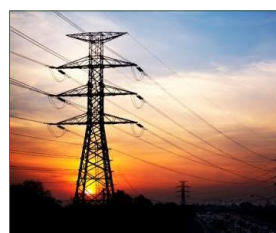


# Proposed Licence Modification: Implementing Fuel Switching Agreements

16 February 2015



# 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

Fuel Switching Agreements will become relevant to those generators who have the capability of switching from one fuel type to another. These Agreements will be made between the System Operator of Northern Ireland (SONI) and generators with standard terms and conditions approved by the Utility Regulator.

The Department of Enterprise Trade and Investment (DETI) refer to Fuel Switching Agreements within their Fuel Security Code for emergency arrangements.

While SONI can currently issue an instruction to a generator to switch fuels, these licence modifications to the SONI System Operator Licence facilitate the implementation of Fuel Switching Agreements to set out the rights and obligations of the Generator and SONI in relation to a range of aspects associated with fuel switching.

## Audience

Electricity transmission system operator licence holder, electricity generation licence holders, gas industries, regulated companies, government, other statutory bodies and the wider stakeholder body.

## Consumer impact

Enhanced operational security of supply through the setting out of obligations for secondary fuel capabilities, fuel switching testing, fuel stock tests and recovery of costs to meet fuel switching obligations.

Costs are dependent upon the length of time a generator is required to operate on secondary fuel, however an estimate totalling £280,000 per annum has been provided by the System Operator for Northern Ireland (SONI).

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# Executive Summary

The introduction of Fuel Switching Agreements are expected to enhance the operational security of supply by setting out the rights and obligations of the generator and SONI Ltd in relation to fuel switching, fuel switching testing, secondary fuel stock tests and associated cost recovery.

Fuel Switching Agreements will become commercial agreements between generators and SONI Ltd with the standard terms and conditions having been approved by the Utility Regulator. DETI require the Utility Regulator's approval of these agreements as referenced in their Fuel Security Code<sup>1</sup>.

While Fuel Switching Agreements will assist with the effective management of a potential emergency situation such as a Fuel Security Event<sup>2</sup>, they will also be relevant when generators are required to switch fuels for operational and/or testing purposes.

The Utility Regulator has been working closely with DETI and SONI in recent years, both in terms of assisting DETI with their current review of the Fuel Security Code, and working with SONI in relation to drafting Fuel Switching Agreements.

The Utility Regulator is now therefore consulting upon proposed licence modifications which aim to provide a suitable framework to facilitate the implementation of Fuel Switching Agreements, and their subsequent review.

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<sup>1</sup> DETI 2011 Fuel Security Code [http://www.detini.gov.uk/fuel\\_security\\_code-2](http://www.detini.gov.uk/fuel_security_code-2)

<sup>2</sup> Fuel Security Event defined within DETI's Fuel Security Code as "an event where primary fuel supplies for electricity generation are disrupted".

As Fuel Switching Agreements can be used for operational purposes and/or for emergency situations, the Utility Regulator is proposing these fuel switching services within the scope of System Support Services as defined in the SONI Ltd electricity transmission licence and all electricity generation licences.

Fuel Switching Agreements will include a cost recovery mechanism for costs incurred by a generator complying with instructions from SONI under the Grid Code to switch to and from a secondary fuel source. Cost recovery will only be provided for those costs which are not recoverable by the generator under the provisions of the Single Electricity Market (SEM) Trading and Settlement Code.

In relation to cost the introduction of Fuel Switching Agreements and the subsequent reduction in generator financial risk e.g. testing costs, are not expected to materially impact the current position. Upon the implementation of Fuel Switching Agreements SONI Ltd will be able to make payment for an approved fuel switching claim. These costs are treated as pass-through costs and will be adjusted for annually within the Utility Regulator's tariff process. The costs associated with fuel switching are difficult to forecast as they are dependent upon the number of fuel switches and the length of time the generator has had to operate on secondary fuel. SONI have provided the Utility Regulator with an estimate totalling £280,000 per annum.

Based upon the proposed licence modifications, SONI Ltd will have up to three months from the date these licence modifications would become effective to prepare, submit and obtain the Utility Regulator's approval for the terms and conditions of a Fuel Switching Agreement.

