapters as follows:
 - Chapter 2 details our proposed licence modification in this area as well as the associated reasons and effects.
 - Chapter 3 sets out next steps, including when you must respond by.
- 1.6 The document is also complemented by two annexes. There is one annex setting out the licence modifications and another containing the legislative notices of the licence modifications.

2 Details of proposed licence modifications

Overview

- 2.1 As noted in Chapter 1, licence modifications are required to bring into effect certain decisions from our 31 May decision paper.
- 2.2 In this section we present the proposed licence modifications, and the reasons and effects for required licence changes.

Licence Condition 30 and 31

Proposed modifications

- 2.3 The Licence Condition has been restructured (existing wording moved within the Condition along with new headings where relevant).
- 2.4 In addition to these changes, we also propose modifying Condition 30 and 31 by adding new wording or whole paragraphs to the licence, or by removing an existing paragraph from the licence.¹ These are highlighted as follows:

Condition 30

- Inserting new words - “*consistent*” - and - “*detailed*” - in proposed Part A Paragraph 2 a) and b) and in proposed Part B Paragraph 9 b) (with respect to word “*detailed*”).
- Inserting proposed Part A Paragraph 4 d) and Part B Paragraph 6 d).
- Inserting proposed Part B Paragraph 5.
- Inserting proposed Part B Paragraph 6.
- Inserting proposed Part B Paragraph 7.
- Inserting reference to “*Article 19 (1) of the Order*”, in proposed Part B, Paragraph 8.
- Inserting new wording - “*which in the opinion of the licensee*” - in proposed Part B, Paragraph 8 b).
- Inserting reference to “*Article 19 (1) of the Order*”, in proposed Part B, Paragraph 9.
- Removing Paragraph 5 of the current licence
- Removing Paragraph 8 of the current licence.

Condition 31

- Removing wording from current licence which relates to connections agreement disputes (but retaining that which relates to Use of System agreement disputes).

Reasons and effects

- 2.5 Our changes above remove inconsistencies and take account of any duplication between the legislative provisions and the current Condition 30 and 31, and reflects our proposals on connections policy as outlined in our 31 May decision paper. This will remove any associated confusion and provide certainty, in line with our policy objectives.

¹ We note that in some instances new whole paragraphs being proposed for addition, as referenced above in paragraph 2.4, contain some of the existing wording in the licence. So the use of the term ‘new’ above is used as a simplification to guide readers to aspects of the proposed licence which, in our view, has a material amount of new text (but may still contain some original wording which remains relevant).

- 2.6 Our detailed reasons and effects are set out in paragraphs 1.1 to 1.54 of the 31 May decision paper, including reasoning and effects set out in our 3 April consultation paper where relevant.

3 Next Steps

Submission of Consultation responses

- 3.1 This is an open consultation paper. We invite stakeholders to express a view on any particular aspect of the paper or any related matter. Responses should be received by close of business Thursday 28 June 2017 and should be addressed to:
- Ciaran MacCann
Compliance and Networks
Queens House
14 Queens Street
Belfast
BT1 6ED
Tel: 028 9031 6661
Email: ciaran.maccann@uregni.gov.uk
- Our preference would be for responses to be submitted by email.
- 3.2 We note that we may make public any responses to this consultation on licence modifications. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 3.3 Information provided in response to this consultation, include personal information, may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things with obligations of confidence.
- 3.4 In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, or itself, be regarded as binding on the Authority.
- 3.5 This document is available in accessible formats. Please contact Ciaran MacCann on 028 9031 6661 or email ciaran.maccann@uregni.gov.uk to request this.

Timelines

- 3.6 The table below provides an overview over the next steps and associated timelines for the licence modification process.

Next Steps	Proposed Date
Closure of consultation on proposed licence modifications	28 June 2017
Decision on licence modifications	5 July 2017
Effective date of licence modification decision	31 August 2017

Table 1: Next Steps

- 3.7 We note that this timetable allows for the effective date of the licence modifications to be at least 56 days after the publication of the licence modification decision, in line with the requirements of the Electricity (Northern Ireland) Order 1992.
- 3.8 This 56 day period provides an opportunity for parties to appeal the decision on the proposed licence modifications to the CMA (Competition and Markets Authority).

Appendices

Appendix 1: Proposed Article 14 modifications to NIE Network's Distribution Licence

Condition 30. Requirement to Offer Terms for Connection to and Use of Distribution System

Part A – Use of System

Agreement for Use of System

1. Subject to paragraph 3, the Licensee shall, on receiving a request to do so from any person asking it to do so, offer to enter into an agreement for use of system under which it will:
 - (a) accept into the Distribution System, at such entry point or points and in such quantities as may be specified in the request, electricity to be provided by or on behalf of such person; and
 - (b) distribute by means of the Distribution System such quantities of electricity as are referred to in sub-paragraph (a) above (subject to any distribution losses) to such exit point or points on the Distribution System and to such person or persons as may be specified by the person making the request.

