

# **Proposed Licence Modifications to SONI TSO Licence regarding electricity connections review**

**Consultation Paper**  
**7 July 2017**



## 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

We are publishing a consultation on licence modifications pursuant to our electricity connections review decisions.

We also clarify our position on use of planning permission for transmission connection applications (which does not form part of the consultation on licence modifications).

## Audience

The licensees affected, other regulated companies in the energy industry, government, other statutory bodies and consumer groups with an interest in the energy industry.

## Consumer Impact

An improved connections extensions process and network development plan will increase transparency and certainty for connecting customers.

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# 1 Introduction

## Background and purpose of this Document

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- 1.1 We are consulting on licence modifications under Article 14 of The Electricity (Northern Ireland) Order 1992 (The Order).
- 1.2 We are proposing modifications to Condition 25 of the SONI Transmission System Operator Licence to reflect our decision on extensions. We are also proposing a new Condition 40 requiring SONI to introduce a network development plan.
- 1.3 The licence modifications proposed in this document are required to comply with our legal and regulatory obligations concerning a number of decisions we published today in Chapter 1 of our *Review of Electricity Distribution and Transmission Connections Policy* decision ('31 May decision paper').
- 1.4 Separately, we also clarify our view on the current use of planning permission for treating transmission connection applications. This does not form part of this consultation (or is indeed a separate consultation), but instead sets out our view on the matter and steps we have taken so far to address it.

## Licence modification approach

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- 1.5 We have consulted extensively with stakeholders on the decisions which underpin these proposed licence modifications. We have also provided SONI with details on the proposed licence modifications at as early a stage as possible.

## Remaining document structure

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- 1.6 This document is structured in a number of chapters as follows:
  - Chapter 2 details our proposed licence modification in this area as well as the associated reasons and effects.
  - Chapter 3 sets out our view on the current use of planning permission for treating transmission connection applications.
  - Chapter 4 sets out next steps, including when you must respond to the consultation by.
- 1.7 The document is also complemented by two annexes. One annex sets out the licence modifications and another contains the legislative notices of the licence modifications.

## 2 Details of proposed licence modifications

### Overview

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- 2.1 As noted in Chapter 1, licence modifications are required to bring into effect certain decisions from our 31 May decision paper.
- 2.2 In this section we present the proposed licence modifications, and the reasons and effects for required licence changes.

### Licence Condition 40

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#### Overview and proposed modification

- 2.3 We propose a new condition requiring SONI to prepare and publish a 10 year network development plan each year. This reflects our decision set out in paragraph 2.21 of our 31 May connections review decision paper. Another driver for this change is the European Commission's "Third Package" for electricity markets.<sup>1</sup>
- 2.4 We have considered the process and scope of the proposed network development plan. In doing so, we are conscious that many of the existing and related measures to improve transmission network information transparency, such as the generation capacity statement and ten year transmission forecast statement, are prepared on an 'all-island' basis.
- 2.5 Accordingly, we believe there are benefits of being broadly consistent with the approach taken in RoI. We are, therefore, proposing that much of the process and the content of the network development plan should be similar to that currently undertaken and produced by the RoI Transmission System Operator (TSO). But we also set out where we are proposing a different approach where appropriate.
- 2.6 A summary of the main proposed steps and requirements is set out below:
- SONI will prepare and publish the network development plan in consultation with the RoI transmission system operator, and NIE Networks as the NI distribution network operator and transmission asset owner.
  - We expect SONI to publish a draft consultation. We expect this to be ready for early Q1 2018 and under a similar timeframe each year thereafter.
  - The network development plan will be submitted and be in a form approved by the Authority.
  - We expect SONI to publish the final version by early Q2 2018 and under a similar timeframe each year thereafter. It should set out publicly how it has taken account of consultation responses in coming to its final output.
  - We expect the network development plan to cover a period of 10 years.
  - The network development plan will describe SONI's development planning process, discuss the drivers<sup>2</sup> and assumptions underlying the plan, and outlines the TSO's plans for transmission network development (over the next ten years)

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<sup>1</sup> Article 22: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:0093:EN:PDF>

<sup>2</sup> We would expect forecasts of supply & demand to inform investment decisions. We would expect these to be included in a draft consultation as Eirgrid has done in its most recent publication.

including projects under construction and indicate where further potential development is likely to be required.<sup>3</sup>

- The network development plan will also set out scenarios which are reasonable and reflect uncertainties. They should, as far as practicable, be consistent with scenarios used in other areas of its work. This is the main difference in approach we are proposing to that currently undertaken for RoI. While we are not aware of this being currently required in RoI we feel it is a useful addition for NI consumers.

