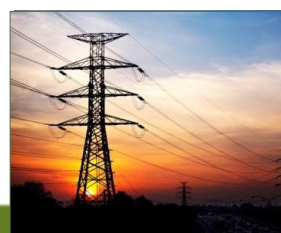


Requirements and Guidance on Transmission Network Pre-construction Projects and on Excluded SSS/TUoS costs

Decision Document
09 March 2018



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

This paper sets out the Utility Regulator's (UR's) decisions for cost recovery of TNPPs (Transmission Network Pre-Construction Projects) and uncertain revenue (D_t) applications by the electricity Transmission System Operator for Northern Ireland (SONI).

The process has been formalised to implement the Competition Markets Authority (CMA)'s decisions on the SONI Price Control 2015-2020 appeal. The focus of this decision paper is to ensure that the process and guidance reflect the CMA conclusions.

Audience

This document is likely to be of interest to SONI, NIE Networks, other regulated companies in the energy industry, government and consumer groups with an interest in the energy industry.

Consumer impact

It is not anticipated that these changes will have any impact on consumer bills. The formal pro-formas and reporting requirements have been instituted following the CMA decisions.

We do not consider that the reporting will result in increased regulatory burden or need for additional resource as the templates simply formalise information which should already be collected/exist within the organisation.

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1. Introduction and Context

- 1.1 This document contains the UR's requirements and guidance on the processes by which SONI can recover costs for Transmission Network Pre-construction Projects (TNPP) and costs subject to the D_t mechanism under its price control.¹
- 1.2 No up-front allowances were provided for these projects and costs in SONI's price control. Instead processes are available for SONI to apply to recover these costs during the price control period.
- 1.3 These requirements and guidance are being put in place to codify processes in compliance with the order of the Competition and Markets Authority (CMA), following SONI's appeal of its price control (further described below).

SONI's 2015-20 price control and CMA's final determination

- 1.4 SONI's current price control covers the period from 1 October 2015 to 30 September 2020. We published a final determination in February 2016² and a subsequent decision on modifications to SONI's transmission system operator licence in March 2017.³ These licence modifications took effect on 9 May 2017.
- 1.5 On 12 April 2017, SONI appealed the price control decision to the CMA.⁴ As part of that appeal, SONI contended, that it faced uncertainty as to whether it could recover costs associated with fulfilling certain functions and licence obligations where no allowance had been set as part of the price control.
- 1.6 It argued that such uncertainty would have an important bearing on its financeability (referred to as 'the Revenue Uncertainty Ground').
- 1.7 In November 2017, the CMA published its final determination⁵ and order⁶ partially allowing SONI's appeal on the Revenue Uncertainty Ground. The CMA found that we had failed to codify and specify clearly the mechanisms

¹ Submissions relating to Sections 8 and 9 of Annex 1 of SONI's transmission licence.

² [Final Determination to the Price Control 2015-2020 for the Electricity System Operator for Northern Ireland \(SONI\)](#), 22 February 2016, Utility Regulator.

³ [Decision on the Licence Modifications for the Price Control 2015-2020 of the Electricity System Operator for Northern Ireland \(SONI\)](#), 14 March 2017, Utility Regulator.

⁴ [SONI Notice of Appeal](#), 11 May 2017.

⁵ [SONI Limited v Northern Ireland Authority for Utility Regulation: Final determination](#), 10 November 2017, CMA.

⁶ [Order](#), 10 November 2017, CMA.

through which SONI is to recover its efficiently incurred TNPP costs.

- 1.8 It also found that the D_t mechanism, as presently implemented, results in significant uncertainty for SONI so as to adversely impact its financeability⁷.
- 1.9 The CMA's remedy for these two errors is to "*codify an effective process for review of (TNPPs) and projects subject to the D_t mechanism.*" (Para 11.2 of the CMA's final determination).
- 1.10 The CMA concluded this codification will require some changes to SONI's licence but that much of the codification should be in the form of rules and guidance which sit outside of – but take effect through – the licence⁸.
- 1.11 In Chapter 11 of its final determination and Annex B of its order, the CMA set out, at a high level, its minimum requirements as to the matters to be addressed in the TNPP and D_t requirements and guidance.
- 1.12 Those minimum requirements comprise the following:
 - a) **Timelines** – SONI should submit applications for TNPPs and the recovery of D_t costs at least 6 months ahead of project initiation. The UR should approve applications within 4 months of receiving the required information. Consideration should be given to reducing these timelines where circumstances allow.
 - b) **Project specification** – a detailed process for approval of TNPPs and D_t projects should be agreed and codified, including the information to be provided by SONI. The UR will set an initial budget cap for each project.
 - c) **Ongoing reporting** – SONI should report on progress at least annually, using a template proposed by the UR following consultation with SONI.
 - d) **Project variation** – to recover costs above the initial budget cap, SONI should evidence why additional (efficient) costs are required, providing agreed information for variations to project specification. The UR should in any case approve or reject applications in no longer than four months following receipt of the required information, but sooner if circumstances allow.
 - e) **Transfer of investments into the capital base** – including the codification (in the licence) of a 'side-RAB' for TNPPs on which SONI will earn a return (equal to the Weighted Average Cost of

