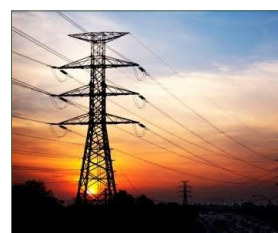


# Notice and Decision on Energy Theft Code of Practice Licence Modifications

27 November 2018



## 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 and 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. 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**

This paper sets out our decision on the licence modifications required to implement the Energy Theft Code of Practice (the 'Energy Theft CoP'). The licensees affected are electricity and gas distribution licence holders and all electricity and gas supply licence holders.

## **Audience**

This paper will be of interest to gas and electricity suppliers, distribution companies and organisations representing consumer interests.

## **Consumer impact**

We expect that the Energy Theft CoP licence condition will enhance consumer protection arrangements in relation to energy theft.

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## Glossary

Name	Definition
CoP	Code of Practice
CPS	Consumer Protection Strategy
DNO	Distribution Network Operator
ETIP	Electricity Theft Industry Procedure working group
GTWG	Gas Theft Working Group
PSNI	Police Service of Northern Ireland
PNGL	Phoenix Natural Gas Ltd
SGN	Scotia Gas Networks Northern Ireland Ltd
UR	Utility Regulator

# 1. Executive Summary

Energy theft can have serious safety consequences. The value of the energy stolen is paid for by other consumers within their bills, increasing the costs for all energy consumers.

The Utility Regulator (UR) committed to protecting consumers from these issues by prioritising the implementation of an Energy Theft Code of Practice (CoP)<sup>1</sup> within our Consumer Protection Strategy (CPS)<sup>2</sup>.

The objective of the Energy Theft CoP is to provide transparency on the obligations on electricity and gas network operators and suppliers to work together to establish and implement detailed and best-practice industry procedures to prevent, detect, investigate (and management of the outcome of investigation) of energy theft.

We consulted on the Energy Theft CoP in July 2016 and again in February 2017. The Energy Theft CoP was finalised and recorded in our decision paper of 20 March 2018<sup>3</sup>.

In July 2018 we consulted on the proposed modifications to the relevant licenses required to implement the Energy Theft CoP. We received four responses/representations to the consultation. These have been published with this decision paper. All representations have been considered.

This paper sets out our decision on the final licence modifications following consideration of the responses received.

The requisite legal notices to licensees required under the Electricity (Northern Ireland) Order 1992 and the Gas (Northern Ireland) Order 1996, are presented in separate appendices to this paper. The final licence modifications are included in the annexes to the appendices.

The full amended licences incorporating the new Energy Theft CoP licence condition will be available on our website shortly.

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<sup>1</sup> Energy Theft CoP refers to both the Code of Practice for the Theft of Electricity and the Code of Practice for the Theft of Gas

<sup>2</sup> [UR Forward Work Plan 2017/18 Decision Paper, March 2017](#)

<sup>3</sup> [Energy Theft Codes of Practice Decision Paper, March 2018](#)

## 2. Background

- 2.1. We consulted extensively as part of the development of the Energy Theft CoP. An initial Consultation Paper<sup>4</sup> was published in July 2016 followed by a Second Consultation Paper in February 2017<sup>5</sup>. We also met separately with industry and consumer groups to discuss their views on the relevant issues.
- 2.2. Following consideration of the responses we published our final decisions in the Energy Theft CoP Decision Paper<sup>6</sup> on 20 March 2018. The decision paper set out that supplier and Distribution Network Operator (DNO) licences (both gas and electricity) would be modified to include a condition to comply with the Energy Theft CoP.
- 2.3. Before making any licence modification the UR is required to consult on its proposals in accordance with (i) Article 14(2) of the Electricity (Northern Ireland) Order 1992 and (ii) Article 14(2) of the Gas (Northern Ireland) Order 1996.
- 2.4. Accordingly we consulted on the proposed licence modifications to implement the Energy Theft CoP in July 2018. We received four responses to our consultation. These responses were from Firmus Energy Ltd, Phoenix Natural Gas Ltd (PNGL), Power NI Energy Ltd (Power NI) and Scotia Gas Networks Northern Ireland Ltd (SGN). The response from Firmus Energy Ltd represented both the supply and distribution elements of the relevant business. A summary of the comments received and our response are set out in Section 3.