# 1. Introduction

## **Background to Consultation**

1.1 The Department of Enterprise, Trade and Investment (DETI) published a revised Fuel Security Code in December 2011. The objectives of this Code are to assist with the effective management of a Fuel Security Event where primary fuel supplies for electricity generation are disrupted. This Code sets out the principles for a Fuel Switching Agreement as a mechanism for generators to recover costs for being instructed to switch fuels beyond those not recoverable in the electricity market.

1.2 DETI is in the process of finalising a further review of their Fuel Security Code which is expected to continue to require Fuel Switching Agreements to be in place between the System Operator for Northern Ireland (SONI) and generators. The Fuel Security Code requires the Utility Regulator to approve the terms of the Fuel Switching Agreement.

1.3 To progress the implementation of Fuel Switching Agreements the Utility Regulator have been working with DETI and SONI over the past couple of years in relation to the current review of the Fuel Security Code and the drafting of standard terms for a Fuel Switching Agreement.

1.4 While Fuel Switching Agreements will assist with the effective management of a potential emergency situation such as a Fuel Security Event, they will also be relevant for generators who may also be required to switch fuels for operational and/or testing purposes.

## **Purpose of Consultation**

1.5 The Utility Regulator has to ensure Fuel Switching Agreements have an appropriate legal standing within the SONI electricity transmission licence for their implementation and subsequent revisions.

1.6 Therefore, this consultation seeks stakeholder views on the proposed licence modifications to facilitate the implementation of Fuel Switching Agreements.

1.7 The outcome of this consultation will inform any necessary changes to these licence modifications. Upon implementation of the appropriate licence modifications the Utility Regulator (UR) will be in a position to review, and approve the standard terms and conditions of a Fuel Switching Agreement. SONI will then subsequently be in a position to put in place Fuel Switching Agreements with those generators who can provide fuel switching capabilities.

## **How to Respond**

1.8 The Utility Regulator welcomes all stakeholder views and comments on the proposals set out in this consultation paper.

1.9 The consultation period will close at **5pm on Monday 16<sup>th</sup> March 2015**.

Responses should be sent to:

Karen Shiels

Utility Regulator

Queens House

14 Queens Street

Belfast

BT1 6ED



Email: [Karen.Shiels@uregni.gov.uk](mailto:Karen.Shiels@uregni.gov.uk)

Tel: 028 9031 6639

- 1.10 Responses to this consultation may be made public by the Utility Regulator. 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.
- 1.11 Information provided in response to this consultation, including 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 the information provided in the response is 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.
- 1.12 In view of this, it would be helpful to receive an explanation regarding any information provided as confidential. If the Utility Regulator receives a request for disclosure of the information, full account of your explanation will be taken but an assurance cannot be given that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority.

## 2. Fuel Switching Agreements

2.1 The introduction of Fuel Switching Agreements are expected to enhance the operational security of supply, by setting out the rights and obligations of the generator and SONI Ltd in relation fuel switching, fuel switching testing, secondary fuel stock tests and associated cost recovery.

2.2 Fuel Switching Agreements will be a commercial agreement between a generator and SONI Ltd, with the standard terms and conditions having been approved by the Utility Regulator. DETI require the Utility Regulator's approval of these agreements as referenced in their Fuel Security Code.

2.3 There are expected to be transmission system operational benefits from SONI Ltd having these agreements in place. Generators with the appropriate fuel switching capabilities can provide an additional service to SONI Ltd beyond provision of energy and other support services. From DETI's perspective, having these agreements in place assists the effective management of an emergency event, also known as a Fuel Security Event within the Fuel Security Code.

2.4 It should be noted that the Grid Code currently permits a generator to change fuels, provided the generator has received the electricity Transmission System Operator (SONI) prior consent<sup>3</sup>. Fuel Switching Agreements provide greater clarity in relation to the rights and obligations of the generator and SONI Ltd.

2.5 Generators are likely to incur higher costs if instructed to switch by the

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<sup>3</sup> SONI Grid Code: SDC2.4.2.4c

<http://www.soni.ltd.uk/media/documents/Operations/Grid-Code/SONI%20Grid%20Code%20-%2029%20October%202013.pdf>

Transmission System Operator. In the event these costs are not recoverable from the market<sup>4</sup>, they may be recoverable within the terms of the Fuel Switching Agreement. Double recovery of costs will not be permitted and controls will be in place when assessing any claim made under the terms of a Fuel Switching Agreement.

