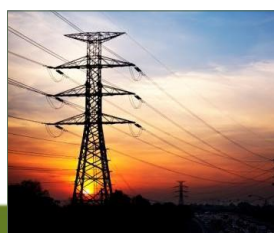


Contestability in Connections

Proposed Next Steps Paper
11th May 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

The Utility Regulator (UR) has identified the introduction of contestability in connections to the electricity network as part of the forward work programme. A consultation paper was issued on 2nd December 2014 and responses received in February 2015. This proposed next steps paper reviews the responses to the consultation and provides recommended next steps for implementing contestability. The UR welcomes feedback from all stakeholders.

Audience

All parties owning, connecting to, or providing connections to the electricity network in Northern Ireland.

The UR would also welcome contributions from customers, customer representative bodies, financial institutes providing finance and other interested parties.

Consumer impact

The benefits of contestability may include but are not limited to:

- increased innovation;
- improved connection times;
- more efficient construction;
- better customer service to parties interested in connecting;
- achieving renewables target; and
- reduced financing/operating costs.

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Executive Summary

The delivery of electricity connections currently operates as a monopoly with Northern Ireland Electricity (NIE) responsible for construction of connections to their electricity network in Northern Ireland. All parties wishing to connect must receive an offer (using NIE costs approved by the UR) from either NIE for connection to the distribution network or SONI for connection to the transmission network. As part of the UR's forward work programme (FWP) 2014-2015¹ it is proposed to introduce contestability for new connections. The UR seeks to promote a competition based regime where possible, in line with their duties.

The UR issued a consultation paper on 2nd December 2014 and the responses have been summarised in this proposed next steps paper. The responses to the consultation have been considered by the UR and next steps have provided.

The paper looks at what actions NIE and SONI must take to implement contestability whilst complying with their licence obligations. The UR will be responsible for consulting and developing licence modifications for both NIE and SONI to ensure they have an obligation to provide contestable connections.

The UR will have an ongoing responsibility to review the impact of contestability in Northern Ireland and make changes to the proposed arrangements if necessary to promote competition.

The paper will be supplemented by Annexes provided by both NIE and SONI displaying their proposed timelines for the effective introduction of contestability to transmission and distribution connections. These timelines are indicative and the UR will work with NIE, SONI and other stakeholders to ensure contestability is delivered as soon as is practical.

¹ http://www.uregni.gov.uk/uploads/publications/FWP_201415_final.pdf

1 Introduction

1.1 Purpose of this paper

1.1.1 On 2nd December 2014 the UR published its consultation on the introduction of Contestability in Connections². The consultation closed on 27th February 2015 and a total of 11 formal responses were received. Responses have now been published on our web site³. This paper provides detail on the responses received and our position on each of the issues raised. Recommended next steps are also identified.

1.1.2 The purpose of the consultation paper was to identify the best fit for contestability in Northern Ireland. A number of issues surround the implementation of contestability and views were sought to address these issues.

1.1.3 The issues that were considered appropriate to discuss in this paper are:

- Connection Type
- Scope of Contestability
- Operations and Maintenance
- Accreditation
- Documentation
- Other Issues
- UR next steps

1.1.4 The responses from RES and Energia stated their full support to the response from NIRIG and the response from Telestructure International stated their full support to the Powercon response.

1.2 Structure of this paper

1.2.1 The paper will be made up for the following sections:

Section 3 discusses how contestability will be applied for different connection types.

Section 4 reviews the scope of contestability and defines the activities that we recommend to be contestable and non-contestable.

Section 5 takes a look at how operations and maintenance would be applied to contestable assets.

² http://www.uregni.gov.uk/uploads/publications/Contestability_in_Connections-Final.pdf

³ http://www.uregni.gov.uk/electricity/contestability_working_group/

Section 6 reviews the different models in GB and RoI and focuses on whether accreditation should be employed as part of the contestability model for Northern Ireland.

Section 7 looks at what documentation is required to be developed to implement contestability and provide guidance to developers as to how to comply with NIE and SONI standards.

Section 8 covers other issues that were raised in the responses to the consultation.

Section 9 sets out the proposed timelines for implementation as set out by NIE and SONI.

Section 10 details the next steps required to be carried out by the UR to establish contestability.

