

Electricity (Northern Ireland) Order 1992 (as amended) – Article 14 (2)

Notice of proposal to modify the conditions of the licence to participate in the transmission of electricity held by Moyle Interconnector Limited issued under Article 10(1)(b) of the Order

1. The Northern Ireland Authority for Utility Regulation (the **Authority**) proposes to modify the following conditions of the licence to participate in the transmission of electricity held by Moyle Interconnector Limited granted under Article 10(1)(b) of the Order:
 - a. Condition 1 (Interpretation and construction);
 - b. Condition 2 (Maximisation of Capacity Receipts etc.);
 - c. Condition 9A (Availability of Resources and Undertaking from Ultimate Controller);
 - d. Condition 12 (Operation and Maintenance Standards, Availability and Quality of Service);
 - e. Condition 13 (The Licensee's regulated revenue entitlement);
 - f. Condition 14 (Prohibited Activities);
 - g. Condition 17 (Requirement to give third party access pursuant to relevant access arrangements);
 - h. Condition 18 (Functions of the Authority); and
 - i. Condition 19 (SEM Trading and Settlement Code and GB Balancing and Settlement Code),

in each case in the manner shown in Annex A to this notice.

2. The effect of the proposed modifications is set out, and the reasons why they are proposed are stated, in Annex B to this Notice. Further information concerning the proposed modifications is contained in the paper entitled '*Statutory Consultation on Modifications to Moyle Interconnector Transmission Licence, necessitated by the implementation of the Integrated Single Electricity Market (I-SEM)*' which can be found at www.uregni.gov.uk.
3. A copy of the proposed modifications and other documents referred to in this Notice have been published on our website (www.uregni.gov.uk).
4. Any representations with respect to the proposed licence modifications must be made on or before 17:00 on Wednesday 17 January 2018 to: Ian McClelland, Utility Regulator, 14 Queen Street, Belfast, BT6 1ED or by email to isemlicences@uregni.gov.uk.

5. We normally publish all responses on our website. However, if you do not wish your response to be made public then please clearly mark it as not for publication. We prefer to receive responses in an electronic form so they can be placed easily on our website.
6. If we decide to make the proposed modifications they will take effect not less than 56 days after the decision is published.

Dated this 15 December 2017

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

Jenny Pyper

Chief Executive

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

ANNEX A: PROPOSED MODIFICATIONS TO THE CONDITIONS OF THE LICENCE TO PARTICIPATE IN THE TRANSMISSION OF ELECTRICITY HELD BY MOYLE INTERCONNECTOR LIMITED

Modification of existing conditions

We have reproduced the text (as currently in effect) of each of the existing conditions we propose to modify below.

Deletions (which are shown in strike through) and new text (which is shown double underlined) take effect in accordance with any transitional provisions made or to be made by or under the relevant condition.

Condition	Modifications
Table of Contents	<p>Condition 9C: Priority <u>Priority</u> Dispatch of Renewable Generation</p> <p>Condition 17: Requirement to give third party access pursuant to <u>establish</u> relevant access arrangements</p> <p>Condition 19: SEM Trading and Settlement Code, <u>Capacity Market Code</u> and GB Balancing and Settlement Code</p>
Condition 1 (Interpretation and construction)	<p>1. Unless the contrary intention appears:</p> <p>(a) words and expressions used in the Licence Document shall be construed as if they were in an enactment and the Interpretation Act (Northern Ireland) 1954 applied to them; and</p> <p>(b) references to an enactment shall include subordinate legislation and in both cases any statutory modification or re-enactment thereof after the date when the licence granted by this Licence Document comes into force.</p> <p>2. Any word or expression defined for the purposes of any provision of Part II of the Order or of the Energy Order or of the SEM Order shall, unless the contrary intention appears, have the same meaning when used in the Licence Document.</p>

	<p>3. In the Licence Document, unless otherwise specified or the context otherwise requires:</p>
<p>“affiliate”</p>	<p>in relation to the licensee or any subsidiary of a holding company of the licensee, means any holding company of the licensee or any subsidiary of the licensee or any subsidiary of a holding company of the licensee, in each case within the meaning of section 1159 of the Companies Act 2006;</p>
<p>“Auditors”</p>	<p>means the licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986;</p>
<p>“authorised”</p>	<p>in relation to any business or activity means authorised by licence granted under Article 10 or exemption granted under Article 9 of the Order;</p>
<p>“authorised electricity operator”</p>	<p>means any person (other than the licensee) who holds a licence granted pursuant to Article 10 of the Order or whose activities are exempt pursuant to Article 9 of the Order, and any person (other than the licensee) transferring electricity to or from Northern Ireland across an interconnector or who has made application for use of interconnectors which has not been refused;</p>
<p>“Authority”</p>	<p>means the Northern Ireland Authority for</p>

			Utility Regulation;
		<u>“Capacity Market Code”</u>	<u>has the meaning given to that term in the transmission system operator licence;</u>
		“Competent Authority”	means the Department, the Authority and any local or national agency, authority, department, inspectorate, minister, ministry, official or public or statutory person (whether autonomous or not) of, or of the government of, the United Kingdom or the European Community;
		“Conditions”	means the Conditions in Part II;
		“Department”	means the Department of Enterprise Trade and Investment or any successor and (where the context requires) any predecessor;
		“designated”	in relation to any agreement, arrangement, code, notice, proposal therefor or other document, means designated by or on behalf of the Department by means of initialling or descriptive reference whether for the purposes of any of the Conditions or otherwise, but so that an agreement, arrangement, code, notice, proposal therefor or other document so designated may at the discretion of the Department cease to be designated if amended or modified in any material respect;
		“Directive”	means Directive 2009/72EC of the European Parliament and of the Council of 13 July 2009 concerning common