2.6 In relation to cost the introduction of Fuel Switching Agreements and the subsequent reduction in generator financial risk e.g. testing costs, are not expected to materially impact the current position. Upon the implementation of Fuel Switching Agreements SONI Ltd will be able to make payment for an approved Fuel Switching claim as part of the ancillary services revenue stream. These costs are treated as pass-through costs and will be adjusted for annually within the Utility Regulator's tariff process. The costs associated with fuel switching are difficult to forecast as they are dependent upon the number of fuel switches and the length of time the generator has operated on secondary fuel. SONI have provided the Utility Regulator with an estimate totalling £280,000 per annum.

## **Proposed Licence Modifications**

2.7 As Fuel Switching Agreements can be used for operational purposes and/or for emergency situations the Utility Regulator is proposing fuel switching services lie within the scope of System Support Services as defined in SONI Ltd electricity transmission licence and all electricity generation licences.

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<sup>4</sup> The current Single Electricity Market (SEM) Structure will change following the introduction of I-SEM in 2017. This will require subsequent changes to some aspects of the Fuel Switching Agreement including the cost recovery mechanism.

## SONI Ltd Electricity Transmission Licence

2.8 It is proposed that SONI Ltd electricity transmission licence be extended to specifically reference the process for implementation and subsequent review of Fuel Switching Agreements between SONI Ltd and generators. As a result, proposed modifications to Condition 29 'Economic Purchasing of System Support Services' have been made.

2.9 In effect the proposed process for implementing Fuel Switching Agreements is as follows:

- a) SONI Ltd will have up to three months from the date these licence modifications would become effective to prepare, submit and obtain the Utility Regulator's approval for the standard terms and conditions for a Fuel Switching Agreement.
- b) A generator with fuel switching capabilities can request to enter into a Fuel Switching Agreement with SONI. The purpose of this approach is to allow generators the ability to request a Fuel Switching Agreement at any time, given SONI Ltd have already the powers within the Grid Code to instruct a generator to switch fuels.
- c) SONI Ltd will not be able to enter into a Fuel Switching Agreement with a generator on terms outside those proposed within Condition 29 nor vary the terms and conditions without first obtaining the Utility Regulator's approval of a proposed amendment.
- d) The most up to date terms and conditions for a Fuel Switching Agreement will be available on SONI Ltd's website and available on request.

2.10 The proposed key areas to be addressed within the Fuel Switching Agreement are:

- a) Cost recovery for costs incurred by a generator complying with instructions from SONI under the Grid Code to switch to and from a secondary fuel source. Cost recovery will only be provided for those costs which are not recoverable by the generator under the provisions of the Single Electricity Market (SEM) Trading and Settlement Code.
- b) Provision for SONI Ltd to give instructions relating to fuel stock tests,
- c) The setting out of rights and obligations for both the generator and SONI Ltd in relation to a) and b) above.

2.11 SONI may enter into a Fuel Switching Agreement with a generator upon a generator's request, however SONI would be expected to only make use of such fuel switching services where it is appropriate and economical to do so, in accordance with the existing paragraphs 1 and 2 of condition 29.

2.12 The Utility Regulator has also chose to propose a modification to the definition of 'System Support Services' to explicitly reference fuel switching services within the scope of this definition.

#### All Electricity Generation Licences

2.13 For the purposes of consistency and completeness the Utility Regulator is proposing to modify the definition of System Support Services within each electricity generation licence to also explicitly reference fuel switching services within the scope of this definition.

2.14 For illustrative purposes only, all references to the number of a

condition included in existing electricity generation licences use the relevant number of the condition as included in the electricity generation licence granted to AES Kilroot Generating Limited. The relevant and equivalent condition in other existing electricity generation licences may have a different number.

#### Article 14 Licence Modification Notice

2.15 A formal licence modification notice made under Article 14 of the Electricity (NI) Order 1992 is included with this consultation paper at Annex

Question 1: Respondents are asked for their views on the process for implementing and reviewing Fuel Switching Agreements.

Question 2: Respondents are asked if they have any representations or objections with respect to the proposed modifications identified in the formal licence modification notice in Annex 1.

### **Section 75 of the Northern Ireland Act 1998**

2.16 As a public authority, the Utility Regulator has a number of obligations arising from section 75 of the Northern Ireland Act 1998. These obligations concern the promotion of equality of opportunity between:

- (a) persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- (b) men and women generally;
- (c) persons with disability and persons without; and
- (d) persons with dependants and persons without.

