

Licence modifications to SONI TSO Licence: electricity connections review

Decision Paper
03 October 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

We are publishing a decision on licence modifications pursuant to our electricity connections review decisions.

Audience

The licensees affected, other regulated companies in the energy industry, government, other statutory bodies and consumer groups with an interest in the energy industry.

Consumer Impact

An improved connections extensions process and new Transmission Development Plan Northern Ireland (TDPNI) will increase transparency and certainty for connecting customers.

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1 Introduction

Background and purpose of this document

- 1.1 We set out our decision on licence modifications under Article 14 of The Electricity (Northern Ireland) Order 1992 (The Order).
- 1.2 We are modifying Condition 25 of the SONI Transmission System Operator Licence to reflect our decision on extensions. We also set out a new Condition 40 requiring SONI to introduce a Transmission Development Plan Northern Ireland (TDPNI).¹
- 1.3 The licence modifications in this document are required to comply with our legal and regulatory obligations concerning a number of decisions we published in our *Review of Electricity Distribution and Transmission Connections Policy* decision ('31 May decision paper').
- 1.4 Following this decision we published a statutory consultation on 7 July 2017 setting out our proposed licence modifications.

Licence modification approach

- 1.5 We have consulted extensively with stakeholders on the decisions which underpin these proposed licence modifications. We thank respondents for their input. We have also provided SONI with details on the proposed licence modifications at as early a stage as possible.

Remaining document structure

- 1.6 This document is structured in a number of chapters as follows:
 - Chapter 2 details of our licence modification as well as the associated reasons and effects. It also sets out consultation responses and our consideration.
 - Chapter 3 sets out next steps.
- 1.7 The document is also complemented by one appendix. This sets out the licence modifications.

¹ Note that we changed the name of this since the 7 July consultation at SONI's request.

2 Details of licence modifications

Overview and summary of changes since consultation

- 2.1 Licence modifications are required to bring into effect certain decisions from our 31 May decision paper.
- 2.2 In this section we present the proposed licence modifications, responses to our 7 July consultation and our consideration, and the reasons and effects for required licence changes.
- 2.3 We have made one change to Licence Condition 40 since consultation in response to a comment from RES. This is to paragraph 1c) of the condition.

Stakeholder responses

- 2.4 We received four responses, from SONI, NIRIG, RES and Brookfield Renewables.
- 2.5 Stakeholders were supportive of our proposals to introduce licence modifications for SONI to develop a new Transmission Development Plan Northern Ireland (TDPNI) and to reflect certain aspects of the new extensions framework. Further clarifications and points of detail are set out below.

Licence Condition 40 – Transmission Development Plan Northern Ireland (TDPNI)

- 2.6 SONI welcomed a development plan that is developed through consultation process and formally approved by the UR. It also asked that the obligation for it to ensure that the network development plan contains measures to guarantee the security of supply will only be interpreted within the context of the activities that SONI is licenced to undertake. It also asked that the obligation also takes into account that key relevant responsibilities are assigned to other bodies.
- 2.7 NIRIG, Brookfield and SONI said the proposed obligations should be funded for. SONI agreed with including scenarios in the plan but noted this would represent an addition obligation relative to those that were considered in SONI's recent price control. NIRIG said that obligations should give SONI required funding to carry out plan in a timely and meaningful manner.
- 2.8 NIRIG, Brookfield and RES said that the plan should provide firm access for all contracted and committed generation.
- 2.9 NIRIG and Brookfield said the plan must be based on clear criteria, assumptions and need developed by SONI and approved by UR after comprehensive consultation; and approved and new investments should be for a 10 year period (instead of 3 years as set out in the proposed modification).
- 2.10 RES asked that the proposed modification is further amended to make explicit that the development plan will include cost estimates. Since consultation SONI has noted that it is content with the principle of including an estimate of costs for certain projects, but this should be limited to providing a broad range of costs and that cost estimates for connection-type projects could not be

provided. It said that the accuracy of the cost estimates will improve as the delivery date of the project gets closer.