⁷ CMA final determination, 10 November 2017, CMA, para 6.300.

⁸ CMA final determination, 10 November 2017, CMA, para 11.8.

Capital, WACC). The UR should consult on and agree a mechanism for the transfer of TNPPs to NIE Networks under the Transmission Interface Arrangements (TIA), and on other methods by which SONI can recover TNPP costs if it exercises step-in rights or if a third party takes on construction.

1.13 The CMA determined that some of this codification should be contained in SONI's licence, as already noted. These changes are the subject of a separate licence modification decision. Key licence terms in that decision, relevant to the requirements and guidance, are:

- a) A separate term (PCR_t) within SONI's revenue allowance for a return on a 'side-RAB' for TNPPs.
- b) Obligations on SONI to comply with the requirements and have regard to the guidance in respect of the TNPP and D_t mechanisms which is the subject of this document.

1.14 We recommend that interested parties also read our decision on amendments to SONI's licence so as to fully understand the framework through which SONI is remunerated under the TNPP and D_t mechanisms.

Scope of this document

1.15 The purpose of this document is to detail the UR's decisions on requirements and guidance to:

- Apply for;
- Vary; and
- Recover the approved costs of projects remunerated under TNPP and the D_t mechanisms.

1.16 The two mechanisms cover different types of projects and separate requirements and guidance have therefore been developed for each mechanism.

1.17 This document does *not* decide on the codification for these mechanisms in SONI's licence. That codification is the subject of a separate decision, published alongside this paper. This separate licence decision document will detail the terminology for the return on a 'side-RAB' for TNPPs.

1.18 Amendments to the TIA will also be the subject of a separate, future, consultation in conjunction with SONI and NIE Networks.

1.19 The remainder of this document is structured as follows:

- a) Section 1 lists consultation responses to the TNPP guidance and requirements. It also sets out final decisions, changes and UR thoughts / rationale.
- b) Section 3 details the consultation responses for the D_t mechanism. It also sets out final decisions, changes and UR thoughts / rationale.
- c) Section 4 discusses next steps.
- d) Exhibit 1 provides the finalised TNPP requirements and guidance.
- e) Exhibit 2 details the finalised D_t requirements and guidance.
- f) Annex A contains the pro-forma for TNPP applications.
- g) Annex B contains the pro-forma for ongoing reporting of TNPPs.
- h) Annex C contains the pro-forma for D_t applications.

2. TNPP Consultation Responses

- 2.1 Two responses to the consultation paper were received. One response from SONI and one from NIE Networks. SONI also provided tracked changes and commentary to both the TNPP requirements and guidance and the relevant pro-forma.
- 2.2 The following tables summarise the key issues raised by SONI and NIE Networks in their responses. Commentary is also provided on the issues raised in the marked up versions of the requirements and guidance and pro-forma.