1.3 Responding to this paper

- 1.3.1 We welcome comments on this proposed Next Steps paper by **5pm on Friday 19th June 2015**. Responses should be sent to:

Ronan McKeown
Electricity Branch
Utility Regulator
Queens House
14 Queens Street
Belfast BT1 6ER
ronan.mckeown@uregni.gov.uk

- 1.3.2 Our preference would be for comments to be submitted by e-mail.
- 1.3.3 We will seek to publish all comments to this Next Steps paper on the UREGNI website (where appropriate). If part of your response is confidential, it would be helpful if you could also submit a non-confidential version of your response redacting all confidential information.
- 1.3.4 As a public body and non-ministerial government department, the UR is required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential. It is therefore important that respondents take account of this and in particular, if asking the UR to treat responses as confidential, should specify why they consider the information in question should be treated as such.
- 1.3.5 This paper is available in alternative formats such as audio, Braille etc. If

an alternative format is required, please contact the office of the UR, which will be happy to assist.

2 Background

- 2.1.1 At present, new connections are made to the distribution network and transmission network for either the generation of electricity or new electricity demand.
- 2.1.2 Currently all connection offers are made by either the Transmission System Operator or Distribution Network Operator (TSO and DNO respectively). The TSO license is held by System Operator for Northern Ireland Ltd (SONI) and the DNO license is held by Northern Ireland Electricity Ltd (NIE). Their connection charging methodologies state the scope of connection services that they provide.
- 2.1.3 We have identified that there may be an opportunity for competitors to carry out connection activities which would increase efficiencies within the connections industry. This would also offer choice to the customer applying for a new connection.
- 2.1.4 Activities that competitors can undertake are described as ‘contestable’ and those that can only be carried out by the TSO/DNO are referred to as ‘non-contestable’. Some services may be considered non-contestable by the TSO/DNO for technical or safety reasons.
- 2.1.5 Contestability in connections has been established in RoI and GB. In RoI, contestability has been introduced for transmission⁴ and distribution⁵ connections. In GB, competition in connections was introduced in the distribution network allowing Independent Connection Providers (ICPs) and licensed Independent Distribution Network Operators (IDNOs) to build LV and HV network offline, prior to connection⁶. The UK has also introduced Offshore Transmission Network Operator (OFTOs) who have been granted a transmission license for the offshore connection assets⁷.

⁴ <http://www.eirgrid.com/media/Contestability%20paper%20Oct%202007.pdf>

⁵ <http://www.cer.ie/docs/000215/cer10056.pdf>

⁶ <https://www.ofgem.gov.uk/electricity/distribution-networks/connections-and-competition/competition-connections>

⁷ <https://www.ofgem.gov.uk/electricity/transmission-networks/offshore-transmission>

3 Connection Type

3.1 Consultation Response

3.1.1 In the call for evidence⁸ issued on 9th September we asked whether contestability should be applied to Transmission and Distribution connections and also whether contestability should be applied to inshore and offshore connections. The responses received indicated that contestability should be open to all connection types.

3.2 Next Steps

3.2.1 Based on the call for evidence and responses to the consultation, we would seek to implement contestability guidelines that are consistent across all connection types to ensure there is no discrimination.

3.2.2 We will review the uptake of contestability across all markets and make changes to proposed arrangements where necessary to ensure a competitive electricity connections market.

⁸ http://www.uregni.gov.uk/uploads/publications/Contestability_in_Connections.pdf

4 Scope of Contestability

4.1 Consultation Response

4.1.1 The consultation paper reported that the call for evidence had suggested that any work relating to the existing live Transmission and Distribution systems should be non-contestable.⁹

4.1.2 Section 7.1.2 of the consultation paper also mentioned the activities below as being non-contestable:

- Definition of point of connection
- Design of point of connection
- Upstream reinforcement
- Making final connection to existing system
- System protection, metering and communication
- Handover and acceptance of contested assets
- Design approval

4.1.3 Responses to Question 5 of the consultation paper (*Are there any other non-contestable works that are not outlined in 7.12 that should be considered?*) indicated that as well as the list detailed in it, that the following elements should be included as non-contestable works:

- Commissioning
- Definition of ownership boundary
- Inspection and Monitoring

4.1.4 Powercon's response to the consultation requested that appropriate levels of 'Inspection and Monitoring' need to be defined by the network owner/operator and how this cost is allocated.