2.17 The Utility Regulator must also have regard to the promotion of good relations between persons of different religious belief, political opinion or racial groups.

2.18 In the development of its policies the Utility Regulator also has a statutory duty to have due regard to the needs of vulnerable customers i.e. individuals who are disabled or chronically sick, individuals of pensionable age, individuals with low incomes and individuals residing in rural areas. Some of the above equality categories will therefore overlap with these vulnerable groupings.

2.19 In order to assist with equality screening of the proposals contained within this consultation paper, the Utility Regulator requests that respondents provide any information or evidence in relation to the needs, experiences, issues and priorities for different groups which they feel is relevant to the implementation of any of the proposals. Furthermore, the Utility Regulator welcomes any comments which respondents might have in relation to the overall equality impact of the proposals.

Question 3: Respondents are asked to consider if the proposals within this paper have an impact on equality of opportunity in relation to the persons listed in section 75 of the Northern Ireland Act? If yes, please provide reasons and state whether you believe the impact is positive or negative.

## 3. Summary of Consultation Questions

3.1 Respondents are asked for their views on the following:

**Question 1:** Respondents are asked for their views on the process for implementing and reviewing Fuel Switching Agreements.

**Question 2:** Respondents are asked if they have any representations or objections with respect to the proposed modifications identified in the formal licence modification notice in Annex 1.

**Question 3:** Respondents are asked to consider if the proposals within this paper have an impact on equality of opportunity in relation to the persons listed in section 75 of the Northern Ireland Act? If yes, please provide reasons and state whether you believe the impact is positive or negative.



# Annex 1 – Article 14 Licence Modification Notice

The Northern Ireland Authority for Utility Regulation

## NOTICE UNDER ARTICLE 14(2) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1992

### MODIFICATION OF SONI LTD ELECTRICITY TRANSMISSION LICENCE AND ALL ELECTRICITY GENERATION LICENCES

In pursuance of its powers under Article 14(1) of the Electricity (Northern Ireland) Order 1992 (as amended) (hereafter referred to as the “**Order**”), the Northern Ireland Authority for Utility Regulation (hereafter referred to as the “**Authority**”) hereby gives notice under Article 14(2) as follows:

- 1 It proposes to modify the electricity transmission licence (the “**Licence**”) held by System Operator for Northern Ireland (SONI) Limited (the “**Licensee**”). It is also proposed to modify all electricity generation licences.
- 2 The proposed modifications within the SONI Ltd electricity transmission licence extend the existing condition 29 relating to the economic purchasing of system support services to include the process specific to Fuel Switching Agreements together with the definition of System Support Services explicitly referencing fuel switching services. The effect of these proposals is to facilitate the implementation of Fuel Switching Agreements between the generators and the Licensee.
- 3 The proposed modifications to all electricity generation licences are to amend the definition of system support services to explicitly reference fuel switching services. The effect of this is to keep the definition of system support services consistent within relevant licences.
- 4 The reason for the modification is to facilitate the implementation of Fuel Switching Agreements between generators and SONI Ltd which set out the rights and obligations of the generator and SONI Ltd in terms of fuel switching, fuel switching testing, secondary fuel stock tests and recovery of costs. These Agreements are required by the Fuel Security Code issued by the Department of Enterprise, Trade and Investment (DETI).
- 5 A copy of the proposed modifications to SONI Ltd electricity transmission licence is set out in Appendix A.

- 6 A copy of the proposed modifications to all electricity generation licences is set out in Appendix B. Appendix B shows, in mark-up, the proposed modifications to the definition of System Support Services based on AES Kilroot Generating Ltd Electricity Generation Licence as a template for all other electricity generation licences.
- 7 Representations or objections with respect to the proposed modifications may be made **on or before 5pm on Monday 16<sup>th</sup> March 2015**, by writing to or emailing:
- Karen Shiels  
The Utility Regulator  
Queens House  
14 Queen Street  
Belfast  
BT1 6ED  
Email: [Karen.Shiels@uregni.gov.uk](mailto:Karen.Shiels@uregni.gov.uk)  
Tel: 028 9031 6639  
Fax: 02890 311740
- 8 The Authority has, pursuant to Articles 14(3) and 14(4) of the Order respectively, served a copy of this notice on the Licensee and sent a copy to the Department of Enterprise Trade and Investment.