			rules for the internal market in electricity;
		"Directive Regulations"	means the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005 and/or the Electricity Regulations (Northern Ireland) 2007;
		"Effective Date"	means the date on which the direction described in paragraph 2 of Part II Condition 13 is issued by the Authority;
		<u>"Electricity Market Regulation"</u>	<u>means Regulation (EC) 714/2009 of the European Parliament and of the Council of 13 July 2009 on condition for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No. 1228/2003;</u>
		"Energy Order"	means the Energy (Northern Ireland) Order 2003;
		"enforcement matter"	means any matter in respect of which any functions of the Authority under Article 42 of the Energy Order are or may be exercisable;
		<u>"financial transmission rights" (or "FTRs")</u>	<u>has the meaning given to the terms "Financial Transmission Right Option" and / or "Financial Transmission Right Obligation" (as applicable) in the Harmonised Allocation Rules;</u>
		"financial year"	bears the meaning ascribed to it in paragraph 1 of Condition 3 of Part II;
		<u>"Forward Capacity Allocation Regulation" (or "FCA Regulation")</u>	<u>means Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward</u>

			<u>capacity allocation:</u>
		“Grid Code”	means the code of that name prepared and approved in accordance with the transmission system operator licence;
		“holding company”	means a holding company within the meaning of section 1159 of the Companies Act 2006;
		“Interconnector Business”	means the business of the licensee as holder of this licence in making available for use the Moyle Interconnector and all activities and matters incidental thereto (including the financing of the Moyle Interconnector);
		“Interconnector Services”	means any services which are being, or (as the context requires) are to be, provided to the licensee which fall within any of the following categories, namely: <ul style="list-style-type: none"> (a) the carrying out of works of maintenance on the Moyle Interconnector (including by way of the refurbishment of any component or the provision of any replacement components); (b) the carrying out of any survey or inspection works on the Moyle Interconnector; (c) the carrying out of any repair or reinstatement works in the aftermath of the occurrence of any damage to or destruction of the Moyle Interconnector or any part

			<p>of it;</p> <p>(d) the effecting or maintenance of insurances;</p> <p>(e) management, consultancy or other services in relation to any of the matters described in (a), (b), (c) or (d) above;</p>
		<u>"I-SEM Go Live"</u>	<u>means and shall occur at the time at which changes which are to be made to the Single Electricity Market for the island of Ireland (being the changes known as the Integrated Single Electricity Market ("I-SEM") arrangements) go live, as determined by the SEM Committee;</u>
		<u>"Harmonised Allocation Rules"</u>	<u>means the harmonised allocation rules for long term transmission rights on an EU level (prepared in accordance with Articles 51 and 52 of the FCA Regulation) in force at that time including the approved regional annexes for the Borders Great Britain - Ireland and Great Britain - Northern Ireland";</u>
		"land"	includes any right, easement or other interest in land and any wayleave;
		"lease"	includes an underlease and a sub-underlease;
		"this licence"	means the licence granted by this Licence Document;
		"Licence Document"	means this document (comprising Parts I and II and Schedules 1 and 2);

	<u>"long term transmission rights"</u>	<u>has the meaning given to that term in the FCA Regulation;</u>
	"modification"	includes any addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;
	"Moyle Interconnector"	means the electrical interconnector between Scotland and Northern Ireland which is owned by the licensee and which comprises the converter stations at Ballycronan More, Co. Antrim, Northern Ireland and Auchencrosh, Ayrshire, Scotland and the undersea and underground electric lines which interconnect such converter stations, together with its connections to the transmission system in Northern Ireland and the transmission system in Scotland;
	<u>"Network Codes"</u>	<u>means i) any network codes established under Article 6 of the Electricity Market Regulation, and ii) guidelines adopted under Article 18 of the Electricity Market Regulation;</u>
	"NIE"	means Northern Ireland Electricity Limited, an incorporated company registered in Northern Ireland under number NI026041;
	"NIE Energy Supply Licence"	means the licence granted under Article 10(1)(c) of the Order to Northern Ireland Electricity plc on 31 March 1992, and transferred to NIE Energy Limited (a body corporate registered in Northern Ireland under company number NI27394)

			on 1 November 2007 pursuant to a statutory scheme;
		“Northern Ireland Fuel Security Code”	means the document of that title designated as such by the Department as from time to time amended in accordance with its provisions, dealing with the co-operation of licence holders in strategic contingency planning in respect of fuel stocks, the modification of the merit order and certain other systems and procedures under the Grid Code during periods when the Department has given and there is in force one or more directions under Article 37(4) of the Order, the entitlement of the licensee and authorised electricity operators to and the collection of certain payments in anticipation of, during and after the expiry of any such periods, and connected matters;
		“Northern Ireland Market Operator Licence”	means the licence granted, under Article 10(1)(d) of the Order, to SONI on 3 July 2007;
		“notice”	means (unless otherwise specified) notice given either in writing or by electronic data transfer;
		“Order”	means the Electricity (Northern Ireland) Order 1992;
		“permitted purpose”	means the purpose of all or any of the following: (a) the Interconnector Business; (b) without prejudice to the generality

			<p>of paragraph (a), any payment or transaction lawfully made or undertaken by the licensee in relation to the disposal of or relinquishment of operational control over any relevant asset in accordance with Part II Condition 9; and</p> <p>(c) without prejudice to the generality of paragraph (a), any payment or transaction lawfully made or undertaken by the licensee for a purpose within sub-paragraphs (i) to (vi) of paragraph 5(b) of Part II Condition 9;</p>
		<p>“related undertaking”</p>	<p>in relation to any person means any undertaking in which that person has a participating interest within the meaning of section 421A of the Financial Services and Markets Act 2000;</p>
		<p>“relevant access arrangements”</p>	<p>means arrangements approved by the Authority for the entering into by the licensee with other persons of agreements to transport across the Moyle Interconnector electricity to be provided by or on behalf of such persons (which arrangements may, without limitation, include provision for the granting of rights to use the Moyle Interconnector by way of the transmission system operator inviting competitive bids, on behalf of Moyle, through an auction or other process); <u>the relevant access arrangements approved by the Authority pursuant to Condition 17 and in force at that time;</u></p>