2.7 We will further engage with SONI to confirm timelines and to understand how it intends to develop the plan more generally.

2.8 The appendix below sets out a draft licence condition 40 for consultation.

## Reasons and effects

2.9 In the main, the network development plan as proposed will encourage transparency for connecting customers in respect of how SONI proposes to develop the network now and in the future (in light of its duties). An effective network development plan will better aid decision making for connecting customers to support more efficient investment. The information also provides relevant information for the regulator to inform its regulatory decision making.

## Licence Condition 25

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### Proposed modifications

#### Condition 25

2.10 To reflect our decision in paragraph 1.54 of our 31 May connections review decision paper, we propose to insert the following wording into paragraph 5 of the sub-section within Condition 25 entitled 'Offer of terms – general':

- “[...] *which consent may be given on the application of the Licensee following consultation by the Licensee with the person making the application and such other persons as the Licensee considers may be affected or interested*)”.

2.11 For avoidance of doubt, as we set out in our 31 May decision paper ‘*Appendix: requirements and process for requesting and granting an extension*’ we said that we expect SONI to publicly consult with affected parties (including the applicant) on extension request. We would expect that when considering information disclosure as part of such a consultation, a balance is struck. This is between not disclosing legitimately confidential or commercially sensitive information, but disclosing information which stakeholders need to see to understand the consultation proposals.

## Reasons and effects

#### Condition 25

2.12 The change will mean that SONI must consult with the individual connection applicant and other relevant/interested parties (before SONI applies to us for an extension for that individual applicant).

2.13 As described in paragraphs 1.46 and 1.47 of our 31 May connections review decision paper, the need to consult forms an important part of the new extensions process. It

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<sup>3</sup> To clarify, we expect this investments, in terms of scope, to cover asset replacement as well as capacity reinforcement, where relevant. We also clarify that PCIs can be included where relevant.

is important because it allows us to make appropriate decisions, as the party ultimately required to either grant or not grant an extension. In order for us to make a decision as to whether an extension is appropriate or not, we need to be sufficiently aware of all relevant considerations in order to come to a well-informed view. Keeping the applicant sufficiently informed is also what we would expect from a customer facing business such as SONI.



### 3 Planning permission

- 3.1 This section does not form part of the consultation as set out above (nor is it a separate consultation or decision). Instead it is a brief update for interested stakeholders clarifying our view on the matter of planning permission for transmission connection applications and steps we are taking to address this issue.
- 3.2 More specifically, it has been drawn to our attention that SONI is either:
- refusing to accept connections applications from persons that do not have planning permission (if it is otherwise required) in place prior to the application, or;
  - stating that planning permission (where otherwise required) is a condition precedent to making a connection application.
- 3.3 The UR's position is clear. SONI cannot refuse to accept a transmission connection application on the basis that planning permission is not in place or make planning permission a condition precedent to the making of an application.
- 3.4 We have communicated our position to SONI and are taking steps to ensure that going forward SONI removes this barrier which it is placing on connecting applications.

## 4 Next Steps

### Submission of Consultation responses

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- 4.1 This is an open consultation paper with respect to the proposed licence modifications. We invite stakeholders to express a view on any particular aspect of the paper or any related matter. Responses should be received by close of business Monday 7 August 2017 and should be addressed to:

Ciaran MacCann

Compliance and Networks

Queens House

14 Queens Street

Belfast

BT1 6ED

Tel: 028 9031 6661

Email: [ciaran.maccann@uregni.gov.uk](mailto:ciaran.maccann@uregni.gov.uk)

Our preference would be for responses to be submitted by email.

