

NOTICE OF REASONS PURSUANT TO ARTICLE 62(1)(F) AND (2) OF THE ENERGY (NORTHERN IRELAND) ORDER 2003 FOR THE DECISION TO MAKE A PROVISIONAL ORDER UNDER ARTICLE 42 OF THE ENERGY ORDER.

1. This notice sets out the reasons why on 24 September 2025, the Northern Ireland Authority for Utility Regulation (the **Authority**) made a provisional order in respect of a likely contravention by EP NI Energy Limited (company number NI667118) having its registered office at Kilroot Power Station (the Station), Larne Road, Carrickfergus, Co. Antrim, United Kingdom, BT38 7LX of its obligations.
2. This is a notice pursuant to Article 62(1)(f) and (2) of the Energy Order, which provide that the Authority shall publish a notice stating the reasons for the decision to make a provisional order as soon as reasonably practicable after making such a decision. The content of this notice reflects the Authority's discharge of its duty under Article 62 (4) of the Energy Order.

Background

3. EP NI Energy Limited (the **Licensee**) holds an electricity generation licence (the Licence) granted by the Authority on 24 March 2021 in accordance with Article 10(1)(A) of the Electricity (Northern Ireland) Order 1992 (the **Electricity Order**).
4. In order to maintain secure electricity supplies to consumers in Northern Ireland, the Transmission System Operator is responsible for dispatching generation sets such as those at the Station on a continuous basis through processes governed by the Single Electricity Market Trading and Settlement Code (**TSC**) and the Grid Code. The effective and efficient operation of these processes is dependent upon the timely provision by generators, such as the Licensee, to the Transmission System Operator of accurate technical data and other information relating to the availability of such generation sets.
5. Condition 4(1) of the Licence requires the Licensee to comply with, inter alia, the provisions of the Grid Code insofar as applicable to it. Under paragraph SDC1.4.3.2 of the Grid Code (a) the Licensee is required (subject to the exceptions in SDC1.4.3.3 and SDC1.4.3.3A, none of which is applicable in the present circumstances) to use reasonable endeavours to ensure that it does not at any time declare, in the case of any Generation Unit (as defined in the Grid Code) at the Station, the Availability or Technical Parameters (as so defined) (such declarations being hereinafter referred to as ATP Declarations) at levels or values different from those that such Generation Unit(s) could achieve at the relevant time and (b) that the Transmission System Operator can reject declarations to the extent that they do not meet these requirements.
6. Condition 14(1) of the Licence requires the Licensee, in respect of any generation set which is owned or operated by it, inter alia, to be a party to and, in so far as applicable to it in its capacity as the holder of the Licence, to comply with the TSC. Under paragraph D.5.1.2 of the TSC, the Licensee is required to use reasonable endeavours in accordance with Prudent Electric Utility Practice (as defined in the TSC) to ensure that all data items submitted as part of Technical Offer Data (as so defined) (TOD Submissions) in respect of each of its Generator Units (as so defined) at the Station are accurate and reflect the real capabilities of the relevant unit at the point where it is connected, net of unit load and with due regard for the impact of forecast ambient conditions on that unit.
7. The Licensee is required under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 (the PPC Regulations) to limit the number of hours (PPC Hours) on which the generation set(s) at the Station are operated in a particular year. In view of current demand from the Transmission System Operator for generation output from the Station to maintain secure electricity supplies in Northern Ireland, the Authority understands that this year's annual PPC Hours limit (the 2025 Limit) is anticipated to be reached on or around Thursday 25 September 2025, at which point the Licensee will not be permitted to operate the relevant generation set(s). The Authority also understands that urgent consideration is being given to steps which may be taken under the PPC Regulations before that date in order to avoid this outcome and that a direction was given on 23 September 2025 by the Department of Agriculture, Environment and Rural Affairs directing an increase in the 2025 Limit.
8. Meantime, the Authority has been informed that the Licensee is seeking to update the TOD Submission in respect of generation set(s) at the Station to indicate that such set(s) are not available to be selected by the Transmission System Operator to provide output in the period prior to the 2025 Limit being reached and that this is being done with the intention of conserving remaining PPC Hours by limiting the maximum on-time the set(s) can operate. In addition, the Authority understands that the Licensee has recently made, and plans to continue (prior to the 2025 Limit being reached) to

make, ATP Declarations in respect of the generation set(s) at the Station with the same intention, i.e., to conserve remaining PPC Hours and only make the units available for 'system margin events'. The Authority understands that such ATP Declarations have been and will continue to be rejected by the Transmission System Operator.

9. It appears to the Authority that TOD Submissions and/or ATP Declarations of the sort mentioned above, which are made for the purpose of conserving or restricting remaining PPC Hours at the Station prior to the 2025 Limit being reached would (in the case of TOD submissions) be inaccurate and would not reflect the real capabilities of the relevant generation set(s) and/or (in the case of ATP declarations) be at levels or values different from those that such set(s) could achieve at the relevant time. Further, it appears to the Authority that the making of such submissions and/or declarations for this purpose would not be consistent with the exercise of reasonable endeavours by the Licensee as required by the relevant provisions of the paragraph D.5.1.2 of the TSC and/or SDC1.4.3.2 of the Grid Code.
10. The Authority is concerned that, in view of the current demand from the Transmission System Operator for output from the Station over the coming days prior to the 2025 Limit being reached, the actions being taken by the Licensee in respect of its TOD Submissions and ATP Declarations risk materially compromising the ability of the Transmission System Operator to maintain security of supply to the detriment of consumers.