		"relevant year"	means :- (a) the period commencing on the later of 1st April 2003 and the Effective Date and ending on 31st March 2004; and (b) a financial year commencing on or after 1st April 2004;
		<u>"SEM Committee"</u>	<u>has the meaning given in The Electricity (Single Wholesale Market) (Northern Ireland) Order 2007;</u>
		"SEM Go-Live"	means the time and date designated as such by the Authority (with the consent of the Department) for the purpose of licences granted under the Order, being the commencement date for a number of matters including the Single Electricity Market;
		"SEM Order"	means the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007;
		"Single Electricity Market"	means the single wholesale electricity market for the Island of Ireland, implemented in Northern Ireland pursuant to Section 23 of the Northern Ireland (Miscellaneous Provisions) Act 2006;
		"Single Electricity Market Trading and Settlement Code"	has the meaning given to that expression in the Northern Ireland Market Operator Licence;
		"SONI"	means SONI Limited, an incorporated company registered in Northern Ireland

			under Number NI38715;
		“subsidiary”	means a subsidiary within the meaning of section 1159 of the Companies Act 2006;
		“transmission owner licence”	means the licence held by Northern Ireland Electricity Limited which has effect under Article 10(1)(b) of the Order,(to participate in the transmission of electricity) pursuant to Regulation 90(1)(a) of the Internal Markets Regulations;
		“transmission system”	means the transmission system in Northern Ireland (but excluding the Moyle Interconnector);
		“transmission system operator”	means the person authorised, from time to time, under the transmission system operator licence in its capacity as the holder of that licence;
		“transmission system operator licence”	means the licence granted, under Article 10(1)(b) of the Order, to SONI on 3 July 2007;
		“ultimate controller”	means: <ul style="list-style-type: none"> (a) any holding company of the licensee, which is not itself a subsidiary of another company; and/or (b) any person who (whether alone or with a person or persons connected with him) is in a

			<p>position to control, or to exercise influence over, the policy of the Licensee, or any holding company of the Licensee, by virtue of:</p> <p>(i) rights under contractual arrangement to which he is a party or of which he is a beneficiary;</p> <p>(ii) rights of ownership (including rights attached to or deriving from securities or rights under a trust) which are held by him or of which he is a beneficiary,</p> <p>but shall exclude any director or employee of a corporate body in his capacity as such and any minister, ministry, department, agency, authority, official or statutory person;</p> <p>and a person shall be considered to be connected with another person if he is a party to any arrangement regarding the exercise of any such right as are described in paragraph (b) above;</p>
		<p>“undertaking”</p>	<p>bears the meaning ascribed to it by section 1161 of the Companies Act 2006;</p>
		<p>“use of Moyle Interconnector”</p>	<p>means use of the Moyle Interconnector for the transfer of electricity <u>and / or in accordance with the relevant access</u></p>

		<u>arrangements (as appropriate); and</u>
	"year"	means a period of 12 months commencing on 1st January.
	<p>4. Unless otherwise specified:</p> <p>(a) any reference to a numbered Part or Schedule is a reference to the Part or Schedule bearing that number herein;</p> <p>(b) any reference to a numbered Condition or to a numbered Schedule is respectively a reference to the Condition or the Schedule bearing that number in the Part in which the reference occurs;</p> <p>(c) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Part, Condition or Schedule in which the reference occurs; and</p> <p>(d) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence (other than this licence), code or other instrument shall include a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time.</p> <p>5. The heading or title of any Part, Condition, Schedule or paragraph shall not affect the construction hereof.</p> <p>6. Where any obligation of the licensee is expressed to require performance within a specified time limit that obligation shall continue to be binding and enforceable after that time limit if the licensee fails to perform that obligation within that time limit (but without prejudice to all rights and remedies available against the licensee by reason of the licensee's failure to perform within the time limit).</p> <p>7. The provisions of section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply for the purposes of the delivery or service of any document, direction or notice to be delivered or served pursuant to this Licence Document, and directions issued by the Authority pursuant to</p>	

	<p>8. this Licence Document shall be delivered or served as aforesaid.</p> <p>(a) Each relevant legal instrument shall, if the condition under which it was issued is modified at SEM Go-Live or I-SEM Go Live, continue to have effect under any corresponding provision as modified, as if it had been made under that corresponding provision.</p> <p>(b) For the purposes of paragraphs 8(a) and 8(c) a “relevant legal instrument” means any direction, consent, approval, determination, designation or other instrument issued by the Authority or the Department, prior to SEM Go-Live or I-SEM Go Live, in accordance with a condition of this licence..</p> <p>(c) For the purposes of paragraph 8(a), a “corresponding provision” shall be any provision which, following its modification at SEM Go-Live or I-SEM Go Live, has (notwithstanding that it has been renumbered, moved, deleted and replaced, or otherwise amended in any way) substantially the same purpose and effect as the provision under which a relevant legal instrument was issued.</p>
<p>Condition 2 (Maximisation of Capacity Receipts etc.)</p>	<p><u>1.</u> The licensee shall perform its functions with respect to the Moyle Interconnector in such manner as it considers is best designed to secure the objectives of:-</p> <p>(a) maximising the revenues payable pursuant to agreements for use of the Moyle Interconnector which are entered into pursuant to relevant access arrangementswhich are earned by it from all sources other than the Collection Agency Income Requirement (as defined in Condition 13);</p> <p>(b) maintaining the capacity and functionality of the Moyle Interconnector; and</p>

