



Consultation on SONI Licence Modifications  
January 2010

## 1 Executive Summary

SONI's current licence to participate in the transmission of electricity came into force on 3<sup>rd</sup> July 2007, with subsequent amendments to facilitate their divestment to EirGrid approved in March 2009. These amendments were limited to those specifically required for the divestment process and did not include any proposals related to normal operation.

The purpose of this consultation is to identify the changes that are required to SONI's licence as a result of recent regulatory decisions. These decisions include:

- A change to SONI's financial year
- The current price control
- The arrangements for Harmonised Ancillary Services

In addition, the day to day ways of working between SONI and EirGrid have been clarified.

Modifications to five sections of the licence are being consulted upon. These are summarised below.

<b>Condition</b>	<b>Changes Proposed</b>
1	Definition of "Directive" updated to include successor directives
3 (2)	The date for submission of Director's Certificates adjusted to reflect the change to the financial year. Proposed timing is relative to the year end date, rather than being prescribed.
12 (14)	Additional clause to suspend condition 12 (sections 3 to 13) while SONI is owned by EirGrid
30	<p>Change the reference for "Other System Operator Charges" to "Other System Charges".</p> <p>Removal of the requirement to include TLAFS in the statement of charges (this is now covered by the TSC).</p> <p>Addition of Sections 6 a, b and c to define the procedures to be followed when preparing and publishing the statement related to other system charges.</p> <p>Clarification that clauses 8, 9 and 10 refer to statements relating to charges for use of the transmission system, connection to the system or for system support services.</p> <p>Clarification of definitions with respect to "Other System Charges".</p>
Annex 1	Revision to incorporate the current Price Control decision.

NIAUR welcomes representations and objections from all interested parties as to the three sets of proposed modifications. Non-solicited views pertaining to any other part of this consultation paper or any associated matter are also welcome.

Should anyone wish to contribute, please note that we shall receive responses from the date of this consultation paper, up to and including Friday 12<sup>th</sup> March 2010. Responses to be sent to Juliet Corbett at the Utility Regulator at the address provided in Appendix 2.

This document contains further detail regarding the proposed modifications and the formal notices that are required under article 14(2) of the Electricity (Northern Ireland) Order 1992.

## **2 Background**

SONI's TSO Licence was granted the summer of 2007. Previously, the role of SONI had been contained within the NIE licence. This licence contained all of the conditions pertaining to the transition to SEM. This licence was subsequently amended to facilitate their divestment to EirGrid in March 2009. These modifications were limited to those specifically required for the divestment process and did not include any proposals related to normal operation.

The purpose of this consultation is to identify the changes that are required to SONI's licence as a result of recent regulatory decisions. These decisions include:

- A change to SONI's financial year from the tax year (year starting on 1<sup>st</sup> April) to the tariff year (year starting on 1<sup>st</sup> October) as specified in condition 2 of their licence.
- The SONI Price Control Decision Paper published in April 2008
- The arrangements for Harmonised Ancillary Services, specified in regulatory decisions SEM-10-001 and SEM-08-013

In addition, the day to day ways of working between SONI and EirGrid have been clarified and the licence reviewed in the light of these.

Modifications to five sections of the licence are being consulted upon.

### 3 The Regulatory Measures: Licence Changes

This section sets out the rationale for the proposed changes, with Appendix 1 setting out the detail of the suggested changes and Appendix 2 setting out the statutory notices of modification for the SONI SO Licence.

#### 3.1 Definition of “directive” updated to include successor directives

It is proposed to amend the definition of “directive” within SONI’s SO licence to include any directives which supersede Directive 2003/54/EC.

<b>“Directive”</b>	means Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity ( <i>or any superseding directive thereto</i> ).
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#### 3.2 Timing of the director’s certificates (Condition 3)

Condition 3 of the current drafting of SONI’s TSO licence requires the directors to submit a certificate on 30<sup>th</sup> September each year. Condition 2 of the licence requires SONI’s financial year to begin on 1<sup>st</sup> October. Given that the annual accounts will be prepared after that date, and that these are required for the directors to form a true and accurate picture of the business, it is considered appropriate for the reference to be changed to “Such certificate shall be submitted on SEM Go-Live *and thereafter annually, on the date which falls six months after the end of each financial year*”

This will allow the certificates to be submitted at the same time as the regulatory accounts, as was the case when SONI’s financial year ended on 31<sup>st</sup> March.

#### 3.3 Suspend the need for a compliance plan and compliance manager while owned by EirGrid (Condition 12)

While the submission of a compliance plan and the role of compliance manager were essential while SONI was owned by the Viridian Group, under the ownership of EirGrid these items will not add significantly to the protection of customers or the promotion of competition in generation, but add a significant cost to the business, which is ultimately borne by customers.

It is proposed that SONI are not required to produce a compliance plan or employ a compliance manager while it is owned by EirGrid. The following text would be added to Condition 12.

*“14 Application:*

*Condition 12 paragraphs 3 to 13 (inclusive) (and any relevant definitions) shall be suspended and have no effect for as long as the state owned constitutional status of EirGrid plc remains unchanged and EirGrid plc are the legal and beneficial owners of the entire issued share capital of the Licensee.”*

### 3.4 Charging Statements (Condition 30)

#### 3.4.1 Publication of TLAFs (Condition 30)

Condition 30 of SONI's SO licence requires them to include Transmission Loss Adjustment Factors (TLAFs) in their charging statement. The Trading and Settlement Code also contains a requirement for SONI to submit TLAF values to the RAs and SEMO. The timing of these tasks is also specified. The TLAF values have not been included in the SONI charging statement post SEM, but instead have been contained within a separate document. It is proposed to remove this requirement from SONI's licence and to maintain the Trading and Settlement Code as the appropriate place for this task to be specified. The following text will be deleted:

3 (b) ~~a schedule of adjustment factors to be made (where appropriate) in respect of transmission losses;~~

#### 3.4.2 Amendments to clarify the method of producing statements for other system charges

It is proposed to amend Condition 30 of SONI's licence to include clarify the procedures that SONI will have to follow when producing the annual statement for other system charges.

The wording in Condition 30, 1 (d) is proposed to be amended to provide consistency with the regulatory decision papers.

"any Other System-~~Operator~~ Charges or the basis upon which such charges will be made"

Clause 6 is proposed to be expanded to define the procedures that SONI must follow when undertaking their annual review of the charging statement for other system charges. This requires:

- Publication of the basis of calculating such charges
- Provision to ensure the statement is review once per year
- Requiring consultation with authorised electricity undertakings who are liable to be materially affected by the charges
- Preparation of report to the Authority on the outcome of the consultation exercise
- Approval of the statement by the Authority
- Publication of the final statement on SONI's website.

