

# SONI Ltd response

## Consultation on Proposed Regulatory Instruction and Guidance for SONI and Associated Annual Reporting Licence Modification

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24 August 2018



# 1 Introduction

SONI is the licensed Transmission System Operator (TSO) in Northern Ireland and has been part of the EirGrid Group since 2009. SONI is responsible for planning and operating the electricity transmission system safely and securely to ensure a reliable supply of electricity for NI consumers. SONI also operates the all-island wholesale electricity market with EirGrid plc through the Single Electricity Market Operator which has been in operation since November 2007.

SONI holds two separate licences in respect of its TSO and Market Operator functions; the Utility Regulator's consultation to which this response is directed relates only to SONI's (TSO) Licence to participate in the transmission of electricity.

SONI welcomes publication of the UR's consultation on its Proposed Regulatory Instructions and Guidance (RIGs) for SONI and Associated Annual Reporting Licence Modification (on 27 July 2018) and the opportunity to respond to both. The UR's consultation outlines:

- proposals to introduce a regular cost reporting structure to SONI;
- a draft of the Data Reporting Template (containing spreadsheets for completion by SONI); and
- a proposed new licence condition.

In summary, while SONI is not opposed to the concept of the introduction of annual cost reporting, it does have significant concerns with the general licence modification process followed by the UR.

We respond to each element of the UR's consultation in turn.

## 2 Response to RIGs Consultation

SONI has no substantive comment regarding editorial changes to the proposed content of the RIGs as published. We have instead responded to the principles outlined within the draft RIGs. In general, we welcome the approach proposed by the UR, acknowledge that the initial annual cost reporting submissions will be considered a learning exercise for both the UR and SONI, and note that SONI has a licence obligation to ensure it has sufficient resources to meet its licence obligations.

### **Proposed Reporting Structure and Submission**

The UR suggests that the RIGs will provide a framework for it to collect consistent information from SONI on an annual basis. SONI welcomes this approach and also the ability to identify errors and describe any changes of the template or definitions that affect numbers. It is important that SONI and the UR actively engage during initial population of the cost reporting spreadsheets and supplementary narrative, particularly in the first instance.

In terms of monitoring SONI's performance over time, the UR reflects that this will inform SONI's subsequent price controls. SONI agrees that this is a sensible way forward. However, we wish to highlight the level of resource intensity which will be required to collate the necessary information on an annual basis and in the format required (ie.to include supporting commentary). While this approach may reduce the contrasting level of intensity which needs to be applied at each five-year cyclical price control review, the annual submissions will be akin to a 'mini price control' submission; this level of reporting and the associated resources was not contemplated when the 2015-20 price control was determined.

The UR states that the new cost reporting structure will also help to inform future allowed revenue for SONI, ensuring ongoing efficiency and value for money for NI consumers. SONI welcomes the UR's recognition that SONI is already ensuring efficiency and value for money for NI consumers and notes that this is in addition to a host of other benefits of the critical service which SONI provides.

SONI notes the UR's request that it must provide its submission, completed in accordance with the RIGs no later than 31 January immediately following the end of the reporting year. It will be important that we also ensure alignment with our key accounting processes and sign-off. SONI acknowledges that its first annual submission must include information on all the prior years of the current price control. The first annual submission will therefore be much more demanding than in the years that follow and we are cognisant that a UR decision on the RIGs and effective date of an accompanying licence modification will be implemented (estimated) late in Q4 of the 2018 calendar year. Any preparatory work carried out by SONI in advance of the RIGs taking effect and to meet the first 31 January deadline could only be done in anticipation of the licence modification taking effect in accordance with the statutory licence modification process

and with comfort provided by the UR that such preparatory work can be instigated. We provide further comment on this later in our response and welcome further engagement with the UR on what action SONI should undertake in advance of the RIGs and accompanying licence modification taking effect.

### **Data Reporting Template and Supporting Commentary**

The Excel spreadsheet published alongside the RIGs has already been subject to prior comment by SONI. In general, any population of the Excel spreadsheet will be subject to any legal or other obligations that SONI may have in relation to matters of data protection.

