

January 2007

SUPPLY COMPETITION CODE

(Designated by the Department of Economic Development
as at 31 March 1992 for the purposes of licences granted under Article 10
of the Electricity (Northern Ireland) Order 1992.)

(Modified by the Director General of Electricity Supply for Northern Ireland
on 13 May 1993, 1 July 1999, 13 March 2000, 1 October 2000
1 November 2002 and 16 December 2002.)

(Modified by the Northern Ireland Authority for Energy Regulation
on 24 September 2004 and 28 January 2007)

1 Name

This Code shall be known as the “**Supply Competition Code**”.

2 Effective Date

This Code shall come into force on 1 April 1992.

3 Definitions & Interpretation

3.1 In this Code, except where the context otherwise requires:

“**Authority**”: means the Northern Ireland Authority for Energy Regulation;

“**CHP generation set**”: means a generation set used for the simultaneous generation of usable heat and power in a single process at high efficiency;

“**coal products**”: means any substances produced directly or indirectly from coal;

“**customer**”: means any person in Northern Ireland who is supplied or requiring to be supplied with electricity;

“**Department**”: means the Department of Enterprise, Trade and Investment;

“**Directive**”: means Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC;

“**eligible customer**”: means a customer supplied, or to be supplied, at eligible premises where the supply is, or is to be, metered;

“**eligible premises**”: means premises that are not domestic premises and at which the supply is, or is to be, permanently metered:

by half hourly metering equipment; or

by non-half hourly equipment and is settled under the renewable output factor arrangements established under Condition 27 of Part III and the licensee has agreed to the use of a load profile to measure consumption on a half-hourly basis for that class of supply;

“**fossil fuel**”: means coal, coal products, peat, lignite, crude liquid petroleum, natural gas or petroleum products;

“**generation licence**”: means a licence granted under Article 10(1)(a) of the Order;

“**generation set**”: means any plant or apparatus for the production of electricity;

“**generator**”: means the holder of a generation licence;

“**high efficiency**”: means achieving a year round total energy efficiency which would normally be in excess of 70% calculated on the basis of net calorific value;

“Interim Settlement Agreement” means an agreement of that title in the form approved by the Authority under the provisions of Condition 24 of Part III of the transmission licence;

“Market Registration Framework Agreement” means the agreement of that title in the form approved by the Authority under Condition 30 of Part III of the transmission licence;

“natural gas”: has the same meaning as in the Energy Act 1976;

“non-fossil fuel generation set”: means a generation set which is principally fuelled or driven otherwise than by a fossil fuel;

“Order”: means the Electricity (Northern Ireland) Order 1992, as from time to time modified, extended or re-enacted;

“petroleum products”: has the same meaning as in the Energy Act 1976;

“power procurement manager”: means the transmission licensee when it is performing or required to perform its obligations as power procurement manager under the transmission licence;

“power purchase agreement”: means a contract for the provision to the power procurement manager of the whole or any part of the available capacity and/or the sale or other disposal to the power procurement manager of the whole or any part of the output of a generation set or combination of generation sets;

“premises”: includes any land, building or structure;

“public electricity supply licence”: means a licence granted under Article 10(1)(c) of the Order;

“public electricity supply licensee”: means the holder of the public electricity supply licence;

“relevant exempt self supplier”: means a relevant exempt self supplier within the meaning of the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1999;

“relevant licensed supplier”: means a person authorised by a licence granted under Article 10(1)(c) or 10(2) of the Order;

“relevant supplier”: means a relevant licensed supplier or a relevant exempt self supplier;

“Renewable Output Factor Code”: means the code of that title in the form approved by the Authority under the provisions of Condition 27 of Part III of the transmission licence;

“Renewable Output Factor Participation Agreement”: means an agreement of that title in the form approved by the Authority under the provisions of Condition 27 of Part III of the transmission licence;

“total system”: means the transmission system and distribution system of Northern Ireland Electricity plc, taken together;

“transmission licence”: means the licence granted under Article 10 (1)(b) of the Order to Northern Ireland Electricity plc;

“transmission licensee”: means the holder of the transmission licence; and

“year”: means a calendar year.

3.2 Unless the contrary intention appears, this Code shall be interpreted as if it were an enactment and the Interpretation Act (Northern Ireland) 1954 applied to it.

3.3 Unless the context otherwise requires, any reference to any agreement, deed or other instrument shall be construed as a reference to that agreement, deed or other instrument as the same may have been, or may from time to time be, amended, varied, supplemented or novated.

4 Modification

This Code may be modified in accordance with conditions 5 and 7 of Part III of the transmission licence and conditions 19 and 20 of any generation licence.