	<p>(c) optimising the efficiency, reliability, availability and operational life of the Moyle Interconnector.</p> <p><u>Transition</u></p> <p><u>2. The provisions of this Condition inserted (or, as the case may be, removed) by virtue of the decision of the Authority dated [##] shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.</u></p>
<p>Condition 9A (Availability of Resources and Undertaking from Ultimate Controller)</p>	<p><u>Availability of Resources</u></p> <p><u>1</u> The licensee shall at all times act in a manner calculated to secure that it has sufficient resources to enable it to:</p> <p>(a) carry on the Interconnector Business; and</p> <p>(b) comply with its obligations under the Order, the Energy Order, the SEM Order, <u>Network Codes, the Harmonised Allocation Rules, any other law (or code or guidance) which is binding on the licensee in relation to the carrying on of the Interconnector Business</u> and this licence.</p> <p><u>2</u> The Licensee shall submit a certificate addressed to the Authority, approved by a resolution of the Board of Directors of the Licensee and signed by a director of the Licensee pursuant to that resolution. Such certificate shall be submitted no later than 14 April 2014 and thereafter on 14 April of each subsequent year. Each certificate shall be in one of the following forms:</p> <p>(a) “After making enquiries, the directors of the Licensee have a reasonable expectation that the Licensee will have available to it sufficient resources to enable the Licensee to carry on the Interconnector Business and comply with its obligations under the Order, the Energy Order, the SEM Order and the Licence for a</p>

period of 12 months from the date of this certificate”

- (b) “After making enquiries, the directors of the Licensee have a reasonable expectation, subject to the Terms of this certificate, that the Licensee will have available to it sufficient resources to enable the Licensee to carry on the Interconnector Business and comply with its obligations under the Order, the Energy Order, the SEM Order and the Licence for a period of 12 months from the date of this certificate. However, they would like to draw attention to the following factors which may cast doubt on the ability of the Licensee to do so.”
- (c) “In the opinion of the directors of the Licensee, the Licensee will not have available to it sufficient resources to enable the Licensee to carry on the Interconnector Business and comply with its obligations under the Order, the Energy Order, the SEM Order and the Licence for a period of 12 months from the date of this certificate.”

3 The Licensee shall submit to the Authority together with the certificate referred to in paragraph 2 of this condition a statement of the main factors which the directors of the Licensee have taken into account in giving that certificate.

4 The Licensee shall inform the Authority in writing immediately if the directors of the Licensee become aware of any circumstances which cause them no longer to have the reasonable expectation expressed in the then most recent certificate given under paragraph 2.

5 The Licensee shall use all reasonable endeavours to obtain and submit to the Authority with each certificate provided for in paragraph 2 a report prepared by the Auditors and addressed to the Authority stating whether or not the Auditors are aware of any inconsistencies between, on the one hand, that certificate and the statement submitted with it and, on the other hand, any information which they obtained during their audit work.

Undertaking from ultimate controller

6 The Licensee shall procure from each company or other person which

the Licensee knows or reasonably should know is at any time an ultimate controller of the Licensee a legally enforceable undertaking in favour of the Licensee in a form specified by the Authority that the ultimate controller will refrain from any action, and will procure that every subsidiary of the ultimate controller (other than the Licensee and its subsidiaries) will refrain from any action, which would then be likely to cause the Licensee to be in breach of the certification ground on which it is, in accordance with Article 3 of the Electricity Regulation, certified by the Authority as a transmission system operator.

7 The undertaking referred to in paragraph 6 shall be obtained within 7 days after the date when this Condition 9A first become effective, or after the person in question becomes an ultimate controller (as the case may be) and shall remain in force for as long as the Licensee remains the holder of this Licence and the giver of the undertaking remains an ultimate controller of the Licensee.

8 The Licensee shall:

- (a) deliver to the Authority evidence (including a copy of each such undertaking) that the Licensee has complied with the obligation to procure undertakings pursuant to paragraph 6;
- (b) inform the Authority immediately in writing if the directors of the Licensee become aware that the undertaking has ceased to be legally enforceable or that its terms have been breached; and
- (c) comply with any direction from the Authority to enforce any such undertaking.

Transition

9 The provisions of this Condition inserted by virtue of the decision of the Authority dated [##] shall come into effect on such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.

<p>Condition 12 (Operation and Maintenance Standards, Availability and Quality of Service)</p>	<p>1. The licensee shall:-</p> <p>(f) through an agreement with the transmission system operator in terms approved by the Authority entered into on or before the Effective Date, make arrangements for the transmission system operator to operate the Moyle Interconnector in conjunction with its operation of the transmission system and for the transmission system operator to make arrangements for the entering into by the licensee of agreements for use of the Moyle Interconnector with third parties, <u>including associated activities such as transparency publications and interfacing with relevant capacity allocation and transparency platforms;</u> and</p> <p>(g) maintain the Moyle Interconnector,</p> <p>in each case, in accordance with such standard of operation and maintenance as the licensee may, after consultation with the transmission system operator and with the approval of the Authority, adopt from time to time.</p> <p>2. The licensee shall not make or agree to any amendment or variation (excluding an amendment or variation which is of a formal, technical or administrative nature) to the agreement referred to in paragraph 1(a) without the consent of the Authority.</p> <p>3. Revisions to the standard referred to in paragraph 1 proposed by the licensee shall require to be approved by the Authority.</p> <p>4. The Authority may issue directions requiring the licensee to revise the standard referred to in paragraph 1 in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions.</p> <p>5. The licensee shall give or send a copy of the standard referred to in paragraph 1 to the Authority.</p> <p>6. The licensee shall (subject to paragraph 7) give or send a copy of such standard to any person requesting the same.</p>
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	<p>7. The licensee may make a charge for any copy given or sent pursuant to paragraph 6 of an amount reflecting the licensee's reasonable costs which will not exceed any amount specified for the time being for the purposes of this Condition in directions issued from time to time by the Authority.</p> <p>8. The licensee shall within three months after the date of grant of this licence and thereafter whenever requested to do so by the Authority, draw up and submit to the Authority for the Authority's approval a statement setting out criteria by which the performance of the licensee in maintaining the availability of the Moyle Interconnector and the quality of service which it provides may be measured.</p> <p>9. The licensee shall within 2 months after the end of each financial year submit to the Authority a report providing details of the performance of the licensee during the previous financial year against the criteria referred to in paragraph 8.</p> <p><u>Transition</u></p> <p><u>10. The provisions of this Condition inserted by virtue of the decision of the Authority dated [##] shall come into effect on such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.</u></p>
<p>Condition 13 (The Licensee's regulated revenue entitlement)</p>	<p>1 The licensee shall be entitled to derive revenues from the following sources, namely:</p> <p>(a) from NIE under the Existing Interconnector Agreement in respect of the period ending on the date of termination of the same;</p> <p>(b) from persons who from time to time are parties to agreements with the licensee for use of the Moyle Interconnector in accordance with Conditions 15 to 18 (inclusive) of Part II; and</p> <p>(c) <u>under the terms of the Capacity Market Code; and</u></p> <p>(d) (e)from recoveries of the Collection Agency Income Requirement made by the Collection Agent through its transmission or</p>

