

Licence Modifications under Article 14(8) of the Electricity Order

Decision Paper
16 June 2017



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

This paper sets out the Utility Regulators decision on RP5 Article 14 licence modifications and follows two consultations, the first in September 2015 and the second in November 2016. It also follows the Article 17 modifications process with the Competition and Markets Authority.

The decision paper also sets out the effects of the modifications and considers consultation responses.

Audience

This document will be of interest to NIE Network, electricity customers, other regulated and unregulated companies in the energy industry, government, other statutory bodies and consumer groups with an interest in the energy industry.

Consumer Impact

The main impact of the modifications is to formalise the outcome of the Competition Commission (now Competition and Markets Authority) Final Determination which covers the RP5 period from 1st March 2012 to 31st October 2017. In practice the monetary impact of the CC FD has been accounted for in electricity bills from October 2014.

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1 Introduction and Background

- 1.1 In September 2015, the Utility Regulator (UR) consulted on a number of licence modifications proposed to be made to (i) the electricity distribution licence held by Northern Ireland Electricity Networks Limited (NIEN) – the Distribution Licence, and (ii) the electricity transmission licence held by NIEN – the Transmission Licence, (each a Licence and together the Licences).
- 1.2 That consultation set out the licence modifications proposed to be made –
 - (a) under Article 17(1) of the Electricity (Northern Ireland) Order 1992 (the Order); and
 - (b) under Article 14(1) of the Order.
- 1.3 In November 2016, the UR issued a further consultation on its proposed modifications to be made to conditions of each Licence pursuant to Article 17(1) of the Order and Article 14(1) of the Order.
- 1.4 The November 2016 consultation also incorporated –
 - (a) in respect of the modifications proposed to be made under Article 17(1) of the Order, the notice required under Article 17(3) of the Order; and
 - (b) in respect of the modifications proposed to be made under Article 14(1) of the Order, the notice required under Article 14(2) of the Order.
- 1.5 The UR made modifications to the conditions of each Licence pursuant to Article 17(1) of the Order on 12 April 2017.
- 1.6 The UR has also decided to proceed with the making of modifications to the conditions of each Licence under Article 14(1) of the Electricity Order.
- 1.7 Accordingly, the UR now publishes, under and in accordance with Article 14(8) of the Electricity Order and by way of this decision paper, its decision to proceed with the making of the modifications –
 - (a) set out in Appendix 1 and 2 (shown in mark-up form) and Appendix 3 (new form only) to the conditions of NIEN's electricity distribution licence,
 - (b) set out in Appendix 4 (shown in mark-up form) to the conditions of NIEN's electricity transmission licence.

2 Effect of the Modifications

2.1 The effect of the modifications being made to the Distribution Licence are that -

- (a) The calculation of the Land Bank Amount shall be undertaken in respect of each 'regulatory reporting year' – being a year which runs from [insert].
- (b) NIEN shall be required to pay PSO charges (where the maximum regulated PSO amount is negative) to electricity suppliers.
- (c) The Utility Regulator shall not be subject to a restriction on the type of direction it may issue to NIEN in respect of requiring it to alter the form of the schedule of PSO Charges.
- (d) The total amount of payments that NIEN may be required to make from a Fund established for the purpose of subsidising the operation and delivery of improvement measures in accordance with NISEP shall not in any 'regulatory reporting year' exceed the NISEP Total Amount for that year.
- (e) PSO charges are set on the same regulatory tariff year basis as distribution and transmission charges, and that the drafting of Annex 1 is consistent with Annex 2.
- (f) The UR will, without the need for NIEN to make an application to it, be able to make a determination to change the allowances within the price control in consequence of a relevant change of law taking place.
- (g) The cost recovery mechanisms in respect of the treatment of costs and income for capex and opex, in respect of particular types of distribution network connections, shall be consistent with the position that prevailed prior to 12 April 2107, which is the date of the Article 17 modifications.
- (h) The adjustment made to the k factor to reflect the amount due to NIEN under the capex efficiency incentive shall be as specified in the licence condition.

2.2 The effect of the modifications being made to the Transmission Licence are that -

- (a) The UR will, without the need for NIEN to make an application to it, be able to make a determination to change the allowances within the price control in consequence of a relevant change of law taking place.
- (b) The cost recovery mechanisms in respect of the treatment of costs and income for capex and opex, in respect of particular types of transmission network connections, shall be consistent with the position that prevailed prior to 12 April 2107, which is the date of the Article 17 modifications.

- (c) The adjustment made to the k factor to reflect the amount due to NIEN under the capex efficiency incentive shall be as specified in the licence condition.

3 Consultation Responses

- 3.1 The UR received three responses to the September 2015 consultation – from (i) NIEN, (ii) SONI Limited, and (iii) the Consumer Council for Northern Ireland (CCNI).
- 3.2 In response to the modifications proposed, under Article 14 of the Order, in the September 2015 consultation –
 - (a) NIEN submitted that the amount to be allowed within the distribution price control, in respect of the calculation of the k factor for relevant year 2015, in respect of the capex efficiency incentive that applied under the RP4 price control should be £1.326 million for;
 - (b) Neither SONI nor CCNI made any specific representations in respect of the Article 14 modifications.
- 3.3 The change indicated by NIEN in response to the September 2015 consultation was made by the UR in the Article 14 modifications proposed in the November 2016 consultation.
- 3.4 A further change was made in response to change of law provisions following the September 2015 consultation, with these modifications proposed under Article 14 in the November 2016 consultation rather than Article 17.
- 3.5 The UR received two responses to the November 2016 consultation – from NIEN and SONI – with no specific comments or representations being made by either party in respect of the Article 14 modifications.

4 Decision

- 4.1 The Utility Regulator has therefore decided to proceed with the making of the modifications
- (a) set out in Appendix 1 and 2 (shown in mark-up form) and Appendix 3 (new form only) to the conditions of NIEN's electricity distribution licence,
 - (b) set out in Appendix 4 (shown in mark-up form) to the conditions of NIEN's electricity transmission licence.
- 4.2 There are only three minor differences between the modifications consulted upon in the November 2016 consultation and the modifications the UR has decided to make. Within paragraphs 3.1, 12.12 and 12.13 of Annex 2 in the transmission licence, the year 2016 was updated to 2017 in the Article 17 modifications and therefore no longer shows as a mark-up in Appendix 4 above.
- 4.3 The modifications shall, subject to the giving of a direction under paragraph 2 of Schedule 5A to the Order, take effect from 14th August 2017.