

**Decision paper on modifications to NIE  
Networks' Distribution Licence to include  
requirements for provisions relating to  
Schedules 3 and 4 of the Electricity  
(Northern Ireland) Order 1992**

27<sup>th</sup> July 2016



# 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

Northern Ireland Electricity Networks (NIE Networks) has a Transmission licence and a Distribution Licence. Licence modifications are required to expressly apply Schedules 3 and 4 to the Electricity (Northern Ireland) Order 1992 (the 'Order') to the NIE Distribution licence as required by Article 13 of the Order entitled 'Powers of licence holders'. Schedules 3 and 4 give powers to a licence holder including the acquisition of land by licence holders, exclusions from compulsory acquisition as well as other provisions including powers relating to works, wayleaves, felling and lopping of trees, entry onto land, etc. This decision paper sets out the response to our June 2016 consultation on proposed licence modifications and additionally, the Utility Regulator's consideration of responses. The paper also presents the Utility Regulator's final decision and resultant modifications in the formal licence modification decision notice at Annex 1.

## Audience

Electricity customers, consumer groups, electricity industry participants, statutory bodies and the wider stakeholder body.

## Consumer impact

The licence modifications will expressly apply Schedules 3 and 4 of the Electricity (Northern Ireland) Order 1992 to provide more transparency and clarity for licence holders and consumers in relation to NIE Networks' Distribution licence.

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# Executive Summary

GB electricity distribution licences have a standard licence condition, Condition 28 to correlate the requirements in Section 10 of the Electricity Act 1989 ('the Act') and powers under Schedules 3 and 4. Article 13 of the Electricity (Northern Ireland) Order 1992 (the 'Order') mirrors Section 10 of the Act. Schedules 3 and 4 of both the Act and the Order encompass powers including acquisitions of land, wayleaves as well as numerous sundry powers.

Modifications are required to expressly apply Schedules 3 and 4 of the Order to NIE Networks' distribution licence as required by Article 13 of that Order by inclusion of an additional licence condition.

We consulted on proposed licence modifications on the 22<sup>nd</sup> June 2016. The modifications resulted in drafting which was modeled on the GB standard licence condition 28, yet specific for Northern Ireland. The consultation closed on 22<sup>nd</sup> July 2016. There was one response to this consultation and it is published alongside this consultation.

We have considered the consultation response and other relevant factors and propose to modify NIE Networks' distribution licence to include an additional Condition 21. Details of the licence modifications can be found in the licence modification decision notice at Annex 1.

# 1. Structure of Decision paper

- (1) This paper is structured in the following manner:

Section 2 provides an introduction and background information.

Section 3 presents an overview of the consultation.

Section 4 covers the response to our consultation.

Section 5 outlines our final decision and presents our licence modification decision notice.

## 2. Introduction and Background

- (1) In 2013 NIE's licence was separated into separate Transmission and Distribution licences following the introduction of IME3 requirements.
- (2) In GB, the Electricity Act 1992 contains a Section 10<sup>1</sup> which mirrors Article 13 of the Electricity (Northern Ireland) Order 1992 and both forms of legislation refer to the provisions contained in Schedules 3 and 4 of the Act and Order.
- (3) Modifications are required to expressly apply Schedules 3 and 4 of the Electricity (Northern Ireland) Order 1992 (the 'Order') to the NIE Networks' Distribution licence as required by Article 13 of that Order, by inclusion of an additional condition.
- (4) Article 13 'Powers of licence holders' makes reference to Schedules 3 and 4 of the Order which relate to provisions regarding the acquisition of land by licence holders, exclusions from compulsory acquisition as well as other provisions including powers relating to works, wayleaves, felling and lopping of trees, entry on land, etc. However, these statutory powers have not yet been transposed into NIE Networks' distribution licence and there is a need to do so in order to effect the primary legislation and ensure transparency and consistency.
- (5) In our consultation document we included draft modifications based upon the GB Standard Licence Condition 28 which correlates the requirements of Section 10 of the Act and Schedules 3 and 4 to electricity distribution company licences. This condition may be accessed from the Ofgem website at:

<https://epr.ofgem.gov.uk/Content/Documents/Electricity%20Distribution%20Consolidated%20Standard%20Licence%20Conditions%20-%20Current%20Version.pdf>

- (6) This paper outlines the UR's consultation process, the consultation response and the UR consideration of same and resultant decision.