transmission and distribution charges under the arrangements described in the agreement referred to in paragraph 4.

2 The maximum amount of the revenues which the licensee is entitled to recover from the sources described in paragraph 1 in any relevant year shall be the allowed recovery for such relevant year, as specified in a direction issued by the Authority to the licensee for the purposes of this paragraph 2.

3 A direction issued pursuant to paragraph 2 shall not be capable of being revoked or modified without the prior written consent of the licensee.

4 The licensee shall on the Effective Date enter into an agreement with the Collection Agent in terms approved by the Authority which makes provision for the Collection Agent to collect the Collection Agency Income Requirement, as part of its transmission or transmission and distribution charges, and to account to the licensee for the revenues so collected.

5 The licensee shall not make or agree to any amendment or variation (excluding an amendment or variation which is of a formal, technical or administrative nature) to the agreement referred to in paragraph 4 without the consent of the Authority.

6 The licensee shall perform any obligation imposed on it by the direction described in paragraph 2.

7 As used in this Condition:-

(a) **“Collection Agent”** means, in respect of the period to SEM Go-Live, NIE; and, in respect of the period from SEM Go-Live, SONI; or (in each case) such other person as is from time to time authorised, pursuant to its licence, to receive revenues derived from the use of the transmission system in Northern Ireland;

(b) **“Existing Interconnector Agreement”** means an Agreement dated 27th March 2002 between the licensee and NIE by which, amongst other things,

	<p>the licensee grants rights to use the capacity of the Moyle Interconnector to NIE;</p> <p>(c) “Collection Agency Income Requirement” means, in respect of any relevant year, the amount which the Collection Agent is (or, where there is more than one Collection Agent in that relevant year, the aggregate of the amounts that the Collection Agents are) entitled to recover as part of its (or their) transmission or transmission and distribution charges in such relevant year through the term “CAIR_t” in the revenue restriction conditions of its licence (or their licences).</p> <p><u>Transition</u></p> <p><u>8. The provisions of this Condition inserted (or, as the case may be, removed) by virtue of the decision of the Authority dated [##] shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.</u></p>
<p>Condition 14 (Prohibited Activities)</p>	<p>1 <u>Subject to paragraph 2,</u> the licensee shall not conduct any business or carry on any activity other than the Interconnector Business without the written consent of the Authority.</p> <p>2 The licensee shall not on its own account purchase or otherwise acquire electricity (including by means of entry into an electricity purchase contract) for the purpose of sale or other disposition to third parties in Northern Ireland unless such purchase or other acquisition or sale or other disposition is made as part of the Interconnector Business <u>without the written consent of the Authority.</u></p> <p>3 The licensee shall not hold or acquire any interest in any generation sets (whether or not located in Northern Ireland) and shall not hold an accountable interest in any generation sets (whether or not located in</p>

	<p>Northern Ireland), unless such generation sets are required for the purposes of carrying on the Interconnector Business.</p> <p>4 The licensee shall not hold or carry on the Interconnector Business through any affiliate or related undertaking of the licensee without the written consent of the Authority.</p> <p>5 The licensee shall not hold or acquire shares or any other interest in any other person without the written consent of the Authority.</p> <p>6 The licensee shall not enter into any swap, option, derivative or other financially settled transaction without the written consent of the Authority.</p> <p>7 The licensee shall procure that the Interconnector Business does not give any cross-subsidy to, or receive any cross-subsidy from, any other business of the licensee or of an affiliate or related undertaking of the licensee.</p> <p>8 In this Condition:</p> <p style="padding-left: 40px;">“accountable interest” has the meaning ascribed to it in the NIE Energy Supply Licence.</p> <p><u>Transition</u></p> <p><u>9 The provisions of this Condition inserted (or, as the case may be, removed) by virtue of the decision of the Authority dated [##] shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.</u></p>
<p>Condition 17 (Requirements to give third party access pursuant to establish)</p>	<p>1 The licensee shall:-</p> <p>(a) (to the extent, if any, to which it has not done so prior to the date of granting of this licence) establish relevant access arrangements in relation to the Moyle Interconnector, not later than 90 days after such date or such other date as shall be</p>