Table 1 – SONI consultation responses and consequent UR decisions

	SONI Issue / Comment	UR Comments	UR Decision
1	SONI has stated their assumption is that the guidance and templates will become mandatory rather than advisory. [SONI Response, p2]	The TSO is correct as there is a condition in the licence which mandates adherence and requires SONI to have regard to the guidance. However, we accept that what the requirements entail will vary and can be tailored according to different factors e.g. type of project, materiality etc. In that respect the requirements and guidance are flexible. Each and every element will not be mandated on every occasion.	N/A
2	SONI would welcome the inclusion of an option to review the process after a number of months of operation. [SONI response, p3]	The intention is that the requirements and guidance will be a 'living document' subject to constant review. No formal process has been outlined in the decision document. However, we would expect that analysis will be undertaken to review the suitability of the requirements once the process becomes operational.	We will conduct an ongoing review of the requirements and guidance and pro-forma in consultation with SONI.
3	SONI has requested clear confirmation within the requirements and guidance that all efficiently incurred costs will be recoverable. [SONI response, p4, Key point 1]	<p>The requirements and guidance set out that SONI may recover efficiently incurred costs in the following circumstances:</p> <ul style="list-style-type: none"> • Up to the approved cap; • Where the cap has been amended subject to approved project cost variations; and • Where the cap has been amended subject to retrospective UR approval. <p>The key issue is that costs must be subject to UR approval. Efficiently incurred costs above the cap can be recovered in certain circumstances but this is not guaranteed in every instance.</p>	<p>Provision has been made for recovery of efficient costs up to an agreed cap, which can be amended. However, the CMA recognised that,</p> <p><i>“However, even with these changes, we consider that SONI will still be exposed to some asymmetric risk.”</i> [CMA FD, para 12.77, p276]</p> <p><i>“SONI also faces the risk that costs rise relative to initial budgeted costs, that it cannot justify that the increases in costs are efficient, and that the UR does not increase the cap.”</i> [CMA FD, para 6.233, p121]</p> <p>This risk remains under the new guidance.</p>

	SONI Issue / Comment	UR Comments	UR Decision
4	A request has been made by SONI to 'future proof' the requirements and guidance so that, <i>"future staff are able to interpret it in the context in which it has been drafted."</i> [SONI response, p4, Key point 2]	We agree with this comment.	Some text has been added at the start of the requirements and guidance to provide background and make reference to the CMA final determination and order.
5	SONI has noted that the CMA decision means that submissions must be made early in the process. They state that this means SONI may need to revise submissions to take account of internal processes. [SONI response, p4, Key point 3]	UR aims to make a decision on the original submission within four months [as per CMA decision]. We would also wish to monitor against the original baseline for costs and timing. Revised submissions cannot therefore be accommodated as part of the original approval process. However, it is recognised within ongoing reporting that there may be significant changes for a variety of reasons. We expect this to be a feature of reporting, with SONI explaining variances from the baseline and the latest best estimate. There is also the project variation option which will require an updated approval and set a new baseline.	No change in the requirements and guidance to account for revised submissions.
6	It is essential to SONI that these submissions cannot be interpreted by third parties as SONI prejudging the outcome of any mandatory processes. [SONI response, p4, Key point 4]	We agree with this comment.	Text suggested by SONI has been included in the requirements and guidance. This makes clear that we accept SONI should not prejudge the results of any public consultation or procurement exercises.

	SONI Issue / Comment	UR Comments	UR Decision
7	SONI considers it essential that the template acknowledges the limitation in the information. They further suggest that reference should be made to SONI providing the best information available to it at that time. [SONI response, p4, Key point 5]	<p>We accept that the initial submission may be imperfect, with the benefit of hindsight. We further agree that SONI should provide the best information possible.</p> <p>However, suggested changes by SONI remove the obligation to complete certain sections. UR's expectation is that, like for any ex-ante business plan, SONI should complete the sections explaining the rationale and assumptions for the build-up of costs for pre-construction activities.</p> <p>This will involve a level of forecasting which can be explained and reflected in contingency provisions. It should not absolve SONI from completing sections where actual data is not forthcoming.</p>	No change in the requirements and guidance. References included by SONI to available information have not been included in the final version.
8	SONI requests clarity that the requirements and guidance retrospectively covers work that SONI has undertaken on TNPPs since 1 May 2014. [SONI response, p5, Key point 8, first bullet point]	We can confirm that the requirements and guidance provide for applications for approval of costs in respect of work done since 1 May 2014. This is detailed further in the licence decisions.	No change in the TNPP requirements and guidance but confirmation provided within this document and licence decision paper.
9	SONI requests clarity around the level of detail provided in the reasoned decisions where the UR does not approve a submission. [SONI response, p5, Key point 8, second bullet point]	<p>The requirements and guidance indicates that the UR will write to SONI confirming the rejection along with reasons for this. It is unclear what further level of detail SONI would wish to see at this stage as the reason for rejection will be project specific.</p> <p>However, potential examples of the basis for project rejection could include:</p> <ul style="list-style-type: none"> • Lack of need / justification; • Project fails to address issue; • UR considers costs to be inefficient / wasteful. 	No change in the requirements and guidance.