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<sup>4</sup> [Energy Theft Code of Practice First Consultation Paper, July 2016](#)

<sup>5</sup> [Energy Theft Code of Practice Second Consultation Paper, February 2017](#)

<sup>6</sup> [Energy Theft Code of Practice Decision Paper, March 2018](#)

## 3. Licence Modifications

### Overview

- 3.1. We consulted on the proposed modifications to electricity and gas conveyance (distribution) licences and electricity and gas supply licences in July 2018.
- 3.2. The proposed licence condition modifications placed a requirement on the licensee to comply with the Energy Theft CoP by establishing and complying with detailed industry procedures to facilitate the prevention, detection, investigation and management of the outcome of an investigation into energy theft.
- 3.3. We received four responses to our consultation. In general the comments were supportive of the Energy Theft CoP licence condition modification. We also received some specific comments/representations on the wording of the licence modification which we have considered. These considerations have resulted in the UR deciding to implement modifications in a slightly different form to those proposed in the notice for consultation of July 2018. The comments raised and our response to them are set out below in the following sections.

### Industry Working Groups

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- 3.4. All the respondents highlighted their engagement and the progress of the electricity and gas working groups that developed the detailed industry procedures.
- 3.5. PNGL and Power NI welcomed continued engagement with the UR to ensure that the implementation date for the licence modification and the industry procedures are aligned.

### UR Response

- 3.6. The Utility Regulator attends the Gas Theft Working Group (GTWG) and Electricity Theft Industry Procedures (ETIP) as an observer. We acknowledge the good progress on the development of the industry procedures which are now complete. The timing of completion of the industry procedures was made possible by: (i) the early establishment of the industry working groups, (ii) the commitment of participants throughout the project and (iii) active engagement in the consultation process with the UR.
- 3.7. The industry procedures have been completed and were submitted to the UR for review in October 2018. We are assessing the procedures against the requirements of the Energy Theft CoP and will provide feedback on procedures where we consider it appropriate.



3.8. The Energy Theft CoP licence condition will come into effect on 29 January 2019. As the industry procedures have been completed this implementation date shall, in our view, provide sufficient time for the working arrangements required to support the implementation of the industry procedures and compliance with the Energy Theft CoP, to be in place also. As such, we expect that the implementation of the Energy Theft CoP licence condition, the industry procedures and the relevant working arrangements to align and go live on 29 January 2019.

## Reference to the “General Consumer Council”

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3.9. PNGL commented that the reference to *General Consumer Council* should be replaced with *Consumer Council for Northern Ireland* for consistency with the remainder of PNGL’s licence.

### UR Response

3.10. There are different terms used to refer to the Consumer Council in different licences. For example, as noted by PNGL, gas distribution licences refer to “*Consumer Council for Northern Ireland*”, whereas gas supply licences refer to “*General Consumer Council*”.

3.11. Furthermore, the Notice and Decision on Gas Supplier of Last Resort paper<sup>7</sup> also introduced the use of the term “*Gas Industry Representatives*” which includes reference to the “*Consumer Council for Northern Ireland*” for low pressure conveyance licences, and the “*Consumer Council for Northern Ireland (previously, the General Consumer Council for Northern Ireland)*” for supply licences.

3.12. Electricity supply licences refer to the “*General Consumer Council*” and NIE Network’s licence defines the “*Consumer Council*” as meaning the “*Consumer Council for Northern Ireland*”.

3.13. For the purposes of this licence modification we will continue with the current references for the Consumer Council as set out in the table below (per licence holder). The licence modifications in the appendices have been updated accordingly.

Licence Type	Reference to Consumer Council to be used in licence
Electricity Distribution	Consumer Council
Electricity Supply	General Consumer Council

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<sup>7</sup> [Notice and Decision on Gas Supplier of Last Resort Licence Modifications, July 2018](#)

Gas Distribution	Consumer Council for Northern Ireland
Gas Supply	General Consumer Council

3.14. In the longer term our preference is that we have a consistent reference to the Consumer Council across all of the licence types. We plan to include this change to a suite of future licence modifications that will correct minor inconsistencies across all of the licences issued by the Utility Regulator.

## **Re-arrangement of Energy Theft CoP Licence Condition**

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3.15. PNGL commented that, for transparency, the sentence,

*“In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with the procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of gas”*

should be removed from paragraph 3 given that this is not the definition of “Code of Practice for the Theft of Gas” itself.

3.16. PNGL suggested that this sentence is included as a separate paragraph, i.e. a new paragraph 3, with the definitions then becoming paragraph 4.

## **UR Response**

3.17. We agree with PNGL that shifting the subject sentence in the way advocated will provide clarity within the licence condition. As such, we have adopted the change as suggested by PNGL. The *Revised Licence Condition (tracked changes in red)* section of this paper, further below, shows this amendment.