<p>relevant access arrangements)</p>	<p>agreed in writing between the licensee and the Authority; and</p> <p>(b) (subject to paragraph 2) give effect to and operate the relevant access arrangements which are in force from time to time.</p> <p>2 The licensee shall not be obliged pursuant to this Condition to offer to enter into or to enter into an agreement for use of the Moyle Interconnector with any person:-</p> <p>(a) if to do so would be likely to involve the licensee:-</p> <p>(i) in breach of its duties under Article 12 of the Order;</p> <p>(ii) in breach of the Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993 or of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable to the Moyle Interconnector; or</p> <p>(iii) in breach of any of the Conditions; or</p> <p>(b) (and shall not enter into such an agreement with any person) if the person making the application does not undertake to be bound by the terms of:-</p> <p>(i) such parts of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued by the Authority to the licensee for the purposes of this Condition;</p> <p>(ii) the Single Electricity Market Trading and Settlement Code <u>and the Capacity Market Code (insofar as applicable)</u>;</p> <p>(iii) the terms of any code of general application or agreement made between the licensee and any co-operator of the Moyle Interconnector governing the operation and maintenance of the Moyle</p>
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	<p style="text-align: center;">Interconnector approved for the time being by the Authority; and</p> <p>(iv) a transmission use of system agreement with the transmission system operator; or</p> <p>(c) where, on the application of the licensee or any other person, the Authority in its discretion shall determine that (having regard to the part of the capacity of the Moyle Interconnector already contracted by the licensee to third parties, including the 125 MW contracted to the Power Procurement Business as referred to in paragraph 4(a) of Condition 16 and capacity contracted prior to the date of grant of this licence pursuant to any auction process) the capacity of the Moyle Interconnector is insufficient to accommodate the requirements of that other person.</p> <p>3 The licensee shall (in consultation with authorised electricity operators liable to be materially affected thereby and any relevant co-operator) periodically review (including upon the request of the Authority) the relevant access arrangements which are in force from time to time. Following any such review, the licensee shall send to the Authority:-</p> <p>(a) a report on the outcome of such review; and</p> <p>(b) any proposed revisions to the relevant access arrangements which the licensee (having regard to the outcome of such review) reasonably thinks fit; and</p> <p>(c) any written representations or objections from authorised electricity operators or co-operators (including any proposals by any such person for revisions to the relevant access arrangements not accepted by the licensee in the course of such review) arising during the consultation process and subsequently maintained.</p> <p>4 Revisions to the relevant access arrangements proposed by the licensee and sent to the Authority pursuant to paragraph 3 shall require</p>
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to be approved by the Authority.

5 Following such consultation (if any) as the Authority may consider appropriate, the Authority may issue directions requiring the licensee to revise the relevant access arrangements in such manner as may be specified in the directions, and the licensee shall forthwith comply with any such directions. In making such directions, the Authority shall have regard to any review undertaken by the licensee under paragraph 3 and any written representations or objections as are referred to in paragraph 3(c).

6 The licensee shall give or send a copy of the relevant access arrangements from time to time in force to the Authority.

7 The licensee shall (subject to paragraph 8) give or send a copy of the relevant access arrangements from time to time in force to any person requesting the same.

8 The licensee may make a charge for any copy given or sent pursuant to paragraph 7 of an amount which will not exceed any amount specified for the time being for the purposes of this Condition in directions issued by the Authority.

9 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 appropriate paragraphs of the Electricity (Applications for Licences and Extensions of Licences) (No. 2) Regulations (Northern Ireland) 2007 or such provisions to like effect contained in any further regulations then in force made pursuant to Articles 10(3) and 64 of the Order.

Transition

10. The provisions of this Condition inserted (or, as the case may be, removed) by virtue of the decision of the Authority dated [##] shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different

	<p><u>days may be so appointed for different provisions and for different purposes.</u></p>
<p>Condition 18 (Functions of the Authority)</p>	<p>1. <u>Subject to paragraph 4</u>, upon the application of any person wishing to question the terms of an agreement for use of the Moyle Interconnector offered by or to be entered into by the licensee pursuant to any relevant access arrangements <u>(as set out in Condition 17)</u> applicable to the Moyle Interconnector or required to be offered under the terms of any agreement previously entered into for use of the Moyle Interconnector by the person or persons entitled to use thereunder, or upon the application of the licensee, the Authority may, pursuant to Article 11(3)(c) of the Order, settle any terms of the agreement in dispute between the licensee and that person or between such persons (as the case may be) in such manner as appears to the Authority to be reasonable having (insofar as relevant) regard in particular to the following considerations:-</p> <ul style="list-style-type: none"> (a) that such person should pay to the licensee charges determined in accordance with the procedure for the setting of such charges embodied in the relevant access arrangements applicable to the Moyle Interconnector; (b) that the obligations of the licensee under the agreement should not be in conflict with the provisions of any related document for the time being approved by the Authority; (c) that the performance by the licensee of its obligations under the agreement should not cause it to be in breach of those provisions referred to in sub-paragraphs (a) or (b) of paragraph 2 of Condition 17; and (d) that the terms and conditions of the agreement so settled by the Authority and of any other agreements entered into by the licensee for the use of the Moyle Interconnector pursuant to relevant access arrangements should be, so far as circumstances allow, in as similar a form as practicable. <p>2. Insofar as any person who has received an offer such as is referred to in</p>