The proposed text is as follows

#### **"Other System Charges**

**6A The statement referred to in paragraph 1(d) shall identify any Other System Charges and the rates and parameters to be used for the calculation of such charges. The statement shall either contain or refer to a separate statement (which separate statement shall be treated as forming part of the statement referred to in paragraph 1(d)) to be published on the Licensee's website setting out the basis for the calculation of such charges.**

**6B** The Licensee shall once in every year that this Licence is in force revise the statement referred to in paragraph 1(d) but any such revision shall only take effect provided that:

- (a) the Licensee has (in consultation with authorised electricity undertakings and the Republic of Ireland System Operator, to the extent that such persons are liable to be materially affected thereby), reviewed the Other System Charges and their effect;
- (b) following any such review, the Licensee has sent to the Authority:
  - (i) a report on the outcome of such consultation;
  - (ii) any proposed revisions (having regard to the outcome of the consultation) as the Licensee reasonably thinks fit; and
  - (iii) any written representations or objections from any electricity undertaking (including any suggested changes to the proposed revisions not accepted by the Licensee in the course of the consultation) arising during the consultation and subsequently maintained; and
- (c) the Authority has approved the revision to the statement, subject to (where there were written representations or objections and the Authority considers it appropriate) any direction by the Authority requiring a change as set out in that direction.

**6C** The Licensee shall publish (prior to its entry into force) a copy of the statement prepared in accordance with paragraph 1(d) (and of each revision of such statement in accordance with paragraph 6B) on its website and shall send a copy to the Authority and the Republic of Ireland System Operator”

### **3.4.3 Clarification of Application of Clauses 8, 9 and 10**

To remove ambiguity, it is proposed to clarify that clauses 8, 9 and 10 of Condition 30 refer only to the charging statements related to:

- Use of the transmission system
- Connection to the transmission system
- Charging for System Support Services

The proposed wording is:

#### Revision and Publication of Statements

- 1 The Licensee may, in co-operation with the Republic of Ireland System Operator, periodically revise the information set out in and, with the approval of the Authority, alter the form of the statements prepared in accordance with paragraph 1(a), 1(b), 1(c) or 7 and shall, at least once in every year the Licence is in force, revise such statements, in co-operation with the Republic of Ireland System Operator, in order that the information set out in the statements shall continue to be accurate in all material respects.
- 2 The Licensee shall publish (prior to its entry into force) a copy of the statements prepared in accordance with paragraph 1(a), 1(b), 1(c) or 7 (and of each revision of such statements in accordance with paragraph 8) on its website and shall send a copy to the Authority and the Republic of Ireland System Operator. Each such revision shall require to be approved by the Authority and shall not become effective until approved by the Authority.
- 3 The Licensee shall give or send a copy of the statements prepared in accordance with paragraphs 1(a), 1(b), 1(c) or 7 or (as the case may be) of the latest version of such statements in accordance with paragraph 8 approved by the Authority pursuant to such paragraph to any persons who requests a copy of such statement or statements.

#### 3.4.4 Definitions

The definitions within condition 30 are proposed to be amended to clarify the inclusion of the “Generator Performance Incentives”, “SND charges” and “Trip Charges”, as detailed in the regulatory decision papers SEM-08-013 and SEM-10-001.

The proposed definitions are as follows:

**“Generator Performance Incentive Charges”** means charges levied by the Licensee on the operators of generation sets for certain redeclarations of the technical capabilities of such generation sets under the Grid Code.



<b>“Other System Operator Charges”</b>	means any charges, other than as referred to in paragraphs 1(a), (b) and (c), levied from time to time (with the approval of the Authority) by the Licensee in carrying on the Transmission System Operator Business, <i>including for the avoidance of doubt Generator Performance Incentive Charges, Trip Charges and SND Charges.</i>
<b>“SND Charges”</b>	<i>means charges levied by the Licensee on the operators of generation sets for certain redeclarations of available capacity of such generation sets under the Grid Code.</i>
<b>“Trip Charges”</b>	<i>means charges levied by the Licensee on the operators of generation sets for unplanned outages of such generation sets.</i>

### 3.5 Update of Annex 1 to incorporate the decision on SONI’s Price Control

SONI’s revenue is collected via the System Support Services Tariff. The amount to be recovered is determined via the Price Control process. This is then transferred to their licence as Annex 1. It is proposed to update Annex 1 to incorporate the details contained in the current price control decision paper (SONI Price Control 2007 – 2010, dated 4 April 2008). The proposed details are described below, with the full revised text included as Appendix 2 to this document.

#### 3.5.1 Amendments to Definitions

Three definitions are proposed to be updated under this consultation. These are:

- i. The definition of relevant year is amended to reflect the change in SONI’s financial year following the start of SEM.
- ii. The removal of the historic reference in the definition of relevant year t
- iii. The addition of a reference to charges for use of the all island transmission networks in the definition of SSS/TUoS

**"relevant year"** means a financial year commencing on or after 1 April 1992 up to 1 April 2008, thereafter meaning a a year commencing on or after 1 October 2009;

**"relevant year t"** means that relevant year for the purposes of which any calculation falls to be made; **"relevant year t - 1"** means the relevant year preceding relevant year t ~~or, in respect of the period prior to 1 April 1992, the period of 12 calendar months commencing on 1 April 1991;~~ and similar expressions shall be construed accordingly

“SSS/TUoS charge(s)” means the charges for System Support Services and for ~~transmission~~ use of the All-Island Transmission Networks ~~system charges~~ as provided for under Condition 30;

### 3.5.2 Amendments to Condition 2

Four changes are proposed to Condition 2. These are:

- i. The reference to the gas turbines is removed to reflect the fact these are now bid into the market by PPB

“A<sub>TSO<sub>t</sub></sub> means:

- (a) the cost of System Support Services in relevant year t ~~including the cost of the gas turbines contracted under the cancellable generating unit agreements as outlined in the relevant Schedule of the NIE Energy Supply Licence in relevant year t~~ and including amounts payable by the Licensee to any person for the provision or use of any System Support Services provided over any interconnector in relevant year t; plus”

- ii. The values for B<sub>TSO<sub>t</sub></sub> and RPI have been updated to reflect the price control decision paper

“B<sub>TSO<sub>t</sub></sub> means the allowed SSS/TUoS revenue in pounds millions in relevant year t which is derived from the following formula:

in the relevant year commencing on 1 November 2007, B<sub>t</sub> shall equal (£3.080m \* RPI<sub>2008</sub>/RPI<sub>2007</sub>) + (0.5 \* £8.238 \* RPI<sub>2009</sub>/RPI<sub>2007</sub>);

in the relevant year commencing on 1 October 2008, B<sub>t</sub> shall equal 0.5 \* (£8.238m \* RPI<sub>2009</sub>/RPI<sub>2007</sub> + £8.291m \* RPI<sub>2010</sub>/RPI<sub>2007</sub>);

in the relevant year commencing on 1 October 2009, B<sub>t</sub> shall equal £8.291m \* RPI<sub>2010</sub>/RPI<sub>2007</sub>

$$B_{TSO_t} = B_{TSO_{t-1}} \times (1 + RPI_t / 100)$$

where:

