

**Power NI Energy Limited
Power Procurement Business (PPB)**

Utility Regulator

**Notice of proposed modification to
Condition 5 “Security Arrangements” of
electricity generation licences**

Notice dated : 3 August 2022

Response by Power NI Energy (PPB)

31 August 2021.



Introduction

PPB welcomes the opportunity to respond to the Utility Regulator's (UR's) notice under Article 14(2) of the Order that sets out its proposal to modify electricity generation licences to include specific requirements in relation to secondary fuel stocks.

General Comments

We are confused by the purpose of the proposed modifications which rather than improve clarity, actually increase the scope for misalignment of obligations.

Article 39 Consent

General baseline Fuel Stocking Obligations are imposed on Generators as part of the Article 39 consent that the generator must obtain from the Department and which is required to construct, extend and/or operate a power station. Hence such Article 39 consents already provide explicit obligations on all generators who are required to be able to operate on a secondary fuel. We understand such consents impose a requirement to hold sufficient secondary fuel stocks to enable such generators to operate at full output for 5 days on that secondary fuel.

SONI can request all such generators to conduct a fuel switchover and hence if there were an enduring inability to switch fuel, the generator would be in breach of its Article 39 consent and any failure to comply, without reasonable excuse, is a criminal offence. We understand generators raised significant concerns that they were required to bear the cost of such fuel switches and as a result Fuel Switching Agreements were introduced that on the one hand enable generators to recover costs where the generator successfully switches fuel and as part of that agreement also creates obligations on the generator with respect to communication of actual stock levels and other information flows.

Hence the Article 39 consent provides the primary obligation in respect of fuel stocking with Fuel Switching Agreements adding an overlay that provides for additional information flows in exchange for payments. There is no lack of clarity and nothing further is required to assist with security of supply or the NI energy transition.

Fuel Security Code

The Fuel Security Code provides the Department significant rights to direct that generators should increase fuel stocks either in preparation for a Fuel Security Event or during such an event, once declared. This provides substantive rights to the Department to manage risks to security of supply in exceptional circumstances through directions under Article 37 of the Order, while also providing arrangements for cost recovery of Exceptional Costs incurred by a generator (or other licensee). This provides scope to increase stocking levels above the

base levels required under the Article 39 consent should an emergency arise and a Fuel Security Event be contemplated or declared.

Retaining Consistency with RoI obligations

The existing arrangement in NI is consistent with the arrangements in RoI and hence there is nothing that would distort investment decisions in respect of such obligations.

In both NI and RoI, the base level of secondary fuel stocks that a generator is required to hold is specified as part of the “Authorisation to Construct...” in both jurisdictions¹.

Similarly there are obligations to co-operate in respect of contingency arrangements in both jurisdictions. In NI this is obligated through Condition 5 of the generation licence which requires compliance with the Fuel Security Code. In RoI it is Condition 6 of the generation licence that places the obligations in respect of contingency planning “*during periods when the Commission deems necessary for reasons of security of supply*”.

Conclusions

Obligations in respect of secondary fuel stocking already exist under Article 39 consents and failure to comply is a criminal offence. Obligations also exist in respect of compliance with the Fuel Security Code that ensures generator co-operation with the Department’s requirements as directed under Article 37 in respect of the fuel stocking levels, the use of such stocks, and the operation of the generating units. Adding further obligations under the licence in respect of fuel stocks adds no greater clarity and instead creates the potential for confusion and divergence where none exists today. Further, any such addition will create a divergence with the arrangements in RoI which risks distorting the Single Electricity Market and investment decisions for new generators.

There is no benefit from the proposed modifications whereas there is scope for making matters unclear and distorting the wider SEM arrangements. We therefore see no justification to progress with the proposed licence changes.

¹ Article 39 in NI, and Condition 6 of the Authorisation to construct or reconstruct a Generation Station Licence” in RoI