	<p>paragraph 1 wishes to proceed on the basis of the agreement as settled by the Authority, the licensee shall forthwith enter into and implement such agreement in accordance with its terms.</p> <p>3. If either party to an agreement entered into pursuant to relevant access arrangements proposes to vary the contractual terms of such agreement in any manner provided for under such agreement, the Authority may, at the request of the licensee or other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Authority to be reasonable.</p> <p>4. <u>The right of:</u></p> <p>a) <u>any person wishing to question the terms of an agreement for use of the Moyle interconnector offered by or to be entered into by the licensee (as set out in Condition 17) and who wishes to dispute any of the matters referred to in paragraphs (1) and (3); and</u></p> <p>b) <u>the Authority to settle the terms of the agreement in dispute between the licensee and that person or persons as the case may be.</u></p> <p><u>shall be subject to any requirement under the Harmonised Allocation Rules prescribed under the FCA Regulation that any such dispute be settled in accordance with a dispute resolution procedure under the Harmonised Allocation Rules.</u></p> <p><u>Transition</u></p> <p>5. <u>The provisions of this Condition inserted (or, as the case may be, removed) by virtue of the decision of the Authority dated [##] shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.</u></p>
<p>Condition 19 (SEM Trading and</p>	<p><u>SEM Trading and Settlement Code</u></p> <p>1 The licensee shall accede to the Single Electricity Market Trading and</p>

<p>Settlement Code, Capacity Market Code and GB Balancing and Settlement Code)</p>	<p>Settlement Code, register the Moyle Interconnector pursuant to the Single Electricity Market Trading and Settlement Code, and comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to it in its capacity as the owner of the Moyle Interconnector.</p> <p>Capacity Market Code</p> <p>2 The licensee shall accede to the Capacity Market Code and comply with the Capacity Market Code insofar as it is applicable to it in its capacity as the owner of the Moyle Interconnector.</p> <p>Moyle Interconnector Operation and Agency Agreement</p> <p>3 4 Paragraphs 34, 45 and 56 shall only apply in respect of the period to the time at which the Moyle Interconnector Operation and Agency Agreement terminates or expires in accordance with its terms.</p> <p>4 5 The licensee shall appoint SONI to act as and perform the functions of the Interconnector Administrator and the Interconnector Error Administrator (as such expressions are defined in the GB Balancing and Settlement Code) in respect of the Moyle Interconnector under and in accordance with the GB Balancing and Settlement Code.</p> <p>5 6 The licensee shall nominate SONI to act as and perform the functions of the Interconnector Administrator (as such expression is defined in the Single Electricity Market Trading and Settlement Code) in respect of the Moyle Interconnector under and in accordance with the Single Electricity Market Trading and Settlement Code.</p> <p>6 7 The licensee shall, to the extent registration is required under the Single Electricity Market Trading and Settlement Code, nominate SONI to register the “Interconnector Error Unit” (as such expression is defined in the Single Electricity Market Trading and Settlement Code) relating to the Moyle Interconnector in accordance with the Single Electricity Market Trading and Settlement Code.</p> <p><u>Definitions</u></p> <p><u>7</u> 8 In this Condition, unless the context otherwise requires:</p>
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“GB Balancing and Settlement Code” means the balancing and settlement code established by the transmission system operator for Great Britain.

“Moyle Interconnector Operation and Agency Agreement” means the agreement of that name between the Licensee and SONI, as amended and restated on 28 June 2006, which, amongst other things, makes provision for the Moyle Interconnector to be operated by SONI.

Transition

8. The provisions of this Condition inserted (or, as the case may be, removed) by virtue of the decision of the Authority dated [##] shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Authority may by direction appoint. Different days may be so appointed for different provisions and for different purposes.

ANNEX B: STATEMENT OF EFFECTS AND REASONS IN RELATION TO PROPOSED MODIFICATIONS TO THE CONDITIONS OF THE LICENCE TO PARTICIPATE IN THE TRANSMISSION OF ELECTRICITY HELD BY MOYLE INTERCONNECTOR LIMITED

Condition	Effect(s) of proposed modification	Reason(s) for proposed modification
Table of Contents	The typographical error will be corrected and the changes will be made to the names of Condition 17 and Condition 19.	In the Table of Contents there is a typographical error in the reference to Condition 9C. The error is present in the word 'Priority'. The names of Condition 17 and Condition 19 are to be amended to reflect the modifications being proposed to those conditions.
Condition 1 (Interpretation and construction)	The proposed modifications will incorporate new definitions ("Capacity Market Code", "Electricity Market Regulation"; "Financial Transmission Rights (or "FTRs")", "Forward Capacity Allocation Regulation (or "FCA Regulation"); "I-SEM Go Live", "Harmonised Allocation Rules", "Long term transmission rights", "Network Codes" and "SEM Committee"); and modify some existing definitions ("Relevant access arrangements" and "Use of Moyle interconnector"). Paragraph 8 (which deals with interpretation of legal instruments) is to be modified to include references to "I-SEM Go Live". The typographical error in the definition of "subsidiary" will be corrected.	The proposed modification of Condition 1 includes a number of new definitions and modification of others in order to give legal effect to the proposed modifications of other licence Conditions (as set out below) which are to facilitate the implementation of I-SEM. The phrase "I-SEM Go Live" is to be inserted into paragraph 8 to facilitate the transition to the new arrangements. A minor typographical error is also to be corrected. This is the removal of a single parenthesis from the definition of the word "subsidiary".
Condition 2 (Maximisation of Capacity Receipts etc.)	The modification of paragraph 1(a) would ensure that Moyle's obligation to perform its functions in such a manner as it considers best designed to maximise its revenues also applies to the new revenue streams as well as existing revenue streams.	This modification is to update the Condition to ensure that the objective of Moyle to maximise its revenues covers all revenue sources (including new revenue sources Moyle may receive under the I-SEM arrangements) other than through its Collection Agency Income Requirement and not be limited to revenues flowing from the access arrangements.
Condition 9A	The proposed additional wording to paragraph 1(b) will require	Under I-SEM, the licensee will be subject to additional legal