	SONI Issue / Comment	UR Comments	UR Decision
10	<p>SONI has asked for the UR to confirm its intent with regard to efficient spend ahead of approval.</p> <p>The TSO has argued that the requirements and guidance incentivise SONI to 'down tools' while waiting for the UR response. [SONI response, p5, Key point 8, third bullet point]</p>	<p>It is not our intention that SONI should stop work in order to wait for approval. Rather, the UR welcomes early indication of potential increases in the cap and project variations. This is beneficial for both SONI and the UR as it can facilitate variation approval before the cap is breached, which helps:</p> <ul style="list-style-type: none"> • Provide assurance to SONI that the UR supports further work. • Ensures that SONI is not undertaking expenditure beyond the cap at its own risk. • Informs the UR Board of changes in timing and cost to project delivery. <p>Furthermore, there is provision in the requirements and guidance that retrospective approval of spend beyond the cap can be sought in urgent circumstances.</p>	<p>No change in the requirements and guidance.</p>
11	<p>SONI has requested that the requirement for the TDPNI [Transmission Development Plan for Northern Ireland] to be completed in Q1 each year be removed. [SONI response, p9, first bullet point]</p>	<p>We agree with this comment.</p>	<p>The requirements and guidance has been amended to remove this requirement. SONI must now produce this document within an agreed timetable.</p>
12	<p>SONI has argued that monitoring against the initial submission may not be of value. This is due to the fact that it will not be SONI's view of the most likely outcome. [SONI response, p9, second bullet point]</p>	<p>We disagree with this view to a certain extent. The approved costs and timings of the original submission should be the basis for reporting. It will also have to be monitored against for purposes of project cost variation [if required].</p> <p>We accept that there may be significant changes from the original plan. However, we simply wish to know why costs / timings / activities have changed and the rationale for this. Provision has however been made for SONI to report against their latest best estimate as well as the original baseline.</p>	<p>Minor changes in the requirements and guidance to reflect reporting to the baseline and best estimate.</p>

	SONI Issue / Comment	UR Comments	UR Decision
13	SONI has argued that the templates and requirements and guidance will need to accommodate projects where SONI is contributing to wider aims and/or compliance with obligations. [SONI response, p9, third bullet point]	We agree with this comment.	Minor changes to the text.
14	SONI has requested the opportunity to redact commercially confidential information or anything that would be prejudicial to the various mandatory process. [SONI response, p9, fourth bullet point]	We agree that SONI should have the opportunity to draw attention to any concerns around publication. However, it will be for the UR to make any final decision on publication in line with its legal obligations.	A catch all has been included in the requirements and guidance to give SONI the opportunity to identify any publication concerns.
15	The requirements and guidance will need to be reviewed to align with the outcome of the current review of the TIA. [SONI response, p9, fifth bullet point]	We agree with this comment.	Some changes have been made to the text to reflect the role of NIE Networks. Further changes may be required, as SONI suggests, subject to the outcome of the TIA review.
16	SONI has proposed more appropriate cost category lines as some of the existing list contains activities solely undertaken by NIE Networks or another developer. [SONI response, p9, last bullet]	We agree with this comment. We have amended the accompanying excel spreadsheet in the TNPP template. The spreadsheet lines do ask for further separation than the four categories proposed by SONI. The written pro-forma submission and the spreadsheet totals should however align.	Lines in the template spreadsheet have been amended accordingly.
17	The TSO has stated that it would be inappropriate to assume a split between internal and external costs. The reason given is that it would prejudice the outcome of procurement exercises. [SONI response, p10, first bullet]	The excel spreadsheet still requires a split between internal and external costs. We consider this to be appropriate as it may be likely that certain functions will typically be completed using external resource. The UR can provide assurance this split will not prejudice procurement. This is due to the fact that such detail will not be published. Only high level allowances will be subject to publication.	No change to the requirements and guidance.