5 Obligations of generators

5.1 Save as provided in paragraphs 5.2 and 9 below, all generators shall perform their obligations under power purchase agreements to which they are a party in relation to the whole of the electricity generation capacity and the output of their generation sets.

5.2 Paragraph 5.1 above does not apply to that part of the electricity generation capacity and output of a generator’s generation sets that is not subject to a power purchase agreement if the generator is party to and performing its obligations under an Interim Settlement Agreement in relation to that capacity and output or is registered under the Renewable Output Factor Code in relation to that capacity and output.

6 Obligations of relevant suppliers

Save as provided in paragraphs 7 and 10 below, all relevant suppliers shall purchase or otherwise acquire their total requirements for electricity from the power procurement manager provided that, in calculating such total requirements, no account shall be taken of electricity which a relevant supplier generates himself where the relevant supplier, as respects that electricity, satisfies the relevant condition. In this paragraph “relevant condition” has the same meaning as in paragraph D.2(a) of Schedule 2 to the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1999, save that the reference therein to “person in question” shall be treated as a reference to “relevant supplier in question”.

7 Exceptions to paragraph 6

Notwithstanding paragraph 6 above, relevant suppliers, other than the public electricity supply licensee (except in circumstances where paragraph 10 below

applies), shall be permitted to purchase or otherwise acquire electricity other than from the power procurement manager where:

- (a) the relevant supplier purchases or otherwise acquires such electricity:
 - (i) for the purpose of supplying it to eligible customers; or
 - (ii) in circumstances where paragraph 10 below applies; and
- (b) the relevant supplier is a party to an Interim Settlement Agreement or a Renewable Output Factor Participation Agreement.

8 Obligation of relevant licensed suppliers

All relevant licensed suppliers shall become a party to and comply with the Market Registration Framework Agreement.

9 Exception to Paragraph 5

The provisions of paragraph 5.1 above shall not apply to generators who generate electricity principally by:

- (a) CHP generation sets; or
- (b) non-fossil fuel generation sets,

provided that, in the case of a generator who is putting electricity into the total system, the generator is a party to an Interim Settlement Agreement or is registered under the Renewable Output Factor Code in relation to that electricity.

10 Further exception to Paragraph 6

10.1 Notwithstanding, paragraph 6 above, relevant suppliers shall be permitted to purchase or otherwise acquire electricity other than from the power procurement manager where the relevant supplier purchases or otherwise acquires its requirements for electricity from generators who have generated such electricity principally by:

- (a) CHP generation sets where the relevant supplier purchases or otherwise acquires such electricity for supply to a Consumer provided that, in the case of a relevant supplier who is taking electricity off the total system, that relevant supplier is a party to an Interim Settlement Agreement in relation to that demand; or
- (b) non-fossil fuel generation sets provided that, in the case of a relevant supplier who is taking electricity off the total system, that relevant supplier is a party to a Renewable Output Factor Participation Agreement, an Interim Settlement Agreement or another settlement arrangement with Northern Ireland Electricity plc in relation to that electricity.

10.2 In paragraph 10.1(a) above, “Consumer” means:

- (a) a single consumer (the “qualifying consumer”) who occupies premises which are on the same site as the premises where the CHP generation set is situated and consumes all the electricity provided to those premises from the CHP generation set at those premises; or
 - (b) one or more persons who, with the qualifying consumer, form a qualifying group, each of whom occupies premises which are on the same site as the premises where the CHP generation set is situated or, if not on the same site, receive their electricity supply from the CHP generating set and consume all the electricity provided to those premises from the CHP generation set at those premises.
- 10.3 For the purposes of paragraphs 10.2(a) and (b) above, “premises” shall be treated as on the same site as each other if they are:
- (a) the same premises;
 - (b) immediately adjoining each other; or
 - (c) separated from each other only by a road, railway or water course or by other premises occupied by the relevant supplier or the qualifying consumer or by any other person who together with the qualifying consumer forms a qualifying group.
- 10.4 For the purposes of paragraph 10.2(b) above, one or more persons form a “qualifying group” if, being bodies corporate, they fall within the definition of affiliate or related undertaking or, if not being bodies corporate, they are controlled by the qualifying consumer or are controlled by the same entity as the qualifying consumer where:-

“**affiliate**” in relation to any person means any holding company or subsidiary of that person or any subsidiary of a holding company of that person, in each case within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986;

“**control**” means having control of such entity in terms of management and/or funding. If such entity is the responsibility of a government or local government authority, any entity which is also the responsibility of the same authority shall be deemed to be controlled by the same entity;

“**related undertaking**” in relation to any person means any undertaking in which that person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986.