Licence Condition 25 - Requirement to offer terms – Users and Connectees

- 2.11 SONI agreed with this obligation as it formalises its existing processes, but asked for the parties UR's confirmation that it is only required to consult with affected parties.
- 2.12 SONI also asked us to set out in more detail how we would intend to assess requests made following such consultation, particularly where consent is obtained from the developer.
- 2.13 NIRIG agreed with the changes but reiterated its position that if the connections queue was appropriate and robust there would be no need for extensions.

Other comments (and our response)

- 2.14 Stakeholders made comments which are not directly related to the licence condition modifications. SONI asked again that we make further modifications to its licence to make consistent with the DNO.
- 2.15 As we set out in our May decision, we have noted SONI's points that the same powers should apply to it in relation to refusing a connection offer request where there is a lack of capacity. We consider this could be a matter for the Single Electricity Market (SEM) committee to input on. We will engage with it before considering next steps.

Our response

Licence Condition 40 – Transmission Development Plan Northern Ireland (TDPNI)

- 2.16 We welcome SONI's intention to engage on the TDPNI with ourselves and others (including on the proposed scenarios).
- 2.17 We will engage with SONI and ask that it sets out a clear timetable and plan for how it will do develop the plan. We agree that the TDPNI must be based on clear criteria, assumptions and need developed by SONI and approved by UR after comprehensive consultation.
- 2.18 We note SONI's request that the obligation for it to ensure that the TDPNI contains measures to guarantee the security of supply will only be interpreted within the context of the activities that SONI is licenced to undertake.
- 2.19 We agree with this point, not least as the obligation in question is set out within SONI's TSO licence and so as drafted would only apply to those activities which are licensable to SONI.
- 2.20 Some stakeholders also requested assurances that work SONI undertake to fulfil this obligation is adequately resourced.
- 2.21 We note that SONI would have to provide evidence that the work is not provided for within its current price control allowances and would have to provide a Dt request with justification for the proposed increase.

- 2.22 Some stakeholders believed the TDPNI should provide firm access for all current contracted and committed generation.
- 2.23 We do not agree with this statement. The aim of the TDPNI is not to confirm firm access for individual connectees, but instead to set out SONI's opinion as to what network projects are required and when. However, we do expect the plan to be useful to generators in as far as it will give a view of when associated reinforcements to the Transmission System may complete (which is when firm access rights are granted).
- 2.24 We note that the reason the TDPNI must set out approved and new investments which have to be executed in the next three years, is to be consistent with SONI's obligations under the Licence Condition 33 1d) asking SONI to prepare a capacity statement. Licence Condition 33 1d) contains similar provisions. A similar time-frame under both plans ensures consistency.
- 2.25 We agree with RES that the TDPNI should include cost estimates. This is a useful measure and there is regulatory precedent as a similar approach is taken in GB. We note that SONI has agreed to such a measure and note its comments on how it should be applied and to what.
- 2.26 We have therefore further amended the licence to require the TDPNI to include an estimate of costs. We expect SONI to consult with stakeholders on the scope and form of it and to take account of what is possible from considering approaches taken by other TSOs (e.g. GB) in coming to a view on what is reasonable. The further amendment is set out in bold italics below (as tracked in the modification of the condition itself):

Paragraph 1c): *“provide for a time frame and **estimate of costs (where reasonable)** for all investment projects”*