4.1.5 NIRIG stated that consideration should be given to contestability of the final connection to the existing system.

4.1.6 SONI's response stated that the following aspects of a connection should be non-contestable:

- Contestable Elements of a Connection – The TSO should determine which elements of a connection method can be contested by an applicant and those which cannot.
- Determination of Ownership Boundary – The ownership boundary should be determined by the TSO at the connection offer stage.
- Outline Connection Design and Functional Specification – The TSO should be responsible for specifying the outline design and functional

⁹ http://www.uregni.gov.uk/uploads/publications/Contestability_in_Connections-Final.pdf

specification of the connection.

- Commissioning – The commissioning of contestable assets should not be a contestable activity.

4.1.7 NIE considers that commissioning of any new plant and equipment should be a non-contestable activity.

4.1.8 NIE's response to the consultation stated that, "it is essential that there is a clear separation of contestable and non-contestable works and where the customer elects to appoint an independent provider then all contestable work are carried out by that provider".

4.1.9 ABO Wind stated that developers should have a choice in what contestable elements they wish to undertake and this should be balanced with the need to keep the interface with the developer and network owner/operator as clear and simple as possible.

4.1.10 SSE believes the menu approach to contestability is the most appropriate.

4.1.11 SONI stated that, "the simplest way to implement contestability would be an all or nothing approach and this would be SONI's preference".

4.1.12 Simple Power believes that for small scale generation connections, the scope for contestability could be underground cable and substation work. Within this restricted scope there should be as much flexibility as possible.

4.1.13 Windyfields stated that, "Obtaining wayleaves and access rights through agreement with landowners should be contestable immediately without changes to legislation."

4.1.14 Windyfields stated that the connecting part should be allowed to choose what contestable elements they wish, however this should be balanced with the need to keep the interface with the DNO/TSO as clear and simple as possible.

4.1.15 SSE stated that, "adoption of the RoI template is more likely to result in the efficient, practical and timely introduction of contestability that developers (the actual customers for the policy) in Northern Ireland want. The GB template would have to offer considerable advantages in order to justify aggravation of introducing arrangements of which none of the key stakeholders has any experience."

4.2 Next Steps

4.2.1 Based on the responses to the consultation and call for evidence we recommend that the activities below are initially considered non-contestable in Northern Ireland subject to further review once contestability has been

established:

- Definition of point of connection
- Design of point of connection
- Upstream reinforcement
- Making final connection to existing system
- System protection, metering and communication
- Handover and acceptance of contested assets
- Design approval
- Commissioning
- Functional Specifications
- Determination of Ownership Boundary
- Inspection and Monitoring
- Work within existing live substations

4.2.2 The activities that would be deemed to be contestable would therefore include:

- Detailed Design
- Route and Site Selection
- Site Acquisition
- Planning Permission/Wayleaves
- Procurement
- Construction
- Pre-commissioning

4.2.3 The guidelines which will be developed by NIE and SONI on contestability will reflect the activities outlined in 4.2.1 and 4.2.2.

4.2.4 We do not consider final connection to the existing system to be contestable at this time due to health and safety concerns.

4.2.5 As mentioned in 3.2.1, we consider that the guidelines for all connections are the same for all connection types. This would mean that the implementation of contestability will have a clear boundary with the developer having to take on all contestable activities from the point of connection or none. This allows for a quicker implementation without discrimination and reduces the risk of confusion of what each party's responsibilities are.

4.2.6 It will be the responsibility of NIE and SONI to define the point of connection to the existing system.

4.2.7 NIE and SONI are required to define within their guidelines what the appropriate levels of inspection and monitoring will be for contestable assets.

4.2.8 Connection to the existing system will be a non-contestable activity. However, this will be reviewed by the UR when contestability has been implemented.

5 Operations and Maintenance

5.1 Consultation Response

- 5.1.1 The call for evidence responses reflected on the current arrangements in GB and RoI, where ongoing liability of the contestable asset is transferred to the Network Owner (Maintenance) and Network Operator (Operations) as part of the asset transfer process, with built in safeguards to protect the Network Owner/Operator. This provides clarity and transparency to all interested parties and also a clear demarcation with regard to ongoing Health and Safety, and operational responsibilities.
- 5.1.2 The majority of the responses to the consultation agreed with the approach in 5.1.1. Some of the responses stated that the current statement of charges¹⁰ provides a choice of having Operations and Maintenance charges capitalised as part of the connection costs or charged on an annual basis.

