

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

June 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 consultation proposes draft modifications to Condition 21 of NIE Networks Distribution licence as this condition is currently unused. A formal licence modification notice is included at Annex 1 – Article 14 Licence modification notice. This consultation invites responses from stakeholders and interested parties regarding proposed amendments.

Audience

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

Consumer impact

The proposed 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 Network's distribution licence.

Contents

Introduction	3
1.1 Background to consultation	3
1.2 How to Respond.....	3
1.3 Reason for the Modifications to NIE Networks' Distribution Licence	5
1.4 Response to consultation	7
Annex 1 – Article 14 Licence modification notice	8
Appendix A	10

Introduction

1.1 Background to consultation

- (1) In 2013 NIE's licence was separated into separate Transmission and Distribution licences following the introduction of IME3 requirements. In conjunction with the Department for the Economy (formerly the Department of Enterprise, Trade and Investment) it has become apparent that 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.
- (2) 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.
- (3) Ofgem already has a standard licence condition for GB Electricity distribution companies - Licence condition 28 'Application of statutory powers,' which replicates what the UR intends implementing. This condition may be accessed at:

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

- (4) It is proposed that an amended version of this standard condition 28 is introduced into NIE Networks' distribution licence via modification. This version will be tailored to reflect NIE Networks' circumstances.
- (5) The purpose of this consultation is to obtain views from stakeholders and interested parties in relation to this proposed modification to NIE Networks' Distribution licence.

1.2 How to Respond

- (6) The UR welcomes views and comments from stakeholders and interested parties on the proposed licence modifications set out in this consultation paper.

- (7) The consultation period will close at **5pm on Friday 22nd July 2016**. Responses should be sent to:

Deirdre Matheson
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Deirdre.Matheson@uregni.gov.uk
Tel: 028 9031 6334

Or

Jody O'Boyle
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Jody.OBoyle@uregni.gov.uk
Tel: 028 9031 6334

- (8) Your response to this consultation may be made public by the UR. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- (9) Information provided in response to this consultation, including personal information may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information

Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

- (10) In view of this, it would be helpful if you could explain why you regard any information provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation but cannot give an assurance that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority.

1.3 Reason for the Modifications to NIE Networks' Distribution Licence

- (11) Modifications are required 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.

- (12) Paragraph (1) of Article 13 of the Order states that:

'Subject to paragraph (2), Schedule 3 (which makes provision with respect to the compulsory acquisition of land) and Schedule 4 (which confers other powers and makes other provision) shall have effect-

(a) In relation to the holder of a licence under Article 10(1) (b);

(b) In relation to the holder of a licence under Article 10 (1) (bb) to the extent that his licence so provides, in relation to any other licence holder;

and references in those Schedules to a licence holder shall be construed accordingly.'

- (13) Article 13 of the Order mirrors Section 10 of the GB Electricity Act 1989. GB Electricity company distribution licences already contain a standard Condition 28 which correlates the provisions of Section 10 of the Act to company licences.
- (14) Both Section 10 of the Act and Article 13 of the Order refer to Schedules 3 and 4 of the respective primary legislation.

(15) Schedule 3 covers the compulsory acquisition of land by licence holders and provisions relating to licence holders' land excluded from compulsory acquisition. This schedule covers provisions relating to the following principal areas:

- Compulsory acquisition of land by licence holders where a licence holder proposed to acquire, otherwise than by agreement, any land required for any purpose connected with the carrying on of activities which he is authorised by his licence to carry on. In such instances he may apply to the Department for an order vesting that land in him and the Department shall have power to make a vesting order. The schedule contains explanatory provisions in relation to this mechanism.
- The schedule also covers provisions relating to licence holders' land excluded from compulsory acquisition.

(16) Whereas Schedule 4 covers other powers, etc of licence holders including:

- Works involving breaking up roads;
- Alteration of apparatus etc. under roads;
- Alteration of electric lines or electrical plant under roads;
- Controlled works in a street near to apparatus;
- Works in a street near to electric lines or electrical plant;
- Emergency works;
- Protection from interference;
- Acquisition of wayleaves;
- Assignment of necessary wayleaves;
- Temporary continuation of wayleaves;
- Substations;
- Felling and lopping of trees; and
- Entry on land for purposes of exploration.

- (17) Under Article 13 paragraph (1) (a), the powers under Schedules 3 and 4 to the Order are applied to NIE Networks as a holder of a licence under Article 10(1) (b) has the effect of these Schedules in relation to carrying out its Transmission duties.
- (18) However there is currently a misalignment between the Order and NIE Networks distribution licence in that the licence does not specifically apply the powers under Schedules 3 and 4 to the Order. There is therefore a need for modifications to NIE's distribution licence.
- (19) GB electricity distribution licences have a standard licence condition, Condition 28 which correlates the requirements in Section 10 of the Act and powers under Schedules 3 and 4. It is proposed that the licence modifications required for NIE Networks are modelled on this standard licence condition, yet tailored for Northern Ireland legislation.
- (20) The licence modification notice in accordance with Article 14 (2) of the Electricity (NI) Order 1992 may be found at Annex 1. The drafting of the new Condition 21 which reflects the licence modifications may be found at **Appendix A**.

1.4 Response to consultation

- (21) Respondents are asked to provide any information or evidence they have which relates to the equality impact of the proposals in this paper.
- (22) The Utility Regulator welcomes feedback from stakeholders and interested parties in relation to any aspect of this proposed licence modification in advance of the consultation closing date on **5pm on Friday 22nd July 2016**.

Annex 1 – Article 14 Licence modification notice

The Northern Ireland Authority for Utility Regulation

NOTICE UNDER ARTICLE 14(2) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1992

MODIFICATION OF NIE LTD ELECTRICITY DISTRIBUTION LICENCE

In pursuance of its powers under Article 14(1) of the Electricity (Northern Ireland) Order 1992 (as amended) (hereafter referred to as the “**Order**”), the Northern Ireland Authority for Utility Regulation (hereafter referred to as the “**Authority**”) hereby gives notice under Article 14(2) as follows:

- 1 It proposes to modify the electricity distribution licence (the “**Licence**”) held by Northern Ireland Electricity Limited (the “**Licensee**”).
- 2 The proposed modification involves the insertion of a new licence condition in place of condition 21 which is currently not used. The effect of the licence modification is to expressly apply Schedules 3 and 4 of the Electricity (Northern Ireland) Order 1992 to NIE Networks’ distribution licence.
- 3 The reason for the modification is to ensure that NIE Networks’ licence reflects the requirements of Article 13 of the Order.
- 4 A copy of the proposed modifications is set out in Appendix A.
- 5 Representations or objections with respect to the proposed modifications may be made **on or before 5pm on Friday 22nd July 2016**, by writing to or emailing:

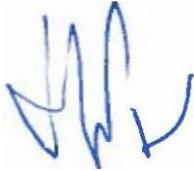
Deirdre Matheson
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Deirdre.Matheson@uregni.gov.uk
Tel: 028 90316657
Fax: 02890 311740

or

Jody O'Boyle
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Jody.OBoyle@uregni.gov.uk
Tel: 028 9031 6334
Fax: 02890 311740

- 6 The Authority has, pursuant to Articles 14(3) and 14(4) of the Order respectively, served a copy of this notice on the Licensee and sent a copy to the Department for the Economy.

Dated this 22nd day of June 2016



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

Appendix A

Modifications to NIE Limited's electricity distribution licence

It is proposed to insert the following new condition into NIE Networks' distribution licence as a new Condition 21 (which is currently not in use).

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).