~~B<sub>TSO<sub>t</sub></sub> for relevant year 16 (or the year 2007/08) shall assume that B<sub>TSO<sub>t-1</sub></sub> equals £6.402m;~~

RPI<sub>t</sub> means the Retail Price Index (1987 = 100) published or determined with respect to October in relevant year t;

RPI<sub>rpi</sub><sub>2007 t</sub> means the value of RPI<sub>t</sub> in the relevant year commencing on 1 April 2006 which is 200.4; and

RPI<sub>2008</sub> means the value of RPI<sub>t</sub> in the relevant year commencing on 1 April 2007 which is 208.9;

rpi<sub>t</sub> means the percentage change (whether a positive or negative value) in the Retail Prices Index between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October;”

- iii. The clause relating to  $D_{TSOt}$  has been updated to insert a sentence that was omitted in error from the original text

$D_{TSOt}$  means the aggregate of the allowed charge ~~in pounds millions~~ in relevant year t for excluded SSS/TUoS costs as defined in paragraph 8.1 of this Annex and the allowed change of law revenues as determined by the Authority in accordance with paragraph 5.1

- iv. The definition of  $K_{TSOt}$  has been amended to remove the historic reference that is no longer relevant and to reflect the change in SONI's financial year.

" $K_{TSOt}$  means the correction factor (whether a positive or negative number) to be applied to the maximum ~~core regulated~~ SSS/TUoS revenue in relevant year t derived using the following formula:

$$K_{TSOt} = (M_{TSOt-1} - R_{TSOt-1}) (1 + I_t / 100)$$

Where:

$M_{TSOt-1}$  means the maximum core SSS/TUoS revenue in relevant year t-1

$R_{TSOt-1}$  means the regulated SSS/TUoS revenue ~~less~~ (other than the

$I_t$  means the average specified rate.

~~In respect of the first and ninth relevant years commencing 1<sup>st</sup> April 1992  $K_{TSOt}$  will have the value zero.~~

In relevant year t ending ~~30 September 2009~~ 31 March 2009  $K_{TSOt}$  shall be as submitted by the Licensee to the Authority and approved by the Authority (with such adjustments as the Authority reasonably considers appropriate in the circumstances) and calculated as the sum of the amounts resulting from the application of the following: (a) the formula above being applied (in place of t-1) to the period from SEM Go Live to 31 March 2008; and (b) the  $K_{TSOt}$  factor under Schedule 5B of NIE plc's combined transmission and public electricity supply licence in effect as at 1 June 2007, applied (in place of t-1) to the period from 1 April 2007 up to SEM Go Live. "

### 3.5.3 Amendments to Condition 3

A historic reference has been removed from condition 3

- 3.1 If, in respect of any relevant year, ~~except the ninth relevant year~~, the regulated SSS/TUoS revenue exceeds the maximum regulated SSS/TUoS revenue by more than the permitted one-year percentage, the Licensee shall furnish an explanation to the Authority and in the next following relevant year the Licensee shall not effect any increase in the SSS/TUoS

charges unless it has demonstrated to the reasonable satisfaction of the Authority that the regulated SSS/TUoS revenue would not be likely to exceed the maximum regulated SSS/TUoS revenue in that next following relevant year.

- 3.2 If, in respect of any 3 successive relevant years ~~excluding the ninth relevant year~~, the sum of the amounts by which the regulated SSS/TUoS revenue has exceeded the maximum regulated SSS/TUoS revenue is more than the permitted 3-year percentage, then in the next following relevant year the Licensee shall, if required by the Authority, adjust the SSS/TUoS charges such that the regulated SSS/TUoS revenue would not be likely, in the judgement of the Authority, to exceed the maximum regulated SSS/TUoS revenue in that next following relevant year.

### 3.5.4 Amendments to Condition 5

Condition 5 has been updated to reflect the current timescales and regulatory decisions.

#### “5. Duration of SSS/TUoS charge restriction conditions”

- 5.1 5.1 This Annex other than this paragraph 5 shall apply so long as this Licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a disapplication request made in accordance with paragraph 5.2 and:
- (a) the Authority agrees in writing to the disapplication request; or
  - (b) the application (in whole or in part) of this Annex (other than this paragraph 5) is terminated by notice given by the Licensee in accordance with either paragraph 5.4 or paragraph 5.5.
- 5.2 A disapplication request pursuant to this paragraph 5 shall (a) be in writing addressed to the Authority, (b) specify this Annex (or any part or parts thereof) to which the request relates and (c) state the date from which the Licensee wishes the Authority to agree that the specified paragraphs of this Annex shall cease to have effect.
- 5.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 6 shall have effect earlier than the date (the “Disapplication Date”) which is the later of:
- (a) the date occurring 18 months after delivery of the disapplication request; and
  - (b) 31 March 2010.
- 5.4 If the Authority has not made a reference to the Competition Commission under Article 15 of the Order relating to the modification of the relevant paragraphs of this Annex before the beginning of 12 months which will end with the Disapplication Date, the Licensee may deliver written notice to the Authority terminating the application of this Annex (or any part or parts thereof other than this paragraph 5) as are specified in the disapplication request with effect from the Disapplication Date or a later date.
- 5.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of this Annex (or any part or parts thereof) specified in the

disapplication request and such report does not include a conclusion that the cessation of this Annex, in whole or in part, operates or may be expected to operate against the public interest, the Licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to it written notice terminating the application of this Annex (or any part or parts thereof other than this paragraph 5) with effect from the Disapplication Date or a later date.

5.6 A disapplication request or notice served under this paragraph 5 may be served in respect of a specified geographic area.

~~If by the date 4 months after SEM Go-Live (or such later date as may be agreed by the Licensee and the Authority) (the "Disapplication Date") the Authority has not made a reference to the Competition Commission under Article 15 of the Order so framed as to at least require the Competition Commission to investigate and report on the question of whether this Annex (or any part or parts thereof) operates or may be expected to operate against the public interest, then with effect from the Disapplication Date paragraph 2 shall be amended to read:~~

~~"The Licensee shall in setting the SSS/TUoS charges use its best endeavours to ensure that in any relevant year the regulated SSS/TUoS revenue shall not exceed such amount as the Licensee determines is reasonable in all the circumstances."~~

### 3.5.5 Amendments to Condition 6

This has been updated to reflect the change to SONI's financial year.

"6.2 A notice given to the Authority by the Licensee pursuant to paragraph 6.1 shall contain or be accompanied by all relevant details of the relevant change of law and such other information as the Authority shall require and, unless the Authority shall otherwise consent, shall be given not later than the first day of ~~April~~~~October~~ immediately preceding the first of the relevant years in respect of which the Licensee wishes any change in such elements to take effect."