Licence Condition 25 - Requirement to offer terms – Users and Connectees

- 2.27 SONI asked that we confirm that it is only required to consult with affected parties.
- 2.28 The proposed licence modification asks that SONI consults with the party making the application and such other parties as the Licensee considers may be affected or interested.
- 2.29 In the 31 May decision paper we gave guidance that we would expect the licensee to consult with the connection applicant(s) in question, and where relevant the TSO or DSO licensee. So we would expect this scope of consultation at a minimum.
- 2.30 But we note that under the proposed modification there is flexibility for SONI to consult further with other parties which it feels may be interested, if it considers that this is an appropriate step to take. There is, therefore, some flexibility for SONI to choose who it consults with to meet its requirements.
- 2.31 SONI also asked that we set out in more detail how we assess requests made following consultation.
- 2.32 The legal justification for refusing a request, and the legal risks which arise from such a refusal, will depend on the particular circumstances including the effect of the decision on the applicant. We will consider each case on its

merits and satisfy ourselves that the reasons for the request, and accordingly the reasons for granting any extension, justify the grant of an extension.

Licence Condition 40

Overview of modification, steps and requirements

- 2.33 We have set out a new condition requiring SONI to prepare and publish a Transmission Development Plan Northern Ireland (TDPNI) each year. This reflects our decision set out in paragraph 2.21 of our 31 May connections review decision paper. Another driver for this change is the European Commission's "Third Package" for electricity markets.²
- 2.34 We have considered the process and scope of the proposed network development plan. In doing so, we are conscious that many of the existing and related measures to improve transmission network information transparency, such as the generation capacity statement and ten year transmission forecast statement, are prepared on an 'all-island' basis.
- 2.35 Accordingly, we believe there are benefits of being broadly consistent with the approach taken in RoI. We are, therefore, much of the process and the content of the TDPNI should be similar to that currently undertaken and produced by the RoI Transmission System Operator (TSO). But we also set out where a different approach is appropriate.
- 2.36 A summary of the main steps and requirements is set out below:
- SONI will prepare and publish the network development plan. We expect it to engage and consult widely and extensively. We expect it to consult with the RoI transmission system operator, NIE Networks as the NI distribution network operator and transmission asset owner, and other parties who have a material interest.
 - We expect SONI to publish a draft consultation. We expect this to be ready for Q1 2018 and under a similar timeframe each year thereafter.
 - The TDPNI will be submitted to and be in a form approved by the Authority.
 - We expect SONI to publish the final version by Q2 2018 and under a similar timeframe each year thereafter. It should set out publicly how it has taken account of consultation responses in coming to its final output.
 - We expect the TDPNI to cover a period of 10 years.
 - The TDPNI will describe SONI's development planning process, discuss the drivers³ and assumptions underlying the plan, and outlines the TSO's plans for transmission network development (over the next ten years) including projects under construction and indicate where further potential development is likely to be required.⁴ This should include estimates of costs (as required in GB).
 - The TDPNI will also set out scenarios which are reasonable and reflect uncertainties. They should, as far as practicable, be consistent with

² Article 22: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:211:0055:0093:EN:PDF>

³ We would expect forecasts of supply & demand to inform investment decisions. We would expect these to be included in a draft consultation as Eirgrid has done in its most recent publication.

⁴ To clarify, we expect this investments, in terms of scope, to cover asset replacement as well as capacity reinforcement, where relevant. We also clarify that PCIs can be included where relevant.

scenarios used in other areas of its work.

- 2.37 We will further engage with SONI to confirm timelines and to understand how it intends to develop the plan more generally.
- 2.38 The appendix below sets out a licence condition 40 for consultation. Since consultation we have made one change to paragraph 1c) of the condition as noted above.

Reasons and effects

- 2.39 The network development plan will encourage transparency for connecting customers in respect of how SONI proposes to develop the network now and in the future (in light of its duties).
- 2.40 An effective network development plan will better aid decision making for connecting customers to support more efficient investment. The information also provides relevant information for the regulator to inform its regulatory decision making.

Licence Condition 25

Overview of modification

Condition 25

- 2.41 To reflect our decision in paragraph 1.54 of our 31 May connections review decision paper, we propose to insert the following wording into paragraph 5 of the sub-section within Condition 25 entitled 'Offer of terms – general':
- “[...] *which consent may be given on the application of the Licensee following consultation by the Licensee with the person making the application and such other persons as the Licensee considers may be affected or interested*)”.

