

Utility Regulator Statutory Duties

The principal objective of the Utility Regulator in carrying out its electricity related functions is:

to protect the interests of consumers of electricity supplied by authorised suppliers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity.

The interests of consumers include their interests in the fulfilment by the Authority when carrying out its functions as designated regulatory authority for Northern Ireland, of the objectives as set out in Article 36(a) to (h) of the Electricity Directive.¹

And also having regard to:

- (a) *the need to secure that all reasonable demands in Northern Ireland or Ireland for electricity are met; and*
- (b) *the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by or under Part II of the Electricity Order or this Order (the Energy (NI) Order 2003)*

In performing its duty, the Utility Regulator shall have regard to the need to protect the interests of

- i. *individuals who are disabled or chronically sick;*
- ii. *individuals of pensionable age;*
- iii. *individuals with low incomes; and*
- iv. *individuals residing in rural areas;*

This however does not imply that regard may not be had to the interests of other descriptions of consumer.

Subject to (a) and (b) above, the Authority is required to carry out its respective electricity functions in the manner which it considers is best calculated:

- I. *to promote the efficient use of electricity and efficiency and economy on the part of persons authorised by licences or exemptions to supply, distribute or participate in the transmission of electricity;*

¹ European Parliament and Council Directive 2009/72/EC concerning common rules for the internal market in electricity

II. to protect the public from dangers arising from the generation, transmission, distribution or supply of electricity;

III. to secure a diverse, viable and environmentally sustainable long-term energy supply;

IV. to promote research into, and the development and use of, new techniques by or on behalf of persons authorised by a licence to generate, supply, distribute or participate in the transmission of electricity; and

V. to secure the establishment and maintenance of machinery for promoting the health and safety of persons employed in the generation, transmission, distribution or supply of electricity;

The Utility Regulator is also to have regard, in carrying out the above functions, to the effect on the environment of activities connected with the generation, transmission, distribution or supply of electricity.

Recent legislation from Europe Directive 2009/72/EC (“IME3 Directive”) has amended and expanded our duties and functions. Amendments to the principle objective and original general duties are accounted for above, with additions and other changes outlined below.

For the purposes of implementing the IME3 Directive, the Department has made Regulations which implement the necessary changes into domestic law. This includes the Utility Regulator being designated as the national regulatory authority (NRA) for Northern Ireland. Designation as a NRA necessitates a blend of assuming additional responsibilities and a requirement to reinforce and ensure the organisation’s independence while carrying out its activities. Additional responsibilities include:

- electricity transmission and distribution ownership unbundling ;
- publishing consumer guidance ²;
- a duty on the Authority to consult and co-operate with other authorities (Agency for the Cooperation of Energy Regulators (ACER), GB, and other Member States);
- and increased industry monitoring duties.

The strengthening of the Utility Regulator’s independence takes the form of a general requirement to be independent, as well as specific measures to be applied to the Utility Regulator’s activities. The Utility Regulator is now to function as the issuer of licences, including for a newly created distribution licence category, without the requirement for Departmental consent. The newly created distribution licence

² http://www.uregni.gov.uk/uploads/publications/UR_Implementation_of_IME3_July_11.pdf

category includes the requirement to separate the current combined transmission and distribution licence held by NIE T&D.

Certain functions in relation to electricity have been added specific to monitoring activities. These are drawn from Article 37 of the IME3 Directive and are detailed below. Please note the paragraph lettering refers to the original lay out in the Directive.

(g) monitoring investment plans of the transmission system operators, and providing in its annual report an assessment of the investment plans of the transmission system operators as regards their consistency with the Community-wide network development plan referred to in Article 8(3)(b) of Regulation (EC) No 714/2009; such assessment may include recommendations to amend those investment plans;

(h) monitoring compliance with and reviewing the past performance of network security and reliability rules and setting or approving standards and requirements for quality of service and supply or contributing thereto together with other competent authorities;

(i) monitoring the level of transparency, including of wholesale prices, and ensuring compliance of electricity undertakings with transparency obligations;

(j) monitoring the level and effectiveness of market opening and competition at wholesale and retail levels, including on electricity exchanges, prices for household customers including prepayment systems, switching rates, disconnection rates, charges for and the execution of maintenance services, and complaints by household customers, as well as any distortion or restriction of competition, including providing any relevant information, and bringing any relevant cases to the relevant competition authorities;

(k) monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent large non-household customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the national competition authorities of such practices;

(m) monitoring the time taken by transmission and distribution system operators to make connections and repairs;

(q) monitoring the implementation of rules relating to the roles and responsibilities of transmission system operators, distribution system operators, suppliers and customers and other market parties pursuant to Regulation (EC) No 714/2009;

(r) monitoring investment in generation capacities in relation to security of supply;

(s) monitoring technical cooperation between Community and third-country transmission system operators;

(t) monitoring the implementation of safeguards measures as referred to in Article 42.