### 3.5.6 Amendments to Condition 7

Condition 7 has been revised to clarify that it applies to the SSS portion of SONI's charges only

## 7. Unit Coverage

The component of maximum regulated SSS/TUoS ~~System Support Service~~ revenue relating to System Support Services (or certain parts of that component ~~the maximum regulated System Support Services revenue~~) can potentially be recovered from the quantity entering the total system in the authorised transmission area and from Wheeled Units. The final decision regarding which units in particular the component of maximum regulated SSS/TUoS revenue relating to System Support Services (or certain parts of that component) ~~the maximum regulated System Support Services revenue~~ will be recovered from in relevant year t ("unit coverage") rests with the Authority. In each relevant year t on the decision of the Authority regarding unit coverage of the System Support Services charge, the Licensee will then draw up for the relevant year t the schedule of System Support Services charges in accordance with Condition 30 in a manner which is consistent with the decision of the Authority regarding unit coverage. If the Licensee draws up for relevant year t the schedule of System Support

Services charges in accordance with Condition 30 in a manner which is not consistent with the decision of the Authority regarding unit coverage then the Authority's approval under Condition 30 paragraph 6 for the form of this schedule will not be granted."

### 3.5.7 Amendments to Condition 8

Condition 8 has been updated to reflect the recent price control decision paper.

#### 8. Excluded SSS/TUoS Costs

8.1 Subject to paragraphs 8.2 and 8.3 the following costs and revenues of the Licensee (whether a positive or negative amount) shall be treated as excluded **TUoS/SSS system support service** costs in relevant year t:

- (a) any reasonable costs incurred by the Transmission System Operator Business (in relevant year t) in complying with the requirements imposed on the Licensee under legislation and other legal requirements through which Directive 2003/54/EC is implemented, whether before or after the coming into effect of this Annex, as approved by the Authority, and to the extent not recovered under another part of the Licence or under the Northern Ireland Market Operator Licence or under the Transmission Owner Licence;
- (b) any reasonable costs incurred by the Transmission System Operator Business (in relevant year t) in complying with the requirements imposed on the Licensee under the arrangements for the Single Electricity Market (being the project described in the Memorandum of Understanding dated 23 August 2004 and made between the Authority and the Commission for Energy Regulation in Dublin), whether before or after the coming into effect of this Annex, as approved by the Authority, and to the extent not recovered under another part of the Licence or under the Northern Ireland Market Operator Licence or under the Transmission Owner Licence,
- (c) costs incurred in relevant year t associated with any future divestment of the Transmission System Operator Business;
- (d) the pension costs (in relevant year t) of the Transmission System Operator Business to the extent reasonably approved by the Authority;
- (e) amounts that become uncollected SSS/TUoS revenue in relevant year t less any amount or part of an amount treated as uncollected SSS/TUoS revenue in respect of a preceding relevant year that has been paid to the Licensee in relevant year t;
- (f) costs incurred in relevant year t in respect of those items referred to in Appendix 3 of the Authority's decision paper entitled "SONI Price Control 2007 – 2010" dated 4 April 2008 and as reasonably approved by the Authority
- (g) costs incurred in relevant year t to finance the difference in the estimated CAIR<sub>t</sub> used in the preparation and approval of the tariffs prior to the relevant year t and the CAIR<sub>t</sub> amount approved by NIAUR prior to the end of March during the relevant year t. The financing costs are to be charged at [base rate plus 2%].
- (h) costs incurred in relevant year t to finance the working capital requirements of SEMO. The financing costs are to be charged at [base rate plus 2%].

- (i) any other costs and revenues of the Transmission System Operator Business which:-
  - (i) were not taken into account in setting  $A_{TSO}$  or  $B_{TSO}$ ;
  - (ii) in the case of costs, those which cannot reasonably be controlled by the Transmission System Operator Business; and
  - (iii) the Authority determines, upon an application to it by the Licensee, shall be included for the purposes of this paragraph.

8.2 The Licensee shall, in a timely manner, give the Authority notice of any claim for costs pursuant to paragraph 8.1 Such notice shall contain or be accompanied by all relevant details of the costs claimed and such other information as the Authority shall require in order to determine whether such costs can be recovered by the Licensee. Any claim for recovery of costs by the Licensee pursuant to paragraph 8.1 shall require to be approved by the Authority and shall not become effective until approved by the Authority.

8.3 No costs incurred or revenues received by the Transmission System Operator Business shall be included in more than one of the categories in sub-paragraphs (a) to (i) of paragraph 8.1.

#### **4 Notification Process and Next Steps**

This consultation paper also constitutes notice by the NIAUR pursuant to the relevant legislation in Northern Ireland and Ireland, for the purposes of consulting on the proposed licence modifications more fully described in this consultation paper but also as detailed in Appendix 1.

Having obtained the consent of SONI, the NIAUR proposes to make the modifications as set out in Appendix 1 Part 1 to the SONI SO Licence, in Appendix 1 We ask respondents to note the reasons for, and the effects of, such modifications as outlined in Section 3 of this consultation paper, and as set out in the relevant notices within Appendix 2.

NIAUR welcomes representations and objections from all interested parties as to the three sets of proposed modifications. Non-solicited views pertaining to any other part of this consultation paper or any associated matter are also welcome.

Should anyone wish to contribute, please note that we shall receive responses from the date of this consultation paper, up to and including Friday 12<sup>th</sup> March 2010. Responses to be sent to Juliet Corbett at the Utility Regulator at the address provided in Appendix 2.

Unless otherwise advised by respondents, responses may be made publicly available, via the Utility Regulator website. Respondents should clearly mark any part of their response (or, if appropriate, the whole response) if they wish it to remain confidential, along with the reasons as to why this is the case.

In accordance with the relevant law, notice of the proposed modifications has been sent to DETI.



## APPENDIX 1 – LICENCE MODIFICATIONS

ANY NEW LICENCE TEXT IS SET OUT IN ITALICS AND RED FONT

DELETIONS OF ORIGINAL LICENCE TEXT ARE ALSO SET OUT OR REFERRED TO

### MODIFICATION TO SONI'S SO LICENCE

#### 1. Definition of “directive” updated to include successor directives

“Directive” means Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity (*or any superseding directive thereto*).

#### 2. Timing of the director’s certificates (Condition 3)

##### Directors’ Certificate

The Licensee shall submit a certificate addressed to the Authority, approved by a resolution of the board of the Licensee and signed by a director of the Licensee pursuant to that resolution. Such certificate shall be submitted on SEM Go-Live and thereafter annually, *on the date which falls six months after the end of each financial year*. Each certificate shall be in one of the following forms:

#### 3. “Switch off” the need for a compliance plan and compliance manager while owned by EirGrid (Condition 12)

Paragraph 14 will be added to condition 12 as follows

##### *“14 Application:*

*Condition 12 paragraphs 3 to 13 (inclusive) (and any relevant definitions) shall be suspended and have no effect for as long as the state owned constitutional status of EirGrid plc remains unchanged and EirGrid plc are the legal and beneficial owners of the entire issued share capital of the Licensee.”*

#### 4. GPIs included in the elements in the TUoS statement (Condition 30)

##### **Payment and Charging Statements**

Statements of **Payments and Charges**

The Licensee shall, in co-operation with the Republic of Ireland System Operator, as soon as practicable after the date on which this Condition becomes effective (and, in any event, not later than such date as the Authority may direct) prepare (and obtain the Authority’s approval to) **astatements (~~or statements~~)** setting out:

- (a) the basis upon which persons licensed under Article 10 of the Order (or exempt from the requirement to be so licensed under Article 9 of the Order) will be charged for use of the All-Island Transmission Networks in respect of generation or supply in Northern Ireland;
- (b) the basis upon which charges will be made for connection to the All-Island Transmission Networks at entry or exit points on the transmission system;
- (c) any charges for System Support Services;
- (d) any Other System Operator Charges or the basis upon which such charges will be made;  
and
- (e) payments and charges for Ancillary Services.