3.18. For further clarity, we have also defined the term “Procedures” and included this within the definitions section of the revised licence condition.

## **Power NI Licence Condition Numbering**

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3.19. Power NI highlighted that the proposed licence amendment to its licence places the requirement to be compliant with the Theft of Electricity Code of Practice in the Power Procurement Business section of Power NI’s licence. They recommended that the licence condition be introduced as a new Condition 34A, rather than as a new Condition 70.

## **UR Response**

3.20. We have accepted Power NI's proposed amendment to the modification arrangement.

## **Minor grammatical changes**

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3.21. We have also made a minor change to improve the grammar of the licence modification. This has resulted in a slightly revised paragraph 3 (i.e. the new paragraph 3 as per the PNGGL suggestion noted above) and a revised definition in the new paragraph 4 for the Code of Practice for the Theft of Electricity and Code of Practice for the Theft of Gas respectively.

3.22. The change replaces the wording,

*'... the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity [gas]'*

with

*'... the prevention, detection, investigation (and management of the outcome of investigation) of the theft of electricity [gas]'.*

## Revised Licence Conditions (tracked changes in red)

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### Electricity Distribution Licence

#### Condition x: Code of Practice for the Theft of Electricity

1. The Licensee shall (and shall procure that its Agents or Sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Electricity.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for the Theft of Electricity, as the Authority considers are necessary or expedient.
3. In order to comply with the obligations of the Code of Practice for the Theft of Electricity, the Licensee shall establish and comply with Procedures to facilitate the prevention, detection, investigation (and management of the outcome of investigation) of the theft of electricity.

4. In this Condition:

**Code of Practice for the Theft of Electricity**

means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation (and managing management of the outcome of investigation) into of the theft of electricity.

~~In order to comply with the obligations of the Code of Practice for the Theft of Electricity, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity~~

**Procedures**

means the detailed industry procedures established, maintained, and from time to time amended, which set out the procedures and practices to be followed by the Licensee to ensure its compliance with the Code of Practice for the Theft of Electricity.

**Agents or Subcontractors**

means any person directly or indirectly authorised to represent the Licensee in its dealings with electricity customers or other Licensees.

## Electricity Supply Licence

### Condition x: Code of Practice for the Theft of Electricity

1. The Licensee shall (and shall procure that its Agents or Sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Electricity.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for the Theft of Electricity, as the Authority considers ~~are~~ necessary or expedient.
3. In order to comply with the obligations of the Code of Practice for the Theft of Electricity, the Licensee shall establish and comply with Procedures to facilitate the prevention, detection, investigation (and management of the outcome of investigation) of the theft of electricity.

4. In this Condition:

**Code of Practice for the Theft of Electricity**

means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation (and ~~managing management~~ of the outcome of investigation) ~~into~~ of the theft of electricity.

~~In order to comply with the obligations of the Code of Practice for the Theft of Electricity, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of electricity~~

**Procedures**

means the detailed industry procedures established, maintained, and from time to time amended, which set out the procedures and practices to be followed by the Licensee to ensure its compliance with the Code of Practice for the Theft of Electricity

**Agents or Subcontractors**

means any person directly or indirectly authorised to represent the Licensee in its dealings with electricity customers or other Licensees.

## Gas Distribution Licence

### Condition x: Code of Practice for the Theft of Gas

1. The Licensee shall (and shall procure that its Agents or Sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Gas.
2. The Authority, following consultation with the Licensee, the General Consumer Council for Northern Ireland and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for the Theft of Gas, as the Authority considers are necessary or expedient.
3. In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with Procedures to facilitate the prevention, detection, investigation (and management of the outcome of investigation) of the theft of gas.

4. In this Condition:

**Code of Practice for the Theft of Gas**

means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation (and managing management of the outcome of investigation) into of the theft of gas;

~~In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of gas.~~

**Procedures**

means the detailed industry procedures established, maintained, and from time to time amended, which set out the procedures and practices to be followed by the Licensee to ensure its compliance with the Code of Practice for the Theft of Gas.

**Agents or Subcontractors**

means any person directly or indirectly authorised to represent the Licensee in its dealings with gas consumers or other Licensees.

## Gas Supply Licence

### Condition x: Code of Practice for the Theft of Gas

1. The Licensee shall (and shall procure that its Agents or Sub-contractors shall) comply with the obligations applicable to it under, the Code of Practice for the Theft of Gas.
2. The Authority, following consultation with the Licensee, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may from time to time make such modifications to the Code of Practice for the Theft of Gas, as the Authority considers ~~are~~ necessary or expedient.
3. In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with Procedures to facilitate the prevention, detection, investigation (and management of the outcome of investigation) of the theft of gas.