Table 2 – SONI marked up responses / other issues and consequent UR decisions

	SONI Issue / Comment	UR Comments	UR Decision
1	SONI has queried how it would recover external specialist costs that may be required to complete TNPP applications. [SONI mark-up, comment 6]	<p>We accept that such cost may not have been provided in the price control allowance. Consequently we have amended the requirements and guidance to state that these costs should be:</p> <ul style="list-style-type: none"> • Explained [i.e. why external resource is needed]; • Separately identified; and • Included within the pre-construction capital cost submission. <p>The accompanying excel spreadsheet for TNPP costs can include the relevant details of application costs in the appropriate lines.</p>	Requirements and guidance amended accordingly
2	SONI has queried whether the use of budget ranges would be more appropriate at the early submission stage. [SONI mark-up, comment 12]	Ranges are unlikely to be beneficial to the UR as a point estimate will have to be decided upon for the cap. Under such a scenario, SONI's best estimate will be more appropriate than the UR taking a view on a point within a range.	No change to the requirements and guidance.
3	Contingency will need to be broad enough to ensure legitimate public consultation. [SONI mark-up, comment 16]	We agree with this comment.	While no change has been made in the requirements and guidance, SONI has the opportunity to submit a level of contingency and provide justification for this [including consultation uncertainty]. We consider this correct.
4	SONI has queried whether jurisdictional approaches should apply for cross border projects. [SONI mark-up, comment 17]	It is the UR view that the SEM Committee [SEMC] will decide what process should apply for cross border activities.	Some clarification has been provided to the text to illustrate the SEMC role and the fact that it can decide what process to apply [including the process in question].

	SONI Issue / Comment	UR Comments	UR Decision
5	SONI has questioned the UR asking for detail which is not available at an early stage. [SONI mark-up, comment 18]	<p>It is expected that detail will not always be available. However, the UR may request forecasts of further information to be made in order to take a view on appropriate allowances.</p> <p>Further information requests could be:</p> <ul style="list-style-type: none"> • As part of the query process; or • A resubmission of the entire application. <p>If the former, this will be part of the four month process and must be completed within a reasonable time period. If the latter, the application will be considered void and the timetable will be reset when a new submission is received.</p>	The requirements and guidance has been revised to provide clarity around information requests. Specifically the UR will indicate to SONI if a resubmission of the application is required following data review.
6	SONI has commented that retrospective approval is not limited to urgent cases. They note that this may include tolerance bands as per the CMA decision. [SONI mark-up, comment 30]	We accept that retrospective approval may be given in wider circumstances. However, as per the CMA decision, spend above the cap is at the company's risk.	No change in the requirements and guidance.
7	SONI has suggested amending the outputs of the completion report to be in line with SONI responsibilities under the TIA. [SONI mark-up, comment 33]	We agree with this comment.	Requirements and guidance revised in line with SONI suggestions.
8	May be need for SONI to continue with ongoing landowner engagement. [SONI mark-up, comment 36]	<p>SONI has not proposed any text revision to deal with this issue as it will be dependent upon the outcome of TIA discussions.</p> <p>We accept SONI's position and agree that the requirements and guidance may be revised following this consultation.</p>	No change in the requirements and guidance as yet but may be subject to future revision.

	SONI Issue / Comment	UR Comments	UR Decision
9	SONI should not be obliged to second guess the level of detail required by the UR to facilitate DIWE reviews. [SONI mark-up, comment 37]	SONI should not be obliged to second guess requirements. The UR would expect to engage with SONI on a project-by-project basis to determine the level of detail required. However, an obligation should remain on SONI to provide detail to allow the UR to conduct the relevant DIWE analysis.	Minor change to the text, but obligation still remains.
10	SONI has raised concerns about changes for step-in rights given that they are already part of the industry architecture. [SONI mark-up, comment 40]	We are not aware of any step-in rights for SONI unless expressly approved by the UR. Where step-in rights are required, we will resolve to consult on this process in a clear and transparent manner.	No change in the requirements and guidance.
11	SONI has requested clarity in the guidance that they will be paid upon project transfer. [SONI mark-up, comment 42]	We agree with this comment.	Requirements and guidance amended to provide greater clarity to SONI. Text has also been included to confirm that transferred amounts will be subject to UR approval.
12	SONI included some text in their mark-up version concerning the protection of sensitive information.	We agree with this sentiment.	Text has been included detailing that the UR will follow its legal obligations with respect to Freedom of Information and commercially sensitive detail.
13	N/A	Some text has been included to highlight that annual reporting may also change [much like the requirements and guidance]. This is particularly relevant with an upcoming TSO cost and output reporting work stream.	Text included to this effect.