Charges and other terms for Use of System

2. Where the Licensee makes an offer to enter into an agreement for use of system under paragraph 1, it shall in that offer set out:
 - (a) the charges to be paid by the person seeking use of system, such charges (unless manifestly inappropriate) to be consistent with and referable to the statement prepared in accordance with paragraph 1(a) (or, as the case may be, paragraph 8) of Condition 32 or any revision thereof and to be in conformity with the requirements of paragraph 4 of Condition 32; and
 - (b) such other detailed terms as may be appropriate for the purposes of the agreement.

Exceptions

3. The Licensee shall not be obliged pursuant to paragraph 1 to offer to enter, or to enter into, a agreement for use of system if to do so would involve the Licensee:
 - (a) in breach of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the Distribution Business;
 - (b) in breach of its duties under Article 12 of the Order;
 - (c) in breach of the Distribution Code; or
 - (d) if the person making the application does not undertake to be bound by such parts of the Distribution Code and to such extent as the Authority shall from time to time specify in directions issued to the Licensee for the purposes of this Condition.

Responding to Use of System Requests – Timings

4. Where any person makes a request to the Licensee for use of system, the Licensee shall:
- (a) as soon as practicable; and
 - (b) in any event no later than:
 - (i) where the request is for use of system only, 28 days; and
 - (ii) where the request is for both a connection to the Distribution System and use of system, 3 months,after receipt by the Licensee of all such information in relation to the request for use of system as the Licensee may reasonably require,
 - (c) offer terms for an agreement for use of system; or
 - (d) inform the person requesting use of system that the Licensee is unable to offer terms for by virtue of one or more of the exceptions set out in paragraph 3 above, together with the Licensee's reasons for the application of the relevant exception.

Part B – Distribution Connections

Treatment of Connection Requests

5. Where the Licensee receives a request from any person asking it to make a connection between (1) any premises or any other electricity distribution or transmission system, and (2) the Distribution System, the Licensee:
- (a) shall not treat that request as anything other than a notice given under Article 20(1) of the Order requiring it to make a connection pursuant to Article 19(1) of the Order; and
 - (b) to the extent that the request does not comply with the requirements of Article 20 of the Order, shall take all reasonable steps, including by way of providing information and assistance to the person making the request, to ensure that it does so comply.

Responding to Connection Requests - Timings

6. Where the Licensee receives a request from any person for a connection to made to the Distribution System, the Licensee shall:
- (a) as soon as practicable; and
 - (b) in any event no later than 3 months,
- after receipt by the Licensee of an application containing all such information in relation to the required connection as the Licensee may reasonably request:
- (c) offer terms for the making of the connection, which offer meets the requirements of Article 20(5) of the Order and paragraphs 7 to 11 below; or
 - (d) inform the person requesting the connection that the Licensee is unable to offer terms for the making of the connection by virtue of one or more the exceptions available to the

Licensee under Article 21 of the Order, together with the Licensee's reasons for the application of the relevant exception.

7. The Authority may on the application of:

- (a) the Licensee, following consultation by the Licensee with the person requesting the connection and such other persons as the Licensee considers may be affected or interested,

consent in writing that the period of 3 months specified in paragraph 6(b) shall, subject to such conditions as may be specified, be a longer period (including by reference to a specific date) as specified in the consent.

Provision of information about connection terms

8. Where the Licensee makes an offer to make a connection under Article 19(1) of the Order, it shall ensure that the offer makes detailed provision in relation to:

- (a) any works, and carrying out of any such works, that are required to connect the Distribution System to any other system for the transmission or distribution of electricity and for the obtaining of any consents necessary for such purposes;
- (b) any works, and the carrying out of any such works, required in respect of the extension or reinforcement of the Distribution System which in the opinion of the Licensee are necessary or appropriate by reason of making the connection and for the obtaining of any consents necessary for such purposes;
- (c) except to the extent included in any agreement entered into pursuant to Condition 4, the installation of:
 - (i) any electricity meters required to enable the Licensee to measure the electricity being accepted into the Distribution System at the specified entry point or points or leaving the Distribution System at the specified exit point or points;
 - (ii) any special metering, telemetry or data processing equipment for the purpose of:
 - (A) enabling any person who is bound to comply with the Distribution Code to comply with its obligations in respect to metering; or
 - (B) the performance by the Licensee of any related service;
- (d) the installation of such switchgear or other apparatus (if any) as may be required for the interruption of supply.

Charges and other terms for connection

9. Where the Licensee offers to make a connection under Article 19(1) of the Order, it shall in that offer set out:

- (a) the connection charges to be paid to the Licensee, such charges (unless manifestly inappropriate):