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<sup>1</sup> The Electricity (Northern Ireland) Order 1992 may be accessed at:

<http://www.legislation.gov.uk/nisi/1992/231/contents/made>

The Electricity Act 1989 applying to GB may be accessed at:

<http://www.legislation.gov.uk/ukpga/1989/29/contents>

### 3. Overview of Consultation

- (1) On 22<sup>nd</sup> June 2016 we consulted upon proposed modifications to expressly apply Schedules 3 and 4 to the Electricity (Northern Ireland) Order 1992 (the 'Order') to the NIE Networks' distribution licence as required by Article 13 of that Order, by inclusion of an additional condition. Further details of the consultation may be accessed at: [http://www.uregni.gov.uk/news/proposed\\_modifications\\_to\\_the\\_distribution\\_licence\\_of\\_nie\\_networks](http://www.uregni.gov.uk/news/proposed_modifications_to_the_distribution_licence_of_nie_networks)
- (2) In our consultation we invited responses from Stakeholders and other interested parties in relation to the modifications or any other element respondents considered relevant.
- (3) Our consultation ended on 22<sup>nd</sup> July 2016 and one response was received from Northern Ireland Electricity Networks. This response is non-confidential is published on our website alongside this decision paper ([www.uregni.gov.uk](http://www.uregni.gov.uk) ).
- (4) The following section presents the consultation response and our view thereon. This will be followed by our decision on licence modifications.



## **4. Consultation responses**

### **Consultation response - NIE**

In its response, NIE Networks stated that it supported the proposed licence amendments.

#### ***UR view on NIE Networks' consultation response***

The UR welcomes NIE Networks' response and the fact that it is content with the proposed licence amendments.

## **5. Our decision on licence modifications**

- (1) We have consulted upon proposals to include requirements for provisions relating to Schedules 3 and 4 of the Electricity (Northern Ireland) Order 1992 in the NIE Networks' Distribution licence. Based upon our consideration of consultation responses and other relevant factors we will be incorporating a new Condition 21 within NIE Networks' Distribution licence. This condition is currently unused. We present the required licence modifications in the decision Licence Modification Notice at Annex 1 below.
- (2) An updated version of the NIE Networks' Distribution licence will be available on the Utility Regulator website at: [www.uregni.gov.uk](http://www.uregni.gov.uk).

## **Annex 1 - LICENCE MODIFICATION NOTICE**

### **DECISION UNDER ARTICLE 14(8) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1992**

#### **MODIFICATION OF NIE NETWORKS' DISTRIBUTION LICENCE**

In pursuance of its powers under Article 14(1) of the Electricity (Northern Ireland) Order 1992 as amended ("the Order"), the Northern Ireland Authority for Utility Regulation ("the Authority"), having obtained the consent of NIE, and having given notice of its intention to make the modifications proposed below, has decided to modify the licence issued to NIE under Article 10(1)(bb) of the Electricity (Northern Ireland) Order 1992 in the following manner:

#### **Modifications to NIE Ltd Distribution Licence**

The following new Condition 21 will be inserted into the licence as this condition is currently unused:

#### **Condition 21 - Application of statutory powers**

21.1 This condition applies to the licensee in accordance with Article 13 of the Order as it relates to Electricity Distributors.

#### **Powers and rights to have effect**

21.2 By virtue of this condition, all of the powers and rights conferred by or under the statutory provisions specified in paragraph 21.3 have effect in relation to the licensee to the extent that they are required for the purpose of enabling it to carry on the activities that it is authorised or required to carry on by or under this licence.

**Relevant statutory provisions**

21.3 The statutory provisions referred to at paragraph 21.2 are:

- (a) Schedule 3 to the Order (which provides for the compulsory acquisition of land); and
- (b) Schedule 4 to the Order (which confers other powers and makes other provision, particularly in relation to street works).



**Jenny Pyper**

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

**The above modifications will take effect from 21<sup>st</sup> September 2016.**