	SONI Issue / Comment	UR Comments	UR Decision
14	As part of engagement in the licence modifications consultation, SONI queried in what circumstances the <i>UR would determine</i> a TNPP would not proceed to construction. [Section 2.4(ii)(C) of the licence]	<p>We do not consider it likely that the UR would unilaterally require SONI to stop a project but would expect to engage with SONI and NIE Networks on the current status of a project prior to making any decision. This decision will impact the workings of the side-RAB monies.</p> <p>We therefore felt it important to reflect in the TNPP requirements and guidance what could happen if a project was not proceeding to construction but returns were still be earned on these amounts.</p>	Text included to provide clarity that the UR will determine monies to be removed from the side-RAB where a project is not proceeding to construction.

Table 3 – NIE Networks responses and consequent UR decisions

	NIE Networks Issue / Comment	UR Comments	UR Decision
1	An uninformed reader could get the impression that only SONI undertakes pre-construction activity. [NIE Networks Response, para 1.2]	We agree with this comment.	The requirements and guidance has been amended to detail the fact that the process for NIE Networks will be set out in their licence and related documents.
2	The paper is silent on how NIE Networks will recover costs of projects that are abandoned. [NIE Networks Response, para 1.3]	We accept this comment. However the requirements and guidance are specifically focused on the recovery of SONI costs. It would not therefore be appropriate to include such detail therein. We will engage further with NIE Networks on this issue.	The requirements and guidance has been amended to detail the fact that the process for NIE Networks will be set out in their licence and related documents.
3	NIE Networks does not anticipate that SONI should be reporting for them and requests clarification on this issue. [NIE Networks Response, para 1.5]	The reporting referred to in the requirements and guidance and template relates to SONI costs and responsibilities. NIE Network costs should not form part of SONI's submissions. We would expect NIE Networks to report in line with their reporting requirements.	No change in the requirements and guidance.
4	NIE Networks information should be submitted directly to the UR, not via SONI. [NIE Networks Response, para 1.6]	Information requested in the requirements and guidance relate to detail for which SONI is responsible. We would expect information sharing between the two companies to follow requirements within the TIA. We would also expect such information as may be reasonably requested to be shared between the two companies to enable them to fulfil obligations.	No change in the requirements and guidance.

	NIE Networks Issue / Comment	UR Comments	UR Decision
5	Application of the 50:50 sharing mechanism in the NIE Networks RP6 price control would appear not to align with the proposed UR treatment of SONI's pre-construction costs. [NIE Networks Response, para 1.7]	<p>The point is accepted that the frameworks are different. However the UR considers this divergence to be appropriate as:</p> <ul style="list-style-type: none"> • The nature of pre-construction work can be inherently very uncertain given that it is investigative work; • The quantum of costs is much lower; and • It would be inappropriate to incentivise SONI to cut costs at the planning stage to the detriment of higher construction costs. 	No change in the requirements and guidance required.
6	NIE Networks have suggested rewording of the definition of a transmission project within the SONI licence to make reference to the TIA. [NIE Networks Response, comments]	This is outside the scope of this decision paper but can be taken forward as part of TIA changes.	No change in the requirements and guidance is required at this stage.
7	NIE Networks stressed their role alongside SONI in developing the transmission network. [NIE Networks Response, comments]	We accept this comment.	Minor revision in the text to recognise NIE Networks responsibilities.
8	The asset owner has queried the quantum of their own work in completing the pro-forma. They further question how their own costs will be recovered. [NIE Networks Response, comments]	<p>This guidance is specifically focused on the recovery of SONI costs and their responsibilities. It would not therefore be appropriate to include such detail therein.</p> <p>However, the UR would welcome discussion with NIE Networks to clarify these issues.</p>	No change in the requirements and guidance.
9	NIE Networks considers that the principal steps involved in developing a project cannot be undertaken without the collaboration of the transmission owner. [NIE Networks Response, comments]	It is understood that NIE Networks will have a role in the process. We would also expect NIE Networks to be involved in the Transmission Development Plan for Northern Ireland [TDPNI]. The specifics of this will be further clarified as part of the consultation on the TIA.	No change in the requirements and guidance.