4. In this Condition:

**Code of Practice for the Theft of Gas**

means the relevant document of that name, prepared and published from time to time by the Authority, relating to the activities for the prevention, detection, investigation (and ~~managing management~~ of the outcome of investigation) ~~into~~ of the theft of gas;

~~In order to comply with the obligations of the Code of Practice for the Theft of Gas, the Licensee shall establish and comply with procedures to facilitate the prevention, detection, investigation and managing the outcome of investigation into the theft of gas~~

**Procedures**

means the detailed industry procedures established, maintained, and from time to time amended, which set out the procedures and practices to be followed by the Licensee to ensure its compliance with the Code of Practice for the Theft of Gas.

**Agents or Subcontractors**

means any person directly or indirectly authorised to represent the Licensee in its dealings with gas consumers or other Licensees.

## Electricity Distribution Licence Modifications

### Decision

3.23. Following our consultation and consideration of comments/representations received, we have decided to amend the electricity distribution licence by inserting a new Energy Theft CoP licence condition. The affected licence is outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"> <li>Northern Ireland Electricity Networks Ltd</li> </ul>	Introduction of Condition 39 (Number not currently in use)

3.24. The final modifications to Northern Ireland Electricity Network's distribution licence are presented in Appendix 1 (Annex A) of this paper.

## Electricity Supply Licence Modifications

### Decision

3.25. Following our consultation and consideration of comments/representations received, we have decided to amend all electricity supply licences by inserting a new Energy Theft CoP licence condition. The affected licences are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"> <li>AES Ballylumford Ltd</li> <li>Bord Gais Energy Ltd</li> <li>Brookefield Green Energy Ltd</li> <li>Budget Energy Ltd</li> <li>Click Energy (Project Plug Ltd)</li> <li>Electric Ireland (ESBIE NI Ltd)</li> <li>Electricity Supply Board (ESB)</li> <li>ElectroRoute Energy</li> <li>Energia (Viridian Energy Supply Ltd)</li> <li>Firmus Energy (Supply) Ltd</li> <li>Gaelectric Green Energy Ltd</li> <li>Go Power (LCC Power Ltd)</li> <li>LCC Group Ltd</li> <li>ONI (OVO) Electricity Ltd</li> <li>SSE Airtricity Energy Supply Ltd</li> <li>Vayu Ltd</li> <li>3T Power Ltd</li> </ul>	Introduction of new Condition 46
<ul style="list-style-type: none"> <li>Power NI (includes PPB)</li> </ul>	Introduction of new Condition 34A



3.26. The final licence modifications for the electricity supply licences affected (not including Power NI) are presented in Appendix 2 (Annex B) of this paper.

3.27. The final licence modifications for Power NI's electricity supply licence are presented in Appendix 2A (Annex A) of this paper.

## Gas Conveyance Licence Modifications

### Decision

3.28. Following our consultation and consideration of comments/representations received we have decided to amend all gas (distribution) conveyance licences by inserting a new Energy Theft CoP licence condition. The affected licences are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"> <li>Firmus Energy (Distribution) Limited</li> </ul>	Introduction of new Condition 2.20
<ul style="list-style-type: none"> <li>Phoenix Natural Gas Limited</li> </ul>	
<ul style="list-style-type: none"> <li>Scotia Gas Networks Northern Ireland Ltd</li> </ul>	

3.29. The final licence modifications for the affected gas distribution licences are presented in Appendix 3 (Annex B) of this paper.

## Gas Supply Licence Modifications

### Decision

3.30. Following our consultation and consideration of comments/representations received we have decided to amend all gas supply licences by inserting a new Energy Theft CoP licence condition. The affected licences are outlined below:

Affected Licences	Condition
<ul style="list-style-type: none"> <li>SSE Airtricity Gas Supply (NI) Limited</li> </ul>	Introduction of new Condition 2.30
<ul style="list-style-type: none"> <li>Firmus energy (Supply) Limited – Ten Towns</li> </ul>	
<ul style="list-style-type: none"> <li>Firmus energy (Supply) Limited – Greater Belfast Area</li> </ul>	
<ul style="list-style-type: none"> <li>Vayu Limited</li> </ul>	

• Electric Ireland	Introduction of new Condition 2.30
• Equo Energy	
• Go Power	
• Flogas Natural Gas Limited	
• Energia	
• Power NI Energy Limited	
• SSE Airtricity Energy Supply (NI) Limited	
• ONI Gas Limited	
• SSE Energy Supply Limited	
• Shell Energy Europe Limited	
• Viridian Energy Limited	
• Bord Gais Energy Limited	
• AES Ballylumford Limited	
• British Gas Trading Limited	
• Coolkeeragh ESB Limited	
• Power NI Energy Limited (formally NIE PLC)	
• Electrорoute Energy Trading Limited	

3.31. The final licence modifications for the affected gas supply licences are presented in Appendix 4, Annex B of this paper.