The statements prepared under paragraph 1 shall be in such form and contain such detail as shall be necessary to enable any person to make a reasonable estimate of the charges to which it would become liable (or payments to which it would become entitled, as the context requires) for the provision of such services, including such of the information set out in paragraphs 3, 4, 5 and 6 as is required by such paragraphs to be included in the relevant statement.

## 5. Publication of TLAFs (Condition 30)

### Use of System

- 3 Except to the extent that the Authority may otherwise direct, the statement referred to in paragraph 1(a) shall include:
  - a) a schedule of charges for transport of electricity under use of the All-Island Transmission Networks in respect of generation or supply in Northern Ireland;
  - ~~b) a schedule of adjustment factors to be made (where appropriate) for transmission losses~~

## 6. Definitions used in Condition 30

“Ancillary Services” has the meaning given to that term in the Grid Code.

**“Generator Performance Incentive Charges”** means charges levied by the Licensee on the operators of generation sets for certain redeclarations of the technical capabilities of such generation sets under the Grid Code.

**“Other System Operator Charges”** means any charges, other than as referred to in paragraphs 1(a), (b) and (c), levied from time to time (with the approval of the Authority) by the Licensee in carrying on the Transmission System Operator Business, for the avoidance of doubt including Generator Performance Incentive Charges, Trip Charges and SND Charges. ~~means any charges, other than as referred to in paragraphs 1(a), (b) and (c), levied from time to time (with the approval of the Authority) by the Licensee in carrying on the Transmission System Operator Business.~~

**“SND Charges”** means charges levied by the Licensee on the operators of generation sets for certain redeclarations of available capacity of such generation sets under the Grid Code.

**“Trip Charges”** means charges levied by the Licensee on the operators of generation sets for unplanned outages of such generation sets.

**7. Update of Annex 1 to incorporate the decision on SONI’s Price Control**

**ANNEX 1 Charge Restrictions**

**1. Definitions**

1.1 In this Annex:

**"average specified rate"** means the arithmetic mean of the daily base rates of Northern Bank Limited (or such other bank as the Authority shall specify from time to time) current from time to time during the period

in respect of which the calculation falls to be made;

**"maximum regulated SSS/TUoS revenue"** means the revenue calculated in accordance with the formula in paragraph 2;

**"Moyle Interconnector Collection Agency Agreement"** has the meaning given to that expression in Condition 37.

**"Moyle revenue"** means the revenue which the Licensee is allowed to recover in respect of CAIR<sub>t</sub> in accordance with paragraph 2(B) (such revenue being zero where CAIR<sub>t</sub> is zero);

**"quantity entering the total system"** means the aggregate quantity of units metered on entry to the total system in relevant year t (minus any units consumed by generation sets and imported from the total system);

**"regulated SSS/TUoS revenue"** means the revenue (measured on an accruals basis) derived from SSS/TUoS charges (including any revenue received from any Separate Business) in relevant year t after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived;

**"relevant year"** means a financial year commencing on or after 1 April 1992;

**"relevant year t"** means that relevant year for the purposes of which any calculation falls to be made; **"relevant year t - 1"** means the relevant year preceding relevant year t ~~or, in respect of the period prior to 1 April 1992, the period of 12 calendar months commencing on 1 April 1991;~~ and similar expressions shall be construed accordingly

**"SSS/TUoS charge(s)"** means the charges for System Support Services and for ~~transmission~~ use of ~~the All-Island Transmission Networks system charges~~ as provided for under Condition 30;

**"SSS/TUoS charge restriction condition"** means this Annex as from time to time modified or replaced in accordance therewith or

pursuant to Article 14, 17, 17A or 18 of the Order, under the Energy Order, the SEM Order or the Directive Regulations;

**“uncollected SSS/TUoS revenue”**

means any amount owed to the Licensee in respect of regulated SSS/TUoS revenue, which amount remains unpaid six months after the date it first fell due for payment or which amount the Licensee deems (in accordance with the payment security policy) to be unrecoverable before the expiry of that six month period; plus the reasonable recovery costs incurred by the Licensee in respect of such amount and the reasonable interest attributable to such amount (calculated, in both cases, in accordance with the payment security policy);

**"unit"**

means a kilowatt hour;

**“Wheeled Unit”**

means a unit (whether generated inside or outside Northern Ireland) which enters the total system at any point and is delivered to a place outside Northern Ireland.

2. **Restriction of SSS/TUoS charges: basic formula**

The Licensee shall, in setting the SSS/TUoS charges, use its best endeavours to ensure that in any relevant year the regulated SSS/TUoS revenue shall not exceed the maximum regulated SSS/TUoS revenue which shall be the aggregate of:

(A) the maximum core SSS/TUoS revenue in relevant year t ( $M_{TSO_t}$ )

Plus

(B) the CAIR<sub>t</sub> amount.

The maximum core SSS/TUoS revenue shall be calculated as follows:

$$M_{TSO_t} = A_{TSO_t} + B_{TSO_t} + D_{TSO_t} + K_{TSO_t}$$

where:

$A_{TSO_t}$  means:

- (b) the cost of System Support Services in relevant year t ~~including the cost of the gas turbines contracted under the cancellable generating unit agreements as outlined in the relevant Schedule of the NIE Energy Supply Licence in relevant year t~~ and including amounts payable by the Licensee to any person for the provision or use of any System Support Services provided over any interconnector in relevant year t; plus
- (c) amounts payable to the Transmission Owner Business for the provision of transmission services in relevant year t; plus
- (d) amounts levied in relevant year t on the Transmission System Operator Business by the Market Operation Activity in accordance with annex 1 of the Northern Ireland Market Operator Licence;