	NIE Networks Issue / Comment	UR Comments	UR Decision
10	NIE Networks considers that the identification of the preferred option may not always be suitable as this will be subject to stakeholder engagement. [NIE Networks Response, comments]	We agree with this comment. SONI also raised a similar objection.	Requirements and guidance has been amended to indicate that selection of preferred option will only be identified if applicable.
11	NIE Networks seek clarification whether the estimated costs in Part B of the TNPP pro-forma relate to pre-construction costs or the entire project? [NIE Networks Response, comments]	We can confirm that this section is solely focused on SONI pre-construction costs, not entire project costs. We will engage further with NIE Networks on the construction cost element to get a complete picture of project costs.	No change in the requirements and guidance.
12	NIE Networks seek clarification whether it is only SONI costs that are subject to variation. They further consider that there should be alignment between regulatory treatment of pre-construction allowances. [NIE Networks Response, comments]	This section of the requirements and guidance is exclusively focused on SONI cost variations. Treatment of NIE Network pre-construction costs will be considered separately.	No change in the requirements and guidance.
13	NIE Networks has queried what would happen if the need for a project has been identified but SONI fail to secure UR approval. [NIE Networks Response, comments]	Only approved projects should proceed to construction.	No change in the requirements and guidance.
14	UR should notify NIE Networks of project approval/rejection prior to publication. [NIE Networks Response, comments]	We would intend to facilitate this request where possible to do so.	No change in the requirements and guidance.
15	How would NIE Networks recover pre-construction costs where SONI has undertaken activities without UR approvals? [NIE Networks Response, comments]	Treatment of NIE Network pre-construction costs will be considered separately.	No change in the requirements and guidance.

	NIE Networks Issue / Comment	UR Comments	UR Decision
16	Ongoing reporting could result in additional work for NIE Networks, with an associated cost implication. [NIE Networks Response, comments]	Reporting requested by the UR will simply formalise information which should already exist within the relevant organisations. We do not anticipate that this will result in any additional cost or allowance for SONI or NIE Networks.	No change in the requirements and guidance.
17	NIE Networks seek clarification whether it is only SONI cost caps that are subject to variation. They further seek detail on the process for themselves. [NIE Networks Response, comments]	<p>We can confirm that this section is solely focus on SONI TNPP costs.</p> <p>The requirements and guidance are specifically focused on SONI and their responsibilities. It would not therefore be appropriate to include such NIE Networks detail therein.</p> <p>However, the UR would welcome discussion with NIE Networks to clarify these issues.</p>	No change in the requirements and guidance.
18	Access to the Transmission Project Instruction (TPI) may be the best way for the UR to review the outputs of the pre-construction work. [NIE Networks Response, comments]	<p>The completion report from SONI will contain elements similar to the TPI. However there are other aspects included therein which will be specific to this report i.e. actual pre-construction costs.</p> <p>We would not object to reviewing the TPI, but if the relevant detail is included in the completion report, this may not be necessary.</p>	No change in the requirements and guidance.
19	NIE Networks considers that a distinct approval process for SONI TNPP costs should be in place separate to construction approval. [NIE Networks Response, comments]	We agree with this comment.	Drafting amended to reflect that payment will be made from NIE Networks to SONI once approved by the UR.

3. Dt Consultation Responses

3.1 NIE Networks did not comment on the D_t mechanism or the associated requirements and guidance. SONI made a number of comments, many of which mirrored those on TNPPs. UR responses and decisions are highlighted in the table below where they are specific to the D_t mechanism.

Table 4 – SONI consultation responses / other issues and consequent UR decisions

	SONI Issue / Comment	UR Comments	UR Decision
1	A request has been made by SONI to 'future proof' the requirements and guidance so that, <i>"future staff are able to interpret it in the context in which it has been drafted."</i> [SONI response, p11, first bullet]	We agree with this comment.	Some text has been added at the start of the requirements and guidance to provide background and make reference to the CMA final determination and order. Text has also been included to differentiate between types of D _t applications as per SONI's suggestion.
2	SONI has noted that the CMA decision means that submissions must be made early in the process. They state that this means SONI may need to revise submissions to take account of internal processes. [SONI response, p11, second bullet]	UR is obligated to make a decision on the original submission within four months [as per CMA decision]. Revised submissions cannot therefore be accommodated as part of the original approval process. However, it is recognised within ongoing reporting that there may be changes for a variety of reasons. We expect this to be a feature of reporting, with SONI explaining variances.	No change in the requirements and guidance to account for revised submissions.
3	It is essential to SONI that these submissions cannot be interpreted by third parties as SONI prejudging the outcome of any mandatory processes. [SONI response, p11, third bullet]	We agree with this comment.	No change in the requirements and guidance, but we agree with the sentiment.