- 4.2 We note that we may make public any responses to this consultation on licence modifications. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 4.3 Information provided in response to this consultation, include personal information, may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things with obligations of confidence.
- 4.4 In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, or itself, be regarded as binding on the Authority.
- 4.5 This document is available in accessible formats. Please contact Ciaran MacCann on 028 9031 6661 or email [ciaran.maccann@uregni.gov.uk](mailto:ciaran.maccann@uregni.gov.uk) to request this.

### Timelines

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- 4.6 The table below provides an overview over the next steps and associated timelines for the licence modification process.

Next Steps	Proposed Date
Closure of consultation on proposed licence modifications	7 August 2017
Decision on licence modifications	End August/early September 2017
Effective date of licence modification decision	31 November 2017

**Table 1: Next Steps**

- 4.7 We note that this timetable allows for the effective date of the licence modifications to be at least 56 days after the publication of the licence modification decision, in line with the requirements of the Electricity (Northern Ireland) Order 1992.
- 4.8 This 56 day period provides an opportunity for the licence holder subject to the price control, any other licence holder materially affected by the decision, a qualifying body or association representing one of those licence holders, and/or the Consumer Council for Northern Ireland to appeal the decision on the proposed licence modifications to the CMA (Competition and Markets Authority).

# Appendices

## Appendix 1: Proposed Article 14 modifications to SONI's Transmission System Operator (TSO) Licence

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### **Proposed new Licence Condition 40: Ten-Year Network Development Plan**

#### Duty to Prepare and Publish a Plan

1. The licensee shall, in consultation with the Republic of Ireland System Operator and the Northern Ireland Distribution Operator and Transmission Asset Operator, once every year (and not later than such date as the Authority shall specify) use reasonable endeavours to prepare and publish a ten-year network development plan, in a form approved by the Authority, based on existing and forecast supply and demand after having publicly consulted all the relevant stakeholders and submitting to the Authority (for approval). That network development plan shall contain efficient measures in order to guarantee the adequacy of the transmission system and the security of supply. The ten-year network development plan shall in particular:
  - a) indicate to market participants the main transmission infrastructure that needs to be built or upgraded over the next ten years;
  - b) contain all the investments already approved by the Authority and identify new investments which have to be executed in the next three years;
  - c) provide for a time frame for all investment projects; and
  - d) contain such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of the Condition.
  - e) contain a reasonable number of future scenarios, which reflect uncertainties and shall, as far as practicable, be consistent with scenarios that licensee uses in other relevant areas of work.
2. When preparing the ten-year network development plan the transmission system operator shall make reasonable assumptions about the evolution of the generation, supply, consumption and exchanges with other countries, taking into account investment plans for regional and Community-wide networks
3. The Licensee may, with the prior consent of the Authority, omit from the published version of any plan prepared in accordance with paragraph 1 any details which would, in the view of the Authority, seriously and prejudicially affect the commercial interests of the Licensee, the Republic of Ireland System Operator or any other person.

#### Revisions to the Plan

4. The Licensee may (and shall where directed to do so by the Authority), in consultation with the Republic of Ireland System Operator and the Northern Ireland Distribution Operator and Transmission Asset Operator, periodically revise the information set out in and, with the approval of the Authority, alter the form of the plan prepared in accordance with paragraph 1. It shall also, at least once in every year the Licence is in force, revise that plan so that the information set out in it shall continue to be accurate in all material respects.
5. The Licensee shall send a copy of the plan prepared in accordance with paragraph 1, and of each revision of that plan in accordance with paragraph 4, to the Department, the Authority, the Northern Ireland Distribution Operator and Transmission Asset Operator, and the Republic of Ireland System Operator. Each revision of the plan shall require approval from the Authority and shall not become effective until approved by the Authority.

#### Copies of the Plan

6. The Licensee shall make a copy of the plan prepared in accordance with paragraph 1, or (as the case may be) of the latest revision of such plan in accordance with paragraph 4 approved by the Authority pursuant to paragraph 5, available on the Licensee's website, and shall send a copy to any person who requests a copy of the same.
7. The Licensee may make a charge for any plan sent pursuant to paragraph 6 of an amount reflecting the Licensee's reasonable costs of providing that plan, which costs shall not exceed the maximum amount specified in directions issued by the Authority from time to time for the purposes of this Condition.