$B_{TSO_t}$  means the allowed SSS/TUoS revenue in pounds millions in relevant year t which is derived from the following formula:

in the tariff year commencing on 1 November 2007,  $B_t$  shall equal  $(£3.080m * RPI_{2008}/RPI_{2007}) + (0.5 * £8.238 * RPI_{2009}/RPI_{2007})$ ;

in the tariff year commencing on 1 October 2008,  $B_t$  shall equal  $0.5 * (£8.238m * RPI_{2009}/RPI_{2007} + £8.291m * RPI_{2010}/RPI_{2007})$ ;

in the tariff year commencing on 1 October 2009,  $B_t$  shall equal  $\text{£}8.291\text{m} * \text{RPI}_{2010}/\text{RPI}_{2007}$

$$B_{\text{TSO}t} = B_{\text{TSO}t-1} \times (1 + \text{RPI}_t / 100)$$

where:

~~$B_{\text{TSO}t}$  for relevant year 16 (or the year 2007/08) shall assume that  $B_{\text{TSO}t-1}$  equals  $\text{£}6.402\text{m}$ ;~~

$\text{RPI}_t$  means the Retail Price Index (1987 = 100) published or determined with respect to October in relevant year t;

~~$\text{RPI}_{\text{rpi}_{2007}t}$~~  means the value of  $\text{RPI}_t$  in the relevant year commencing on 1 April 2006 which is 200.4; and

$\text{RPI}_{2008}$  means the value of  $\text{RPI}_t$  in the relevant year commencing on 1 April 2007 which is 208.9;

~~$\text{rpi}_t$  means the percentage change (whether a positive or negative value) in the Retail Prices Index between that published or determined with respect to October in the relevant year t and that published or determined with respect to the immediately preceding October;~~

$D_{\text{TSO}t}$  means the aggregate of the allowed charge ~~in pounds millions~~ in relevant year t for excluded SSS/TUoS costs as defined in paragraph 8.1 of this Annex and the allowed change of law revenues as determined by the Authority in accordance with paragraph 5.1

$\text{CAIR}_t$  (a) in respect of relevant years commencing after SEM Go-Live, has the same meaning as is given to that expression in the Moyle Interconnector Collection Agency Agreement in respect of relevant year t; and (b) in respect of the relevant year t in which SEM Go-Live occurs, means an amount submitted by the Licensee to the Authority (following agreement with the Transmission Owner) and approved by the Authority (subject to such adjustments as the Authority reasonably determines following consultation with the Licensee) based on the meaning such expression has in the Moyle Interconnector Collection Agency Agreement in respect of that relevant year, but reflecting the portion of that relevant year that remains unexpired at SEM Go-Live.

$K_{\text{TSO}t}$  means the correction factor (whether a positive or negative number) to be applied to the maximum ~~core regulated~~ SSS/TUoS revenue in relevant year t derived using the following formula:

$$K_{TSO_t} = (M_{TSO_{t-1}} - R_{TSO_{t-1}}) (1 + I_t / 100)$$

Where:

$M_{TSO_{t-1}}$  means the maximum core SSS/TUoS revenue in relevant year t-1

$R_{TSO_{t-1}}$  means the regulated SSS/TUoS revenue less (other than the Moyle revenue which is attributable to the financing and other costs associated with the Moyle Interconnector (as referred to in the definition of the term CAIR, below)

$I_t$  means the average specified rate.

~~In respect of the first and ninth relevant years commencing 1<sup>st</sup> April 1992  $K_{TSO_t}$  will have the value zero.~~

In relevant year t ending 30 September 2009 ~~31 March 2009~~  $K_{TSO_t}$  shall be as submitted by the Licensee to the Authority and approved by the Authority (with such adjustments as the Authority reasonably considers appropriate in the circumstances) and calculated as the sum of the amounts resulting from the application of the following: (a) the formula above being applied (in place of t-1) to the period from SEM Go Live to 31 March 2008; and (b) the  $K_{TSO_t}$  factor under Schedule 5B of NIE plc's combined transmission and public electricity supply licence in effect as at 1 June 2007, applied (in place of t-1) to the period from 1 April 2007 up to SEM Go Live.

### 3. **Restriction of SSS/TUoS charges: adjustments**

3.1 If, in respect of any relevant year, ~~except the ninth relevant year~~, the regulated SSS/TUoS revenue exceeds the maximum regulated SSS/TUoS revenue by more than the permitted one-year percentage, the Licensee shall furnish an explanation to the Authority and in the next following relevant year the Licensee shall not effect any increase in the SSS/TUoS charges unless it has demonstrated to the reasonable satisfaction of the Authority that the regulated SSS/TUoS revenue would not be likely to exceed the maximum regulated SSS/TUoS revenue in that next following relevant year.

3.2 If, in respect of any 3 successive relevant years ~~excluding the ninth relevant year~~, the sum of the amounts by which the regulated SSS/TUoS revenue has exceeded the maximum regulated SSS/TUoS revenue is more than the permitted 3-year percentage, then in the next following relevant year the Licensee shall, if required by the Authority, adjust the SSS/TUoS charges such that the regulated SSS/TUoS revenue would not be likely, in the judgement of the Authority, to exceed the maximum regulated SSS/TUoS revenue in that next following relevant year.

3.3 In this paragraph:



"permitted one-year percentage" means 4 per cent of the maximum regulated SSS/TUoS revenue; and

"permitted 3-year percentage" means 5 per cent of the maximum regulated SSS/TUoS revenue in the second of the relevant years.

4. **Information to be provided to the Authority in connection with the SSS/TUoS charge restriction conditions**

4.1 Where any change is intended to be made in the SSS/TUoS charges regulated under paragraph 2, the Licensee shall not later than the time referred to in paragraph 4.2 provide the Authority with:

- (a) a written forecast of the maximum regulated SSS/TUoS revenue, together with its components, in respect of the relevant year  $t$  in which such change is to take effect and in respect of the next following relevant year  $t + 1$ ;
- (b) a written estimate of the maximum regulated SSS/TUoS revenue, together with its components, in respect of the relevant year  $t-1$  immediately preceding the relevant year in which the change is to take effect unless a statement complying with paragraph 4.6 in respect of relevant year  $t-1$  has been furnished by the Licensee to the Authority before the time referred to in paragraph 4.2.

4.2 The relevant time referred to in paragraph 4.1 shall be 14 days prior to the date of publication of such charges.

4.3 If within 3 months of the commencement of any relevant year  $t$  the Licensee has not provided the aforementioned forecasts pursuant to paragraph 4.1 for the purpose of such changes in charges as are referred to in paragraph 4.1, the Licensee shall forthwith provide the Authority with a written forecast of the maximum regulated SSS/TUoS revenue (together with its components) in respect of relevant year  $t$ .

4.4 The Authority may issue directions providing that any forecast or estimate provided in accordance with paragraph 4.1 or 4.3 shall be accompanied by such information as regards the assumptions underlying the forecast or estimate as may be necessary to enable the Authority to be satisfied that the forecast or estimate has been properly prepared on a consistent basis and the Licensee shall comply with any such directions.