	SONI Issue / Comment	UR Comments	UR Decision
4	<p>SONI considers it essential that the template acknowledges the limitation in the information. They further suggest that reference should be made to SONI providing the best information available to it at that time. [SONI response, p11, fourth bullet]</p>	<p>We accept that the initial submission will be imperfect. We further agree that SONI should provide the best information possible.</p> <p>However, suggested changes by SONI remove the obligation to complete certain sections if the information is not available. UR's expectation is that, like for any ex-ante business plan, SONI should complete the sections explaining the rationale and assumptions for the build-up of costs.</p> <p>This will involve a level of forecasting which can be explained and reflected in contingency provisions. It should not absolve SONI from completing sections where actual data is not forthcoming.</p>	<p>No change in the requirements and guidance. References included by SONI to available information have not been included in the final version.</p>
5	<p>SONI has requested that annual reporting cost categories be discussed so that information can be extracted.</p> <p>They also do not believe that a split between internal and external costs is appropriate in the initial submission. [SONI response, p11, fifth bullet]</p>	<p>We accept the initial point. It is our intention to liaise with SONI on a project by project basis in terms of ongoing D_t reporting requirements.</p> <p>The requirements and guidance [in terms of the excel spreadsheet] still require a split between internal and external costs. We consider this to be appropriate.</p> <p>The UR can provide assurance this split will not prejudice procurement. This is due to the fact that such detail will not be published. Only high level allowances will be subject to publication.</p>	<p>No change in the requirements and guidance.</p>

	SONI Issue / Comment	UR Comments	UR Decision
6	SONI has requested clear confirmation within the requirements and guidance that all efficiently incurred costs will be recoverable. [SONI response, p12, first bullet]	<p>The requirements and guidance set out that SONI may recover efficiently incurred costs up to the approved cap. Additional drafting has been provided to clarify the circumstances of cost recovery.</p> <p>However, much like the TNPP response on this issue, the CMA recognised that asymmetric risk remains under the new regulatory regime.</p>	<p>The requirements and guidance has been amended to clarify that SONI may recover efficiently incurred costs in the following circumstances:</p> <ul style="list-style-type: none"> • Up to the approved cap; • Where the cap has been amended subject to approved project cost variations; and • Where the cap has been amended subject to retrospective UR approval. <p>Efficiently incurred costs above the cap can be recovered but this is not guaranteed in every instance.</p>
7	SONI included some text in their mark-up version concerning the protection of sensitive information.	We agree with this sentiment.	Text has been included detailing that the UR will follow its legal obligations with respect to Freedom of Information and commercially sensitive detail.
8	N/A	Some text has been included to highlight that annual reporting may also change [much like the requirements and guidance]. This is particularly relevant with an upcoming TSO cost and output reporting work stream.	Text included to this effect.
9	SONI suggested some drafting changes to account for the fact that some D _t submissions are outside SONI's cost control. [SONI mark-up, comment 56]	We agree that recognition should be given to the different nature of D _t submissions. However we do not concur with SONI's proposed drafting changes.	<p>Requirements and guidance has been amended to reflect different D_t submissions.</p> <p>Clarity has been provided that all uncontrollable costs will be recovered, even if spend is beyond the approved cap [subject to the variation procedures being followed].</p>

	SONI Issue / Comment	UR Comments	UR Decision
10	SONI suggested some drafting in the D _t requirements and guidance to provide an indication of how long the UR would take to review the completeness of a submission. [SONI mark-up, tracked changes]	We agree with this comment.	Drafting has been included to provide timelines around the initial review of completeness of D _t information. We would aim to notify SONI within one month if a resubmitted application is necessary.
11	SONI suggested some drafting in the D _t requirements and guidance to ensure that update reporting will add value. [SONI mark-up, tracked changes]	We agree with this comment.	Drafting has been included to highlight that any reporting detail requested will be proportional and necessary for the purposes of regulatory scrutiny and oversight.

4. Next Steps

- 4.1 The requirements and guidance and templates will form the basis of TNPP and D_t submissions and approvals going forward.
- 4.2 As per our response, the documents will be subject to ongoing review and amendment. This will be particularly pertinent after lessons are learned from actual experience. Review may also be required if the regulatory framework changes for the next price control.
- 4.3 It is our consideration that the templates, requirements and guidance fully address the issues raised by the CMA findings.