- (i) to be presented in such a way as to be consistent with and referable to the statements prepared in accordance with paragraph 1(b) (or, as the case may be, paragraph 8) of Condition 32, or any revision thereof; and
 - (ii) to be set in conformity with the requirements of paragraphs 6 and 7 of Condition 32;
 - (b) such other detailed terms as may be appropriate for the purposes of making the connection; and
 - (c) taking account of paragraph 10 below, the date by which any works required for the making of the connection (including for this purpose any works to reinforce or extend the Distribution System) shall be completed.
10. Where the Licensee receives a connection request which relates to a Relevant Generation Connection:
- (a) the date referred to in paragraph 9(c) shall be no later than 24 months of the date the connection offer is accepted (the 'relevant period'), unless it is not reasonably practicable for the works to be completed within the relevant period (in which case the licensee shall provide the person requesting the connection with the reasons why it is not reasonably practicable for the works to be completed within the relevant period); and
 - (b) unless otherwise agreed by the person requesting the connection, a failure to complete such works by the date specified shall, where the Licensee's connection offer is accepted, be a material breach of the resulting connection agreement entitling the person to rescind that agreement.
11. For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works (or in relation to any of the other matters referred to in paragraph 6 of Condition 32) under an agreement for making a connection or modification to an existing connection the Licensee shall have regard to:
- (a) the benefit (if any) to be obtained or likely in the future to be obtained by the Licensee or any other person as a result of the carrying out of such works (or of such other matters) whether by reason of the reinforcement or extension of the Distribution System or the provision of additional entry or exit points on such system or otherwise; and
 - (b) the ability or likely future ability of the Licensee to recoup a proportion of such costs from third parties.

Works on the transmission system

12. Where, in response to a request for a connection to the Distribution System, the Licensee is, following consultation, advised by the Transmission System Operator that works are also required on the transmission system, the references in paragraph 8 to works on the Distribution System shall apply equally to works on the transmission system.

Part C – Definitions and Interpretation

Definitions

13. In this Condition:

"high efficiency cogeneration"	has the meaning given to it in Directive 2012/72/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency.
"Relevant Generation Connection"	means a connection between the Distribution System and a high efficiency cogeneration generating installation (the 'relevant premises') the purpose of which is to enable the Distribution System to receive a supply of electricity from the relevant premises.

Condition 31. Functions of the Authority – Use of System Agreement Disputes

1. Paragraph 2 applies where the Licensee:
 - (a) receives a request pursuant to paragraph 1 of Condition 30; and :
 - (b) in response to that request:
 - (i) informs a person requesting use of system that the Licensee is unable to offer terms for such use of system by virtue of one or more the exceptions set out in paragraph 3 of Condition 30; or
 - (ii) offers terms to enter into an agreement for use of system which terms are not accepted by the person requesting use of system.
2. Where this paragraph applies, the Authority may, pursuant to Article 11(3)(c) of the Order and on the application of either the person requesting use of system or the Licensee, settle any dispute between the Licensee and that person in respect of the agreement for use of system in such manner as appears to the Authority to be reasonable having (insofar as relevant) regard in particular to the following considerations:
 - (a) that such person should pay to the Licensee the use of system charges determined in accordance with paragraph 3 of Condition 32;
 - (b) that the performance by the Licensee of its obligations under the agreement should not involve the Licensee in a breach such as is referred to in paragraph 3 of Condition 30;
 - (c) that the terms and conditions of the agreement so settled by the Authority and of any other agreements entered into by the Licensee pursuant to an application under paragraph 1 of Condition 30 should be, so far as circumstances allow, in as similar a form as is practicable.
3. Where the person requesting use of system wishes to proceed on the basis of the agreement as settled by the Authority, the Licensee shall forthwith enter into and implement such agreement in accordance with its terms.
4. If either party to an agreement for use of system entered into pursuant to Condition 30 or this Condition proposes to vary the contractual terms of such agreement in any manner provided for under such agreement, the Authority may, at the request of the Licensee or other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Authority to be reasonable.

Appendix 2: Notice under Article 14(2) of the Electricity (Northern Ireland) Order 1992

THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION NOTICE UNDER ARTICLE 14(2) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1996 MODIFICATIONS PROPOSED TO THE ELECTRICITY DISTRIBUTION LICENCE HELD BY NORTHERN IRELAND ELECTRICITY NETWORKS

The Northern Ireland Authority for Utility Regulation ('the Authority') proposes to modify the conditions of a licence in exercise of the powers conferred on it by Article 14(1) of the Electricity (Northern Ireland) Order 1992 ("the Order").

In accordance with Article 14(2) of the Order the Authority gives notice as follows:

1. The Authority makes modifications to the Electricity Distribution licence ("the Licence") held by Northern Ireland Electricity Networks (Distribution) Limited ("the Licensee").
2. The modifications are to the conditions of the Licence as set out in Appendix 1 of this document.
3. Details of the modifications are set out in chapters 2 of this document.
4. The reasons for the licence modifications are set out in chapters 2.
5. The effects of the licence modifications are set out in chapters 2.
6. Representation with respect to the proposed modifications may be made by close of Thursday 28 June 2017 to:

Ciaran MacCann
Compliance and Networks
Queens House
14 Queen Street
Belfast
BT1 6ED
Tel: 028 90316661
Email: ciaran.maccann@uregni.gov.uk
7. The Authority has, pursuant to Article 14(4) of the Order, sent a copy of this notice to the Licensee, the Department for Economy and also to the General Consumer Council for Northern Ireland.

Dated this 31 May 2017

Jenny Pyper
For and on behalf of the Northern Ireland Authority for Utility Regulation