5.2 Next Steps

- 5.2.1 We have reviewed the current charging methodology for transmission and distribution and would seek to continue with the current arrangements for charging for operations and maintenance. NIE and SONI would develop a cost for operations and maintenance for their quote for all of the work required. This cost will be transferred to the quote required for a contestable quote so the operations and maintenance quote for both quotes will be the same.
- 5.2.2 NIE and SONI will establish the ownership boundary and upon completion of contestable works, any connection assets within this boundary shall be transferred to the network owner/operator to operate and maintain for the lifetime of the asset.
- 5.2.3 NIE and SONI will be required to update their connection charging methodologies to include operations and maintenance charges on contestable assets.

¹⁰<http://www.nie.co.uk/documents/Connections/NIE-Distribution-Connection-Charging-Statement-Oct.aspx>

6 Accreditation

6.1 Consultation Response

- 6.1.1 Upon review of the contestability models in GB and RoI, one key difference was that in GB to carry out contestable activities, the connection party was required to have formal accreditation from an independent body. The concept of this accreditation was to protect the developer, whilst providing assurance to the network owner that the developer was competent and delivered to the required quality and standards.
- 6.1.2 In the consultation paper, we asked which model between RoI and GB would provide the best fit for Northern Ireland. The responses were mixed, with the main response being that accreditation will fit as long as it does not create a barrier to competition.
- 6.1.3 NIRIG stated, "Any accreditation scheme, if required, should not unduly delay the effective introduction of contestability. In ROI the DSO or TSO specify standards, and QA (Quality Assurance) test procedures with appropriate oversight and supervision. The risk of selecting an appropriately qualified / experienced contractor/ICP then rests with the developer. In addition to the normal health and safety requirements for any manner of large scale construction, all connections have to be grid code compliant. This seems to work well from a practical perspective... Any accreditation scheme for ICPs should not be unnecessarily onerous or burdensome and neither reduces competition nor slows down the implementation of contestability."
- 6.1.4 Telestructure International highlighted that the Construction, Design and Management (CDM) Regulations¹¹ have recently been amended and should be incorporated into an accreditation process.
- 6.1.5 SONI recommends that an evaluation is carried out on whether or not the Lloyd's accreditation scheme used in GB is suitable, in its current format, for use in Northern Ireland for transmission connections. The evaluation should also consider the costs involved in Lloyd's accreditation scheme, willingness among local service providers to sign up for it, as well as the timelines for its implementation. Based on this, an informed decision can be made on the impact of making accreditation mandatory as a first step in the introduction of contestability in Northern Ireland.
- 6.1.6 At this point in time, SONI question whether accreditation is necessary for the successful implementation of contestability in connections in Northern Ireland. SONI believe that an accreditation scheme could be considered as an enhancement to any contestability model in the future.

¹¹ http://www.hseni.gov.uk/cdm_2015_cd.pdf

- 6.1.7 NIE will support whatever model is proposed by the UR, however paragraph 5.2.3 of the Consultation specifies that in GB, only Independent Connection Providers (ICP) which have gone through a formal accreditation process, are allowed to build contestable assets and then hand them over to the local utility who adopt them as part of their network. It is NIE's view that, to allow for an orderly approach, a similar formal ICP status will be required by any party carrying out contestable works in Northern Ireland.
- 6.1.8 The Ulster Farmer's Union stated in their response that they are of the opinion that the GB model is the one which should be considered as Northern Ireland Energy Policy is closer to GB than RoI, and that ICPs and IDNOs should be introduced.

6.2 Next Steps

- 6.2.1 NIE and SONI will be required to satisfy themselves that contestable work will be carried out to their specifications and standards whilst abiding by the legislation in Northern Ireland. Therefore, we consider accreditation is required to ensure compliance and reduce the risks to the developer, NIE and SONI.
- 6.2.2 We recommend that NIE and SONI engage with Lloyds regarding the National Electricity Registration Scheme¹² (NERS) to assess how this existing accreditation scheme could meet their requirements for accreditation.