Reasons and effects

Condition 25

- 2.42 The change will mean that SONI must consult with the individual connection applicant and other relevant/interested parties (before SONI applies to us for an extension for that individual applicant).
- 2.43 As described in paragraphs 1.46 and 1.47 of our 31 May connections review decision paper, the need to consult forms an important part of the new extensions process.
- 2.44 It is important because it allows us to make appropriate decisions, as the party ultimately required to either grant or not grant an extension. In order for us to make a decision as to whether an extension is appropriate or not, we need to be sufficiently aware of all relevant considerations in order to come to a well-informed view. Keeping the applicant sufficiently informed is also what we would expect from a customer facing business such as SONI.

3 Next Steps

Timelines

- 3.1 This paper represents the Utility Regulator's decision on modifications to SONI's Transmission System Operator licence. The modifications outlined in this decision paper will take effect from the 30 November 2017.
- 3.2 Table 1 summarises the next steps and associated timelines for the licence modification process.

Next Steps	Date
Effective date of licence modification decision	30 November 2017

Table 1: Next Steps

- 3.3 We note that this timetable allows for the effective date of the licence modifications to be at least 56 days after the publication of the licence modification decision, in line with the requirements of the Electricity (Northern Ireland) Order 1992.
- 3.4 This 56 day period provides an opportunity for the licence holder subject to the price control, any other licence holder materially affected by the decision, a qualifying body or association representing one of those licence holders, and/or the Consumer Council for Northern Ireland to appeal the decision on the proposed licence modifications to the CMA (Competition and Markets Authority).
- 3.5 We also welcome SONI's intention to engage with ourselves and others on taking the work forward on the development plan. We look forward to it setting out a timetable for this.

Appendices

Appendix 1: Article 14 modifications to SONI's Transmission System Operator (TSO) Licence

New Licence Condition 40: Transmission Development Plan Northern Ireland (TDPNI)

Duty to Prepare and Publish a Plan

1. The licensee shall, in consultation with the Republic of Ireland System Operator and the Northern Ireland Distribution Operator and Transmission Asset Operator, once every year (and not later than such date as the Authority shall specify) use reasonable endeavours to prepare and publish a TDPNI, in a form approved by the Authority, based on existing and forecast supply and demand after having publicly consulted all the relevant stakeholders and submitting to the Authority (for approval). That TDPNI shall contain efficient measures in order to guarantee the adequacy of the transmission system and the security of supply. The TDPNI shall in particular:
 - a) indicate to market participants the main transmission infrastructure that needs to be built or upgraded over the next ten years;
 - b) contain all the investments already approved by the Authority and identify new investments which have to be executed in the next three years;
 - c) provide for a time frame and estimate of costs (where reasonable) for all investment projects; and
 - d) contain such other matters as shall be specified in directions issued by the Authority from time to time for the purposes of the Condition.
 - e) contain a reasonable number of future scenarios, which reflect uncertainties and shall, as far as practicable, be consistent with scenarios that licensee uses in other relevant areas of work.
2. When preparing the TDPNI the transmission system operator shall make reasonable assumptions about the evolution of the generation, supply,

consumption and exchanges with other countries, taking into account investment plans for regional and Community-wide networks

3. The Licensee may, with the prior consent of the Authority, omit from the published version of any TDPNI prepared in accordance with paragraph 1 any details which would, in the view of the Authority, seriously and prejudicially affect the commercial interests of the Licensee, the Republic of Ireland System Operator or any other person.