4.5 Not later than 6 weeks after the commencement of each relevant year  $t$ , the Licensee shall send to the Authority a statement as to:

- (a) whether or not the provisions of paragraph 3 are likely to be applicable in consequence of the regulated SSS/TUoS revenue in the preceding relevant year  $t-1$  or the 3 preceding relevant years  $t-1$ ,  $t-2$  and  $t-3$ ; and

- (b) its best estimate as to the relevant correction factor  $K_{TSO_t}$  calculated in accordance with the formula set out in paragraph 2 to be applied in calculating the maximum regulated SSS/TUoS revenue in respect of relevant year t.
- 4.6 Not later than 3 months after the end of each relevant year the Licensee shall send to the Authority a statement, in respect of that relevant year, showing the specified items referred to in paragraph 4.8.
- 4.7 The statement referred to in the preceding paragraph shall be:
- (a) accompanied by a report from the Auditors that in their opinion:
    - (i) such statement fairly presents each of the specified items referred to in paragraph 4.8 in accordance with the requirements of the SSS/TUoS charge restriction conditions; and
    - (ii) the amounts shown in respect of each of those specified items are in accordance with the Licensee's accounting records which have been maintained in respect of each of the relevant Separate Businesses in accordance with Condition 2; and
  - (b) certified by a director of the Licensee on behalf of the Licensee that to the best of his knowledge, information and belief having made all reasonable enquiries:
    - (i) there is no amount included in its calculations under paragraph 2 which represents other than
      - (aa) Not used
      - (bb) an amount permitted under the SSS/TUoS charge restriction conditions to be so included;
    - (ii) all amounts which should properly be taken into account for the purposes of the SSS/TUoS charge restriction conditions have been taken into account.
- 4.8 The specified items to be contained in the statement referred to in paragraph 4.6 shall be the following:
- (a) the regulated SSS/TUoS revenue;
  - (b) the maximum regulated SSS/TUoS revenue;

- (c) the cost of  $A_{TSO_t}$ , calculated as provided under paragraph 2 (showing separately each component thereof);
- (d) the allowed SSS/TUoS revenue, being  $B_{TSO_t}$ , calculated as provided under paragraph 2;
- (e) any other excluded SSS/TUoS costs and allowed change of law revenues, being  $D_{TSO_t}$  calculated as provided under paragraph 2 (showing separately each component thereof);
- (f) such other items as shall be specified in directions issued by the Authority from time to time for the purposes of this Annex.

## 5. **Duration of SSS/TUoS charge restriction conditions**

- 5.1 This Annex other than this paragraph 5 shall apply so long as this Licence continues in force but shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a disapplication request made in accordance with paragraph 5.2 and:
- (a) the Authority agrees in writing to the disapplication request; or
  - (b) the application (in whole or in part) of this Annex (other than this paragraph 5) is terminated by notice given by the Licensee in accordance with either paragraph 5.4 or paragraph 5.5.
- 5.2 A disapplication request pursuant to this paragraph 5 shall (a) be in writing addressed to the Authority, (b) specify this Annex (or any part or parts thereof) to which the request relates and (c) state the date from which the Licensee wishes the Authority to agree that the specified paragraphs of this Annex shall cease to have effect.
- 5.3 Save where the Authority agrees otherwise, no disapplication following delivery of a disapplication request pursuant to this paragraph 6 shall have effect earlier than the date (the "Disapplication Date") which is the later of:
- (a) the date occurring 18 months after delivery of the disapplication request; and
  - (b) 31 March 2010.
- 5.4 If the Authority has not made a reference to the Competition Commission under Article 15 of the Order relating to the modification of the relevant paragraphs of this Annex before the beginning of 12 months which will end with the Disapplication Date, the Licensee may deliver written notice to the Authority terminating the application of this Annex (or any part or parts thereof other than this paragraph 5) as are specified in the disapplication request with effect from the Disapplication Date or a later date.
- 5.5 If the Competition Commission makes a report on a reference made by the Authority relating to the modification of this Annex (or any part or parts thereof) specified in the

disapplication request and such report does not include a conclusion that the cessation of this Annex, in whole or in part, operates or may be expected to operate against the public interest, the Licensee may within 30 days after the publication of the report by the Authority in accordance with Article 16 of the Order deliver to it written notice terminating the application of this Annex (or any part or parts thereof other than this paragraph 5) with effect from the Disapplication Date or a later date.

5.6 A disapplication request or notice served under this paragraph 5 may be served in respect of a specified geographic area.

~~If by the date 4 months after SEM Go-Live (or such later date as may be agreed by the Licensee and the Authority) (the "Disapplication Date") the Authority has not made a reference to the Competition Commission under Article 15 of the Order so framed as to at least require the Competition Commission to investigate and report on the question of whether this Annex (or any part or parts thereof) operates or may be expected to operate against the public interest, then with effect from the Disapplication Date paragraph 2 shall be amended to read:~~

~~"The Licensee shall in setting the SSS/TUoS charges use its best endeavours to ensure that in any relevant year the regulated SSS/TUoS revenue shall not exceed such amount as the Licensee determines is reasonable in all the circumstances."~~

## 6. **Change of Law**

6.1 Where it appears to the Licensee that there has been, or is likely to be, a relevant change of law which has had or is likely to have a material effect on the financial position and performance of the Transmission System Operation Business, the Licensee may require the Authority to determine whether the relevant change of law has had or is likely to have such an effect, and if so what amounts, if any, should be treated as allowed change of law revenues in calculating  $D_{TSO_t}$  for relevant year  $t$  and each succeeding relevant year in accordance with paragraph 2 to ensure that the financial position and performance of the Licensee is likely, so far as reasonably practicable, to be the same as if the relevant change of law had not taken place. In determining the matters provided for in the paragraph above, the Authority shall have regard, where relevant, to:

- (a) its intentions in relation to the development and implementation of the "requisite arrangements", as provided for in condition 60 of the NIE Energy Supply Licence;
- (b) the period over which the Licensee shall incur costs by reason of the relevant change of law;
- (c) the incremental costs (including financing costs) which the Licensee has been or will be required to incur as a consequence of the relevant change of law; and
- (d) the other circumstances of the case.

6.2 A notice given to the Authority by the Licensee pursuant to paragraph 6.1 shall contain or be accompanied by all relevant details of the relevant change of law and such other

information as the Authority shall require and, unless the Authority shall otherwise consent, shall be given not later than the first day of ~~April~~ ~~October~~ immediately preceding the first of the relevant years in respect of which the Licensee wishes any change in such elements to take effect.

6.3 This Annex shall be modified to give effect to any determination made by the Authority under this paragraph 6. Such modification shall have effect from the later of the date of the determination and the date upon which the relevant change of law comes into force.