<p>(Availability of Resources and Undertaking from Ultimate Controller)</p>	<p>Moyle to have sufficient resources to carry on the Interconnector Business in a manner that complies with additional legal obligations (under Network Codes (including the CACM Regulation and the FCA Regulation) and Harmonised Allocation Rules, as well as obligations under prescribed national legislation.</p>	<p>requirements (flowing from EU legislation). It is considered appropriate that the obligation on Moyle to ensure that it has sufficient resources to comply with prescribed legal obligations should include reference to these new EU legal obligations (as well as existing legal obligations e.g. under national legislation).</p>
<p>Condition 12 (Operation and Maintenance Standards, Availability and Quality of Service)</p>	<p>The proposed amendment will expand the scope of the agreements that the TSO can enter into on Moyle's behalf to include other third parties that may be applicable under I-SEM – for example, transparency platforms and capacity platforms.</p> <p>The licensee is required under the licence condition to obtain the consent of the Authority to any amendments to the agreement it has with the TSO. The proposed licence modification is expected to require a corresponding amendment to the agreement between the licensee and TSO which will require such approval.</p>	<p>Presently, the TSO can make arrangements for Moyle to enter into agreements with third parties for the use of the interconnector.</p> <p>Under I-SEM, there may be additional third parties with which the TSO is required to make arrangements on behalf of Moyle. These third parties may not use the interconnector but may undertake activities necessary for the implementation of I-SEM – for example, transparency publications, capacity allocation platforms and capacity transparency platforms. These future arrangements should be facilitated within this modified licence condition.</p>
<p>Condition 13 (The Licensee's regulated revenue entitlement)</p>	<p>The proposed addition of paragraph 1(c) will reflect Moyle's ability to earn revenue under the Capacity Market Code and ensure that such revenue is captured within the scope of the licensee's regulated revenue entitlement.</p> <p>Other revenue streams under I-SEM (such as the sale of Financial Transmission Rights (FTRs) and ancillary services) fall under existing provisions within this Condition, in particular paragraph 1(b).</p>	<p>Under I-SEM arrangements, the licensee's revenue streams will change and will include new sources (in particular, from the sale of FTRs and participation in the Capacity Market).</p> <p>This modification is to ensure that the scope of the licensee's regulated revenue entitlement also includes revenue earned from these additional sources (as well as existing sources).</p> <p>In particular, the addition of paragraph (c) to include revenues earned under the Capacity Market Code reflects the ability of Moyle to participate in the capacity market and receive revenue in I-SEM.</p>
<p>Condition 14 (Prohibited Activities)</p>	<p>A modification is to be made to paragraph 2 to permit the licensee to purchase / sell energy only if it obtains the written consent of the Authority. The exception to the prohibition against purchasing / selling which currently exists if made as part of the Interconnector Business is to be deleted to avoid any potential confusion.</p>	<p>The proposed modification would provide a mechanism for the licensee to obtain written consent from the Authority to purchase / sell electricity (which would otherwise be a prohibited activity under the licence condition).</p> <p>This mechanism is considered necessary under the revised</p>

	<p>Similarly, paragraph 1 of the Condition is to be modified to make it subject to paragraph 2 to ensure that the entitlement to carry on the Interconnector Business will not be interpreted as including the ability to purchase / sell energy.</p> <p>Obtaining consent from the Authority would offer Moyle a potential mechanism by which it can manage its exposure to contractual imbalances.</p>	<p>trading arrangements in I-SEM where it may be reasonable to allow the Licensee to engage in such a prohibited activity, for example where a physical trip of the Interconnector left the Licensee with an imbalance position in the I-SEM Balancing Market.</p> <p>In any request for permission to engage in a prohibited activity the Licensee shall clearly outline the rationale behind the request and, in any written consent, the Authority shall clearly define the acceptable circumstances under which the Licensee may engage in such prohibited activity.</p>
<p>Condition 17 (Requirements to give third party access pursuant to relevant access arrangements)</p>	<p>This proposed amendment is to update the name of the Condition to reflect the nature of the access arrangements for I-SEM.</p> <p>The modification to paragraph 2b would mean that the licensee is not obliged to allow use of the Moyle interconnector by anyone not bound by the terms of the relevant Codes (to include the Capacity Market Code). Currently, Moyle is not permitted to allow use of the interconnector in such circumstances.</p>	<p>Currently, market participants purchase physical capacity rights to the Moyle interconnector. However, under I-SEM, physical capacity rights will no longer be sold with FTR options being sold instead. Therefore, it is proposed that the title of Condition 17 is amended to reflect the move from away from physical access.</p> <p>Paragraph 2(b) is to be amended so that the licensee is not obliged to enter into any agreement with any party for use of the interconnector if they have not undertaken to be bound by the terms of the relevant Codes. This is to ensure parties who have not signed up to all Codes are not denied potential access.</p> <p>The scope of paragraph 2(b) also requires to be updated to include reference to the Capacity Market Code as well as the Trading and Settlement Code (as this is another regulatory obligation) that applicants for access to the interconnector may be subject to.</p>
<p>Condition 18 (Functions of the Authority)</p>	<p>This proposed modification would give precedence to the dispute resolution process contained within the Harmonised Allocation Rules (HAR) over the existing dispute provisions in circumstances where the HAR provisions are engaged. This reflects the new arrangements from I-SEM Go Live.</p>	<p>At I-SEM Go Live, a new dispute resolution process contained within the HAR will come into force. As a result, the Condition is to be modified to make the existing dispute resolution process subject to the new HAR provisions for those disputes which fall within the scope of the HAR.</p>
<p>Condition 19 (SEM Trading and Settlement)</p>	<p>The proposed modification would place an obligation on the licensee to sign up to and comply with the Capacity Market</p>	<p>Under I-SEM, interconnectors will be able to participate in the Capacity Market. As such, and consistent with the position</p>

Code and GB Balancing and Settlement Code)	Code insofar as it is applicable to it in its capacity as the owner of the Moyle interconnector.	taken in relation to generators and suppliers, the licence is to be modified to include an obligation to sign up to and comply with the terms of the Capacity Market Code (insofar as applicable to the licensee).
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