**Proposed amendments to Condition 25. Requirement to Offer Terms – Users and Connectees**

**Offer of terms for use of the All-Island Transmission Networks**

- 1 On application by any eligible person, the Licensee shall (subject to paragraph 6) offer to enter into a Use of System Agreement:
  - (a) to accept into the All-Island Transmission Networks at such entry point or points on the transmission system, and in such quantities, as may be specified in the application, electricity to be provided by or on behalf of such person; and
  - (b) to deliver such quantities of electricity as are referred to in sub-paragraph (a) above (less any transmission losses on the All-Island Transmission Networks) to such exit point or points on the transmission system and to such person or persons as may be specified in the application; and
  - (c) specifying the use of system charges to be paid by the person seeking use of the All-Island Transmission Networks in respect of generation or supply in Northern Ireland, such charges (unless manifestly inappropriate) to be referable to the statement prepared in accordance with paragraph 1 (or, as the case may be, paragraph 7) of Condition 30 or any revision of such statement; and
  - (d) containing such further terms as are or may be appropriate for the purposes of the agreement.

In this paragraph references to "eligible person" shall be construed as references to persons licensed under Article 10 of the Order (or exempt from the requirement to be so licensed under Article 9 of the Order) or who have applied for a licence under Article 10 and whose application has not been withdrawn or rejected (including, for the avoidance of doubt, the Power Procurement Business in its capacity as such).

**Offer of terms for connection to the All-Island Transmission Networks**

- 2 On application by any person, the Licensee shall (subject to paragraph 6) offer to enter into a Connection Agreement (or amend an existing Connection Agreement) for connection (or modification of an existing connection) to the All Island Transmission Networks at entry or exit points on the transmission system, and such offer shall make detailed provision regarding:
  - (a) the carrying out of works (if any) required to connect the transmission system to any other system for the transmission of electricity and for the obtaining of any consents necessary for such purposes;

- (b) the carrying out of works (if any) in connection with the extension or reinforcement of the All-Island Networks rendered necessary or appropriate by reason of making the connection or modification to an existing connection and for the obtaining of any consents necessary for such purposes;
- (c) the installation of appropriate meters (if any) required to enable the Licensee to measure electricity being accepted into the All-Island Transmission Networks at the specified entry point or points or leaving such system at the specified exit point or points;
- (d) the carrying out of works (if any) in relation to the installation of such switchgear or other apparatus (if any) as may be required for the interruption of supply;
- (e) the date by which any works required so as to permit access to the All-Island Transmission Networks (including for this purpose any works to reinforce or extend any of the All-Island Networks) shall be completed and so that, unless otherwise agreed by the person making the application, a failure to complete such works by such date shall be a material breach of the agreement entitling the person to rescind the agreement;
- (f) the installation of special metering, telemetry or data processing equipment (if any) for the purpose of enabling any person who is bound to comply with the Grid Code to comply with its obligations in respect to metering thereunder or the performance by the Licensee of any service in relation to such metering thereunder;
- (g) the connection charges to be paid to the Licensee, such charges:
  - (a) to be presented in such a way as to be referable to the statements prepared in accordance with paragraph 1 (or, as the case may be, paragraph 7) of Condition 30 or any revision of such statements; and
  - (b) to be set in conformity with the requirements of paragraph 5 of Condition 30 and (where relevant) of paragraph 3; and
- (h) such further matters as are or may be appropriate for the purposes of the agreement.

- 3 For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works (or in relation to any of the other matters referred to in paragraph 5 of Condition 30) under an agreement for making a connection or modification to an existing connection the Licensee shall have regard to:
- (a) the benefit (if any) to be obtained or likely in the future to be obtained by the Licensee or any other person as a result of the carrying out of such works (or of such other matters) whether by reason of the reinforcement or extension of any part of the All-Island Networks or the provision of additional entry or exit points on such networks or otherwise; and

- (b) the ability or likely future ability of the Licensee to recoup a proportion of such costs from third parties.