Contravention

11. In the light of the foregoing facts and matters, it appears to the Authority that the Licensee is likely to contravene, Condition 4(1) and/or Condition 14(1) of the Licence; that it is requisite that this order be made; and that the provisions set out below are requisite for the purpose of securing compliance with such Condition(s).
12. Article 42(2) of the Energy Order provides that where it appears to the Authority that a company is contravening, or likely to contravene, a relevant condition or requirement, and it is requisite that a provisional order be made, the Authority shall (instead of taking steps towards the making of a final order), by provisional order make such provision as appears to it requisite for the purpose of securing compliance with the relevant condition(s).

Reasons for provisional order

13. The Authority, having had regard to the matters set out in Article 42(3) of the Order, consider it requisite to make a provisional order for the following reasons:
 - I. The Authority notes that in relation to security of supply, it has been advised by the Transmission System Operator that the Northern Ireland energy system would face a heightened risk of security of supply events and perceive there to be a real risk of rolling blackouts should the generator set(s) at the Station be made unavailable by the Licensee.
 - II. The Licensee has, as explained below, taken steps that disclose its intention to conserve or restrict remaining PPC Hours at the Station by declaring, inaccurately, the generator set(s) unavailable (unless in specified circumstances).
 - III. The Licensee has made representations to the Authority on the matter. Notwithstanding these representations, which the Authority has considered carefully, any TOD Submissions and/or ATP Declaration which are made for the purpose of conserving or restricting remaining PPC Hours at the Station prior to the 2025 Limit being reached would be inaccurate as they would not reflect the real capabilities of the generator set(s).
 - IV. The Authority considers REMIT Urgent Market Messages published on Nordpool on behalf of the Licensee at various points from 11 September 2025 to provide evidence of the Licensee's intention to conserve or restrict remaining PPC Hours at the Station¹. These messages stated that the generator set(s) had a run hour restriction to 23.59 on 31 December 2025 and would be available to the Transmission System Operator exclusively for 'system margin events'. The published messages disclose the Licensee's intention to conserve or restrict the remaining PPC Hours at the Station, making the generator sets available only for 'system margin events'. In addition, on 17 September 2025 the Licensee declared the generator sets as 'forced unavailable'

¹ See: [Nord Pool - UMM Platform](#) (Unit GT6) and [Nord Pool - UMM Platform](#) (Unit GT7)

to the Transmission System Operator. This declaration is not reflective of the actual availability of the generator sets. In both circumstances, the published messages and the declarations confine the availability of the generation sets and are not an accurate reflection of the capabilities of the units.

- V. The Authority is satisfied that the evidence establishes that the Licensee's intention in relation to TOD Submissions and/or ATP Declarations is to conserve its PPC Hours at the Station and as such would be a contravention of the Licence.
14. The Authority has had regard to (a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the Condition(s), is likely to be done, or omitted to be done, before a final order may be made; and (b) to the fact that the effect of the provisions of Articles 42 and 44 of the Energy Order is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of the Condition(s). The Authority considers that the security of supply risks that may arise as a consequence of the Licensee's action in relation to TOD Submissions and/or ATP Declarations have the potential to result in losses for consumers, albeit these are not easily quantified. The Authority also notes that Articles 42 and 44 of the Energy Order exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition or requirement. Making a provisional order establishes a legal basis on which third parties would have a right to compensation.
 15. The Authority is also satisfied that none of the duties imposed on it by Article 12 or 14 of the Energy Order or Article 9 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 preclude the making of the order; on the contrary it considers that its duties require it to make the provisional order.
 16. The Authority has also considered whether it would be more appropriate to proceed under the Competition Act 1998 and does not so consider that such alternative provisions would be more appropriate.
 17. The Authority is, in addition, not satisfied (a) that the Licensee has agreed to take and is taking all such steps as it appears to the Authority for the time being to be appropriate for the Licensee to take for the purpose of securing or facilitating compliance with the Condition(s); or (b) that the apparent contraventions, or that the apprehended contraventions, by the Licensee are, of a trivial nature.
 18. The provisional order made on 24 September 2025 took effect from 18:00 hours on 24 September 2025 and shall lapse on 18:00 hours on 23 December 2025 unless confirmed by the Authority on or before that date.
 19. Article 42(4) of the Energy Order provides that, subject to certain exceptions, a provisional order shall be confirmed (with or without modifications) if the Authority is satisfied that the company is contravening, or is likely to contravene, any relevant condition or requirement and the provision made by the order is requisite for the purpose of securing compliance.

Content of the order

20. For the above reasons the Authority decided to make the provisional order. The provisional order is available at appendix 1.

Dated: 02 October 2025