We appreciate that the first population of the Excel spreadsheet may lead to necessary amendment to finesse during the first couple of years; we therefore welcome the UR's acknowledgement that, further to the initial submission, there may be optional further steps (including questions and queries, site visit(s) to SONI to discuss and understand information, re-submission by SONI allowed (only with the express permission of UR)). SONI would be happy to accommodate this as required.

SONI is happy to work with the UR with respect to the process outlined in the 'Template errors' instructions within the consultation. In addition to the UR's suggestion that 'any comments on ways of improving the workbook' can be included in the supporting commentary to the data reporting template, SONI suggests that an annual review is also scheduled between the UR and SONI to collate all such comments.

### 3 Response to licence modification proposal

As highlighted earlier, SONI has concerns with the process followed by the UR in publishing the proposed licence modifications in accordance with Article 14 of the Electricity (NI) Order 1992.

The UR proposes a new licence condition ('Condition 41') in the SONI TSO licence in respect of annual cost reporting and requests stakeholder views on the appropriateness, accuracy and completeness of the modifications. SONI does not disagree with the concept of a new licence condition to accompany introduction of the RIGs, however we are concerned that the UR has not included enough explanatory information in either the consultation paper or Article 14(2) Notice which accompany the proposed modification. Our key concerns are as follows:

1. The licence modifications as proposed are not clearly explained and, in SONI's opinion, need to be re-consulted on to comply with the requirements of Article 14(2) of the Electricity (NI) Order 1992.
2. The UR's Notice purports to comply with Article 14(2) of the Order but does little more than announce its intention to introduce a new licence condition. It does not comply with the requirement that it should set out the effects of the proposed modifications. The effects of the modification by way of inserting a new licence condition are much more far-ranging than that recognised by the UR; there is no explanation as to how the extent of the obligations and requirements in the licence modifications relate to the content of the proposed RIGs set out in the consultation. Each of the proposed modifications should be detailed with a reason for and effect of in respect of SONI.
3. The Article 14(2) Notice states that Section 4 "Proposed Licence Modification" in the UR's published consultation document sets out the proposed modifications being made under Article 14(2) of the Order in more detail. Section 4 contains only three sentences; there is insufficient explanation within the consultation paper to describe either the reasons for or effects of the content of the licence modification.
4. The proposed licence modifications introduce obligations upon SONI that are not referred to or explained in the consultation paper or Article 14(2) Notice. For example, paragraph 3 of the proposed licence condition states that (unless UR consents) SONI '*must have in place and maintain appropriate systems, processes, and procedures to enable it (a) to estimate, measure, and record the information detailed in the RIGs ("specified information")...*'. SONI would welcome engagement with the UR on this.
5. Paragraph 4 of the proposed licence condition states that: '*To facilitate compliance with paragraph 3 of this Condition, the accounting records and other records kept by the Licensee with respect to the specified information must (a) be*

*so arranged as to ensure that such information can be separately identified and reasonably attributed as between the Licensee's business and the business of any affiliate, associated business or related undertaking of the Licensee; and (b) be maintained for a period of eight years, or such shorter period as set out in the RIGs, from the date that they are made.'* This does not align with existing content and requirements in SONI's licence. While the UR has highlighted that the licence condition is drafted consistently with the RIGs condition that exists for all of the Gas TSOs in NI, it is also important that the condition is drafted consistently with SONI's TSO licence. We welcome further engagement with the UR on this matter.

6. Paragraph 5 of the proposed new licence condition refers to the scope and content of the RIGs and what may be included in the RIGs. The list of potential content is much more extensive than what is described in the consultation paper. We draw attention to paragraph 5(i) which notes that the RIGs can include *'the circumstances in which the Authority may appoint an examiner to examine the recording of specified information by SONI'*. While not included in the draft RIGs published alongside the proposed licence modification, the concept of the introduction of an examiner has not been consulted on, and has not been discussed between SONI and the UR. We welcome further engagement with the UR on this matter.

## 4. Conclusion

SONI is not opposed to the concept of the introduction of annual cost reporting. We require clarity from the UR on next steps in terms of SONI's commencement of preparation for the first submission of annual cost reporting to the UR.

SONI would also welcome further engagement with the UR in advance of any amendment of the proposed licence modifications or consultation; this would be beneficial to ensure consistency with existing licence obligations and to ensure that SONI understands any new requirements or obligations falling out of the new condition.