Offer of terms - general

- 4 The Licensee shall, as soon as practicable after it receives an application in accordance with paragraph 1 or 2, request (to the extent necessary) an offer from the Transmission Owner and/or the Republic of Ireland System Operator (in accordance with the Transmission Interface Arrangements and/or the System Operator Agreement as appropriate) in respect of that application and the works (if any) necessitated by that application.
- 5 The Licensee shall offer terms for agreements in accordance with paragraphs 1 and 2 as soon as practicable and (save where the Authority consents to a longer period, which consent may be given on the application of the Licensee following consultation by the Licensee with the person making the application and such other persons as the Licensee considers may be affected or interested) in any event not more than the period specified in paragraph 7 after receipt by the Licensee of an application containing all such information as the Licensee may reasonably require for the purpose of formulating the terms of the offer. A form of standard terms for agreements in paragraphs 1 and 2 shall be published on the Licensee's website, together with any subsequent revisions thereof.
- 6 The Licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any Connection Agreement or any Use of System Agreement:
  - (a) if to do so would involve the Licensee:
    - (a) in breach of its duties under Article 12 of the Order; or
    - (b) in breach of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the transmission system; or
    - (c) in breach of the Conditions of the Licence;
    - (d) in breach of the Grid Code; or
  - (b) if the person making the application does not undertake to be bound by such parts of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the Licensee for the purposes of this Condition; or
  - (c) if, when requested to do so by the Licensee, the Transmission Owner and/or the Republic of Ireland System Operator does not offer to enter into an agreement for connection/extension works in respect of the Connection Agreement or Use of System Agreement in question.



7 For the purpose of paragraph 5, the period specified shall be:

- (a) in the case of persons seeking use of system, 28 days; and
- (b) in the case of persons seeking connection (or modification to an existing connection) or seeking use of system in conjunction with connection, 3 months.

8 The Licensee shall, within 28 days following receipt of a request from any person, give or send to such person such information in the possession of the Licensee as may be reasonably required by such person for the purpose of completing the information required by that person in relation to its application for a licence under Article 10 of the Order.

#### Definitions

9 In this Condition:

**"high efficiency cogeneration"** has the meaning given to it in Directive 2012/72/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency.

**"Relevant Generation Connection"** means a connection between the All Island Transmission Networks and a high efficiency cogeneration generating installation (the 'relevant premises') the purpose of which is to enable the All Island Transmission Networks to receive a supply of electricity from the relevant premises.

## Appendix 2: Notice under Article 14(2) of the Electricity (Northern Ireland) Order 1992

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### **THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION NOTICE UNDER ARTICLE 14(2) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1996 MODIFICATIONS PROPOSED TO THE ELECTRICITY TRANSMISSION SYSTEM OPERATOR LICENCE HELD BY SONI**

The Northern Ireland Authority for Utility Regulation ('the Authority') proposes to modify the conditions of a licence in exercise of the powers conferred on it by Article 14(1) of the Electricity (Northern Ireland) Order 1992 ("the Order").

In accordance with Article 14(2) of the Order the Authority gives notice as follows:

1. The Authority makes modifications to the Transmission System Operator Licence ("the Licence") held by SONI ("the Licensee").
2. The modifications are to the conditions of the Licence as set out in Appendices 1 of this document.
3. Details of the modifications are set out in chapter 2 of this document.
4. The reasons for the licence modifications are set out in chapter 2.
5. The effects of the licence modifications are set out in chapter 2.
6. Representation with respect to the proposed modifications may be made by close of Monday 7 August 2017 to:  
  
Ciaran MacCann  
Compliance and Networks  
Queens House  
14 Queen Street  
Belfast  
BT1 6ED  
Tel: 028 90316661  
Email: [ciaran.maccann@uregni.gov.uk](mailto:ciaran.maccann@uregni.gov.uk)
7. The Authority has, pursuant to Article 14(4) of the Order, sent a copy of this notice to the Licensee, the Department for Economy and also to the General Consumer Council for Northern Ireland.

Dated this 7 August 2017

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