Dated this 16 day of February 2015

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

**cc**  
**John Mills, DETI**  
**Robin McCormick, SONI Limited**

## Appendix A

### Modifications to SONI Limited's electricity transmission licence

It is proposed to insert the following Fuel Switching Agreement sub heading within Condition 29 of the Licence immediately after paragraph 3:

#### Fuel Switching Agreement

- 4 The Licensee shall by no later than 3 months from the date this Condition comes into force prepare, submit to the Authority and obtain the Authority's approval to the terms and conditions of an agreement (a **Fuel Switching Agreement**) which shall:
  - (a) provide for the matters set out in paragraph 5; and
  - (b) apply, where entered into by the Licensee with a generator pursuant to paragraph 7, where the Licensee contracts for system support services that are fuel switching services in accordance with paragraphs 1 and 2.
- 5 The matters referred to in paragraph 4 are terms and arrangements which:
  - (a) provide for the recovery of such costs as:
    - (i) are incurred by the generator in complying with instructions given to it by the Licensee under or pursuant to the Grid Code for the generation set to:
      - (A) switch from operating on the basis of using one fuel source (the '**primary fuel**') to operating on the basis of using another fuel source (the '**secondary fuel**');

- (B) switch back from operating on the basis of using the secondary fuel to operating on the basis of using the primary fuel; and
    - (ii) are not recoverable by the generator under the provisions of the Single Electricity Market Trading and Settlement Code;
  - (b) provide for the Licensee to give instructions to the generator to undertake fuel stock tests;
  - (c) set out the rights and obligations of the generator in relation to the steps to be taken following receipt of such instructions as are referred to in paragraph 5(a)(i) and 5(b) above; and
  - (d) set out the rights and obligations of the Licensee in relation to the steps to be taken in issuing, and following the issue of, such instructions as are referred to in paragraph 5(a)(i) and 5(b) above.
- 6 The Licensee shall, where requested to do so by a generator that owns or operates a Relevant Generation Set, enter into a Fuel Switching Agreement with the generator.
- 7 The Licensee shall not:
- (a) enter into an agreement with a generator which sets out terms and arrangements for the matters referred to in 5 other than under and in accordance with this Condition 29;
  - (b) vary the terms and conditions of any Fuel Switching Agreement to which it is a party without first obtaining the Authority's approval to the proposed variation.
- 8 The Licensee shall publish on its web-site, and send to any person on request, the most up to date version of a Fuel Switching Agreement.

#### Definitions

9 In this Condition:

<b>Relevant Generation Set</b>	<b>means a generation set that is capable of switching from operating on the basis of using one fuel source (the primary fuel) to operating on the basis of using another fuel source (the secondary fuel).</b>
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Amendment of the definition of System Support Services so that it reads as follows -

**“System Support Services”** means:

- (a) spinning reserve, fast start, black start, reactive power, frequency control and such other services as any authorised electricity operator may be required to have available ~~as system support services~~ in association with any generation set pursuant to the Grid Code, including ~~without limitation fuel switching services and~~ outage planning incentive arrangements either directly with a generator or which the Power Procurement Business makes available to the Licensee; and
- (b) such services as any electricity undertaking may have agreed to have available as being system support services in association with any generation set or Interconnector pursuant to an agreement made with the Licensee,

and which may be offered for sale to the Licensee for the purpose of securing stability of operation on the transmission system and/or the systems linked to the transmission system.

## **Appendix B**

### **Proposed Modifications (shown in mark up) to Electricity Generation Licences (based on AES Kilroot Generating Ltd Electricity Generation Licence as a template)**

It is proposed to modify the definition of System Support Services consistent with the changes being proposed within the SONI Ltd electricity transmission licence.

#### **Condition 1 - Amendments Proposed to Definition of System Support Services**

<p><b>System Support Services</b></p>	<p>means:</p> <p>(a) spinning reserve, fast start, black start, reactive power, frequency control and such other services as the Licensee may be required to have available <del>as system support services</del> in association with any generation set pursuant to the Grid Code, including <del>without limitation fuel switching services and</del> outage planning incentive arrangements; and</p> <p>(b) such services as the Licensee may have agreed to have available as being system support services in association with any generation set pursuant to an agreement made with the Transmission System Operator</p> <p>and which may be offered for sale to the Transmission System Operator for the purpose of securing stability of operation on the transmission system, the distribution system and the distribution system of any authorised electricity operator or any system linked to the transmission system or the distribution system by an interconnector.</p>
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