¹² <http://www.lloydsregister.co.uk/schemes/NERS/>

7 Documentation

7.1 Consultation Response

7.1.1 The documentation that has been highlighted in the call for evidence which requires review is as follows:

- Transmission Grid Code
- Distribution Code
- Northern Ireland Planning Standards
- SONI Transmission Connection Charging Statement
- NIE Distribution Connection Statement of Charges
- Connection Agreements
- Transmission Use of System (TUoS) Agreements
- TSO licence
- Transmission Asset Owner (TAO) and Distribution licences
- Functional Specifications
- Standard form for connection offers
- Transmission Interface Agreement

7.1.2 There will be additional documentation will also require to be produced:

- New document on key principles, interface arrangements, dispute resolution process, boundary definitions, design reviews, construction, commissioning, operations and maintenance and asset transfer.
- New standard form for adoption agreements

7.1.3 The consultation responses also identified the following documentation that requires consideration prior to implementing contestability:

- Construction (Design and Management) Regulations (Northern Ireland) 2007¹³
- Inspection and Monitoring Guidelines
- The Electricity (Northern Ireland) Order 1992
- Electricity (Connection Charges) Regulations (Northern Ireland) 1992
- Statement of Charges from ICPs
- Updates to market processes.
- Electricity Safety, Quality and Continuity Regulations (NI) 2012

7.2 Next Steps

7.2.1 NIE and SONI have provided a timeline for implementation. We recommend that NIE and SONI review their existing documentation and develop new guidelines for contestability.

¹³ Currently being consulted upon : http://www.hseni.gov.uk/cdm_2015_cd.pdf

7.2.2 We recommend that the Contestability Working Group work with NIE and SONI to develop guidelines for contestable connections, using existing templates where practical. These guidelines will provide clarity around:

- Contestable activities as detailed in this paper
- Roles and Responsibilities of interacting parties
- Liability
- Insurance
- Warranties
- Transfer of Ownership of contestably built assets

7.2.3 We recommend that NIE and SONI provide all relevant documentation required by a connection applicant on their respective websites so that the application process is transparent.

8 Other Issues

8.1 Consultation Response

- 8.1.1 ABO Wind raised a concern during the consultation about how contestability would be applied to Cluster substations and whether there would be the same shortfall protection that currently exists for NIE constructed cluster substations.
- 8.1.2 NIE's response to the consultation stated that NIE would require funding to support the contestable market, in particular for IT systems and updating documentation.
- 8.1.3 The consultation paper identified that in Ofgem's review transparency of pricing was an issue that they have experienced.
- 8.1.4 RES mentioned in their response that it would encourage NIAUR (The UR) to continue to consider new entrant licencees as part of the broader contestability debate.
- 8.1.5 The Consumer Council recommended in their response that, " the Utility Regulator develops a standardised template to include all costs which the DNO and third party connection suppliers must use to provide quotes to customers as this will enable easy comparability of charges."

8.2 Next Steps

- 8.2.1 We recommend that the current cluster methodology and principles remain unchanged. NIE and SONI would be required to consider what agreements they would need in place for shared assets to be constructed.
- 8.2.2 We recommend SONI and NIE update their charging methodology to factor in the on-cost addition for managing contestable connections.
- 8.2.3 We recommend that SONI and NIE work with the Contestability Working Group to ensure that quotes for non-contestable and contestable works are transparent and can be compared.
- 8.2.4 We are in agreement with the Consumer Council statement about the use of a standardized template for quoting customers, however, we recommend that NIE and SONI are responsible for providing quotes on a transparent basis.

9 Timelines for Implementation

- 9.1.1 NIE and SONI were requested to provide timelines for their implementation of contestability and the structure and systems to support it.
- 9.1.2 Annex 1 will show SONI's indicative timeline for delivery and Annex 2 will show NIE's indicative timeline for delivery. Both annexes will be published as soon as they are made available to the UR.
- 9.1.3 The proposed timelines are high level and are for indicative purposes only. We will be working with NIE, SONI and other stakeholders to accelerate the implementation of contestability where possible.

10 Next Steps for Utility Regulator

10.1 Licence Modifications

10.1.1 We will engage with NIE and SONI prior to modifying their licences to reflect their new obligation to provide contestable connections. This will be issued for consultation later this year. However consideration will need to be given to the requirements of NIE and SONI for effective implementation.

10.1.2 We will continue to work with NIE and SONI to implement contestability in parallel with the licence modifications and the working group that has been put in place.¹⁴

10.1.3 We will review and approve the proposed connection charging methodologies presented by NIE and SONI for contestable assets.

10.2 Review

10.2.1 We will carry out an ongoing review into the uptake of contestability and make changes where necessary to promote competition.

10.2.2 The timelines proposed by NIE and SONI will be discussed further to ensure a reasonable time for delivery of contestability, and compliance with the licence modifications when they come into effect.

¹⁴ http://www.uregni.gov.uk/electricity/contestability_working_group/