

# Article 14(8) Notice

## Decision published on modifications to the electricity transmission licence held by SONI Limited pursuant to Article 14(8) of the Electricity (Northern Ireland) Order 1992 (as amended)

In accordance with Article 14(2) of the Electricity (Northern Ireland) Order 1992 ("**the Order**") the Northern Ireland Authority for Utility Regulation ("**the Authority**") published on 20 October 2023 a notice ("**the Consultation Notice**") of its intention to modify Condition 42 of the electricity transmission licence ("**the Licence**") held by SONI Limited ("**the Licensee**").

The modifications proposed were published alongside the Consultation Notice.

In accordance with Article 14(5) of the Order the Authority has now considered the representations duly made to it following the publication of the Consultation Notice and has decided to proceed with the making of modifications to Condition 42 of the Licence, in exercise of its powers under Article 14(1) of the Order.

In accordance with Article 14(8) of the Order the Authority hereby gives notice as follows –

1. The Authority has decided to proceed with the making of the modifications proposed to Condition 42.
2. The effect of the modifications is to:
  - a) remove the existing provisions in Part F which state that each date specified in the Condition is modified in the event that an (unsuccessful) appeal has been made to the Competition and Markets Authority (CMA) by the Licensee under Article 14B of the Order in respect of the Authority's decision to modify the Licence to include Condition 42;
  - b) introduce a new Part F which enables the Authority to modify the Condition, by giving a direction to the Licensee, to the effect that any date or period of time specified in the Condition is changed to a later date or a longer period (as the case may be); and
  - c) make certain minor consequential changes to the introductory text of the Condition, the definitions used in the Condition, and its paragraph numbering.
3. The reasons why the Authority has decided to modify the Licence are as follows:

- a) the existing provisions at Part F of the Condition, referred to in paragraph 4(a) above, are no longer needed as they relate to a situation (namely an appeal to the CMA against the original decision of the Authority to include the Condition in the Licence) which did not occur and cannot now occur;
- b) the dates and periods of time currently specified in the Condition are premised on the Licensee having been able to ensure that a new board of the Licensee was constituted in accordance with the requirements of Part A by 1 June 2023;
- c) in practice, the new board of the Licensee was not constituted in accordance with the requirements of Part A of Condition 42 until 1 October 2023;
- d) the Authority considers it essential that the newly constituted board of the Licensee – given that it will need time to be fully informed on matters relating to the provisions and requirements of the Condition, and given the importance of it bringing its independent perspective to bear on how best to achieve compliance with those requirements – has an adequate amount of time to consider and make its decisions on such matters;
- e) given the delay in the appointment of the new board, the current timetable mapped out in the Condition is unlikely to facilitate the board having an adequate amount of time to consider and make its decisions on matters relating to the Condition;
- f) the Authority considers it necessary and appropriate to take a flexible power to change the dates and time periods (such that they can only be extended and not shortened) by direction, so that it can respond to this delay and ensure that the board has adequate time to carry out its tasks;
- g) the Authority considers it necessary and appropriate to be able to exercise this power on more than one occasion, so that it can be responsive to any unavoidable future delay in implementation of the Condition; and
- h) the Authority is provisionally satisfied that the proposed modifications involve changes which are best calculated to meet its statutory objectives and duties at Article 12 of the Energy (Northern Ireland) 2003, most notably because it will be in the interests of consumers in Northern Ireland for the board of the Licensee to have adequate time to consider and make decisions on how best to achieve compliance with the Condition.

4. The Authority received one response to the Consultation Notice – from SONI. SONI's response indicated that it agreed with the UR's approach of allowing flexibility in the date and time periods in Condition 42 and

described the modifications as ‘pragmatic.’ In addition SONI’s response requested that the proposed modification text is revised to make it more prescriptive in regard to what is required to trigger a direction. SONI considers that the current drafting contains no safeguards for SONI.

5. The Authority has taken into account the representations made by SONI but has not made amendments to the proposed modifications as it considered it was not appropriate to do so for the fulfilment of its principal objective and statutory duties under Article 12 of the Energy (Northern Ireland) Order 2003. Our reasons are:
  - a) Neither SONI or a third party can request direction to change dates and this is consistent with Condition 42 as made.
  - b) The UR has made no provision for conditions to be attached to a direction – a direction will simply modify dates/time periods
  - c) Dates or time periods may be modified more than once if needed preserving flexibility. Any proposed direction will also be consulted on. These are important safeguards for SONI. In addition dates and time periods can only be moved forward and not back, a further key safeguard for SONI.
  - d) If SONI disagrees with any decision on a direction it has a right of appeal in judicial review. However, we emphasise our desire to work collaboratively with SONI to agree dates that allow the SONI board an adequate amount of time to consider and make its decisions while balancing the need for the condition to be implemented as promptly as possible.
  - e) UR envisages further engagement with SONI on the timescales for the direction process.
6. Consequently, there are no differences between the modifications which were subject to consultation by means of the Consultation Notice and the modifications which the Authority has (by virtue of this Article 14(8) notice) now determined to make to the conditions of the Licence.
7. The modifications now made are shown in the new version of Condition 42 of the Licence published alongside this Notice.
8. The Authority has, pursuant to Article 14(8)(a) of the Order, published this notice on its website and sent a copy of this notice to the Licensee. In addition, the Authority has provided a copy of this notice to the Department for the Economy and the Consumer Council for Northern Ireland.

The licence modifications shall have effect on and from 29 March 2024.

Dated this day: 1 February 2024.

A handwritten signature in black ink, appearing to read 'J. French', written in a cursive style.

**John French**

**Chief Executive**

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

**SCHEDULE 1 SHOWING IN MARK-UP AND STRIKETHROUGH THE MODIFICATIONS  
MADE TO CONDITION 42 OF THE ELECTRICITY TRANSMISSION LICENCE HELD BY  
SONI LIMITED**

See document published on published on UR website alongside this Notice