## Reasons

3.32. Energy theft can have serious safety consequences and the value of the energy stolen is paid for by other domestic consumers within their bills, increasing the costs for all energy consumers. Energy theft is a criminal offence and may result in prosecution and a criminal record for consumers involved in this illegal activity.

3.33. The Energy Theft CoP aims to provide transparency on the obligations on electricity and gas network operators and suppliers to work together to establish and implement detailed and best-practice industry procedures to prevent, detect, investigate and manage the outcome of investigation of energy theft.

3.34. We consider that the best approach to achieving this objective is to place a licence condition on licensees to comply with the Energy Theft CoP. This

approach has been supported by the responses received through our consultation process.

## Effects

- 3.35. The Energy Theft CoP licence condition will place an obligation on network operators and suppliers to co-operate and develop best practice arrangements to prevent, detect, investigate and manage the outcome of investigations of energy theft.
- 3.36. In particular the requirement to develop best-practice industry procedures will clarify the roles and procedures between network operators and suppliers. This will create effective arrangements to prevent, detect, investigate and manage the outcome of investigations of energy theft.
- 3.37. Clarification of the roles and procedures between network operators and suppliers has already progressed through discussions at the ETIP and GTWG. Arrangements with external bodies such as the PSNI have also been enhanced through discussions at the working groups. We expect that the arrangements will continue to improve as the industry working groups continue to meet.
- 3.38. Once the licence condition takes effect, and the industry procedures are operational, we expect there will be a robust and effective regulatory framework in place to deal with energy theft. The UR will monitor compliance with the Energy Theft CoP as part of ongoing monitoring of licence compliance.
- 3.39. Additionally the Energy Theft CoP require that licensees keep-up-to-date with the latest methods for preventing, detecting and investigating energy theft. This approach will ensure that procedures remain fit-for-purpose on a continuous improvement basis. The established working groups have confirmed that they will continue to meet after the licence condition has come into effect, as a means of keeping up-to-date with relevant issues and best practice, and to maintain co-operation between parties.
- 3.40. We also expect that the development of a single Energy Theft CoP for each sector will ensure that industry procedures are consistent across network operators and suppliers.
- 3.41. For the reasons set out above, we consider that the Energy Theft CoP licence condition will enhance consumer protection arrangements in relation to energy theft.

## 4. Next steps

- 4.1. This paper sets out the Utility Regulator's decision on modifications to implement the Energy Theft CoP licence condition. The modifications will take effect from 29 January 2019.
- 4.2. Both the gas and electricity industry procedures necessary to ensure compliance with the Energy Theft CoP were submitted to the Utility Regulator by the GTWG and ETIP working group for review. We are assessing the procedures against the requirements of the Energy Theft CoP and will provide feedback on procedures where we consider it appropriate.
- 4.3. As such we expect that the working arrangements required to support the implementation of the industry procedures will be in place in time for the licence modification taking effect.
- 4.4. Therefore we expect that the implementation of the Energy Theft CoP licence condition, the industry procedures and the relevant working arrangements to align and go live on 29 January 2019.

## 5. Appendices

5.1. The table below sets out the separate appendices to this paper. Clean versions of the licence modifications are also included in the Annexes to the Appendices.

Appendix Number	Description
Appendix 1	Decision Notice on the Energy Theft CoP licence modification to the electricity distribution licence granted to Northern Ireland Electricity Networks Ltd
Appendix 2	Decision Notice on the Energy Theft CoP licence modification to electricity supply licences
Appendix 2A	Decision Notice on the Energy Theft CoP licence modification to the electricity supply licence granted to Power NI Energy Ltd
Appendix 3	Decision Notice on the Energy Theft CoP licence modification to the gas distribution licence granted to Phoenix Natural Gas Ltd, Firmus Energy (Distribution) Ltd and Scotia Gas Networks Northern Ireland Ltd
Appendix 4	Decision Notice on the Energy Theft CoP licence modification to gas supply licences