6.4 In this paragraph:

**"legal requirement"** means, in relation to the Licensee, any of the following:

- (a) any enactment to the extent that it applies to the Licensee;
- (b) any regulation made by the Council or the Commission of the European Communities to the extent that it applies to the Licensee or a decision taken by the said Commission which is binding on the Licensee to the extent that it is so binding;
- (c) any interpretation of law, or finding, contained in any judgment given by a court or tribunal of competent jurisdiction in respect of which the period for making an appeal has expired which requires any legal requirement falling within (a) or (b) above to have effect in a way different to that in which it previously had effect;
- (d) any direction of a competent authority other than, insofar as it applies to the Licensee, the Authority (except in the exercise of its powers under paragraph 4 of Condition 16) or the Department;

**"relevant change of law"** means any of the following:

- (a) the application to the Licensee of any legal requirement which did not previously so apply or the change of any legal requirement relating to the Licensee (including any such legal requirement ceasing to apply, being withdrawn or not being renewed);
- (b) a change of the United Kingdom Plan, as it applies to Northern Ireland, for the reduction of emissions, made by the Secretary of State on 20

December 1990 pursuant to section 3(5) of the Environmental Protection Act 1990 (as it shall have been amended, supplemented or replaced from time to time).

## 9. Unit Coverage

The component of maximum regulated SSS/TUoS ~~System Support Service~~ revenue relating to System Support Services (or certain parts of that component ~~the maximum regulated System Support Services revenue~~) can potentially be recovered from the quantity entering the total system in the authorised transmission area and from Wheeled Units. The final decision regarding which units in particular the component of maximum regulated SSS/TUoS revenue relating to System Support Services (or certain parts of that component) ~~the maximum regulated System Support Services revenue~~ will be recovered from in relevant year t (“unit coverage”) rests with the Authority. In each relevant year t on the decision of the Authority regarding unit coverage of the System Support Services charge, the Licensee will then draw up for the relevant year t the schedule of System Support Services charges in accordance with Condition 30 in a manner which is consistent with the decision of the Authority regarding unit coverage. If the Licensee draws up for relevant year t the schedule of System Support Services charges in accordance with Condition 30 in a manner which is not consistent with the decision of the Authority regarding unit coverage then the Authority’s approval under Condition 30 paragraph 6 for the form of this schedule will not be granted.

## 10. Excluded SSS/TUoS Costs

8.1 Subject to paragraphs 8.2 and 8.3 the following costs and revenues of the Licensee (whether a positive or negative amount) shall be treated as excluded TUoS/SSS ~~system support service~~ costs in relevant year t:

- (a) any reasonable costs incurred by the Transmission System Operator Business (in relevant year t) in complying with the requirements imposed on the Licensee under legislation and other legal requirements through which Directive 2003/54/EC is implemented, whether before or after the coming into effect of this Annex, as approved by the Authority, and to the extent not recovered under another part of the Licence or under the Northern Ireland Market Operator Licence or under the Transmission Owner Licence;
- (b) any reasonable costs incurred by the Transmission System Operator Business (in relevant year t) in complying with the requirements imposed on the Licensee under the arrangements for the Single Electricity Market (being the project described in the Memorandum of Understanding dated 23 August 2004 and made between the Authority and the Commission for Energy Regulation in Dublin), whether before or after the coming into effect of this Annex, as approved by the Authority, and to the extent not recovered under another part of the Licence or under the Northern Ireland Market Operator Licence or under the Transmission Owner Licence,
- (c) costs incurred in relevant year t associated with any future divestment of the Transmission System Operator Business;
- (d) the pension costs (in relevant year t) of the Transmission System Operator Business to the extent reasonably approved by the Authority;

(e) amounts that become uncollected SSS/TUoS revenue in relevant year t less any amount or part of an amount treated as uncollected SSS/TUoS revenue in respect of a preceding relevant year that has been paid to the Licensee in relevant year t;

(f) costs incurred in relevant year t in respect of those items referred to in Appendix 3 of the Authority's decision paper entitled "SONI Price Control 2007 – 2010" dated 4 April 2008 and as reasonably approved by the Authority

(g) costs incurred in relevant year t to finance the difference in the estimated CAIR<sub>t</sub> used in the preparation and approval of the tariffs prior to the relevant year t and the CAIR<sub>t</sub> amount approved by NIAUR prior to the end of March during the relevant year t. The financing costs are to be charged at [base rate plus 2%].

(h) costs incurred in relevant year t to finance the working capital requirements of SEMO. The financing costs are to be charged at [base rate plus 2%].

(i) any other costs and revenues of the Transmission System Operator Business which:-

(iv) were not taken into account in setting  $A_{TSO}$  or  $B_{TSO}$ ;

(v) in the case of costs, those which cannot reasonably be controlled by the Transmission System Operator Business; and

(vi) the Authority determines, upon an application to it by the Licensee, shall be included for the purposes of this paragraph.

8.2 The Licensee shall, in a timely manner, give the Authority notice of any claim for costs pursuant to paragraph 8.1 Such notice shall contain or be accompanied by all relevant details of the costs claimed and such other information as the Authority shall require in order to determine whether such costs can be recovered by the Licensee. Any claim for recovery of costs by the Licensee pursuant to paragraph 8.1 shall require to be approved by the Authority and shall not become effective until approved by the Authority.

8.3 No costs incurred or revenues received by the Transmission System Operator Business shall be included in more than one of the categories in sub-paragraphs (a) to (i) of paragraph 8.1.

**APPENDIX 2 – NOTICE FOR MODIFICATION**



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

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**MODIFICATION OF SONI  
TRANSMISSION SYSTEM OPERATOR LICENCE**

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In pursuance of its powers under Article 14(1) of the Electricity (Northern Ireland) Order 1992 (as amended) (hereafter referred to as the “**Order**”) and having obtained the consent of SONI Limited (the “**Licensee**”), 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 system operator licence (the “**Licence**”) held by the **Licensee** by:
  - a. modifying the existing licence conditions as set out in Appendix 1 part 1 to the consultation paper on modifications to SONI’s licence to participate in Transmission dated 29 January 2010 and .
- 2** The reasons for the proposed modifications are to:
  - a. facilitate efficient operation of the Transmission System Operator business, while maintaining regulatory oversight
  - b. incorporate changes required to permit the full implementation of the arrangements for harmonising the purchase of ancillary services in SEM
  - c. reflect the procedures for the publication of Transmission Loss Adjustment Factors, which are specified in the Trading and Settlement Code

d. incorporate changes as a result of the previous decision regarding SONI's price control from 2007 to 2010 (published on 4 April 2008)

- 4** Representations or objections with respect to the proposed modifications (which are available on the All Island Project or NIAUR websites or can be obtained by contacting the person named below) may be made on or before **5pm on Friday 12<sup>th</sup> March 2010** to:

Juliet Corbett  
The Northern Ireland Authority for Utility Regulation  
Queens House  
14 Queen Street  
Belfast  
BT1 6ER

Tel: 028 9031 1575

Fax: 028 9031 1740

Email: [juliet.corbett@niaur.gov.uk](mailto:juliet.corbett@niaur.gov.uk)

- 5** The Authority has, pursuant to Articles 14(3)(b) 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 29 January 2010

Shane Lynch

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

cc

**Jenny Pyper, DETI**

**Robin McCormick SONI Limited**