Revisions to the Plan

4. The Licensee may (and shall where directed to do so by the Authority), in consultation with the Republic of Ireland System Operator and the Northern Ireland Distribution Operator and Transmission Asset Operator, periodically revise the information set out in and, with the approval of the Authority, alter the form of the TDPNI prepared in accordance with paragraph 1. It shall also, at least once in every year the Licence is in force, revise that plan so that the information set out in it shall continue to be accurate in all material respects.
5. The Licensee shall send a copy of the TDPNI prepared in accordance with paragraph 1, and of each revision of that plan in accordance with paragraph 4, to the Department, the Authority, the Northern Ireland Distribution Operator and Transmission Asset Operator, and the Republic of Ireland System Operator. Each revision of the TDPNI shall require approval from the Authority and shall not become effective until approved by the Authority.

Copies of the Plan

6. The Licensee shall make a copy of the TDPNI prepared in accordance with paragraph 1, or (as the case may be) of the latest revision of such plan in accordance with paragraph 4 approved by the Authority pursuant to paragraph 5, available on the Licensee's website, and shall send a copy to any person who requests a copy of the same.
7. The Licensee may make a charge for any TDPNI sent pursuant to paragraph 6 of an amount reflecting the Licensee's reasonable costs of providing that

TDPNI, which costs shall not exceed the maximum amount specified in directions issued by the Authority from time to time for the purposes of this Condition.

Proposed amendments to Condition 25. Requirement to Offer Terms – Users and Connectees

Offer of terms for use of the All-Island Transmission Networks

- 1 On application by any eligible person, the Licensee shall (subject to paragraph 6) offer to enter into a Use of System Agreement:
- (a) to accept into the All-Island Transmission Networks at such entry point or points on the transmission system, and in such quantities, as may be specified in the application, electricity to be provided by or on behalf of such person; and
 - (b) to deliver such quantities of electricity as are referred to in sub-paragraph (a) above (less any transmission losses on the All-Island Transmission Networks) to such exit point or points on the transmission system and to such person or persons as may be specified in the application; and
 - (c) specifying the use of system charges to be paid by the person seeking use of the All-Island Transmission Networks in respect of generation or supply in Northern Ireland, such charges (unless manifestly inappropriate) to be referable to the statement prepared in accordance with paragraph 1 (or, as the case may be, paragraph 7) of Condition 30 or any revision of such statement; and
 - (d) containing such further terms as are or may be appropriate for the purposes of the agreement.

In this paragraph references to "eligible person" shall be construed as references to persons licensed under Article 10 of the Order (or exempt from the requirement to be so licensed under Article 9 of the Order) or who have applied for a licence under Article 10 and whose application has not been withdrawn or rejected (including, for the avoidance of doubt, the Power Procurement Business in its capacity as such).

Offer of terms for connection to the All-Island Transmission Networks

- 2 On application by any person, the Licensee shall (subject to paragraph 6) offer to enter into a Connection Agreement (or amend an existing Connection Agreement) for connection (or modification of an existing connection) to the All Island Transmission Networks at entry or exit points on the transmission system, and such offer shall make detailed provision regarding:
- (a) the carrying out of works (if any) required to connect the transmission system to any other system for the transmission of electricity and for the obtaining of any consents necessary for such purposes;
 - (b) the carrying out of works (if any) in connection with the extension or reinforcement of the All-Island Networks rendered necessary or appropriate by reason of making the connection or modification to an existing connection and for the obtaining of any consents necessary for such purposes;
 - (c) the installation of appropriate meters (if any) required to enable the Licensee to measure electricity being accepted into the All-Island Transmission Networks at the specified entry point or points or leaving such system at the specified exit point or points;
 - (d) the carrying out of works (if any) in relation to the installation of such switchgear or other apparatus (if any) as may be required for the interruption of supply;
 - (e) the date by which any works required so as to permit access to the All-Island Transmission Networks (including for this purpose any works to reinforce or extend any of the All-Island Networks) shall be completed and so that, unless otherwise agreed by the person making the application, a failure to complete such works by such date shall be a material breach of the agreement entitling the person to rescind the agreement;
 - (f) the installation of special metering, telemetry or data processing equipment (if any) for the purpose of enabling any person who is bound to comply with the Grid Code to comply with its obligations in respect to metering thereunder or the performance by the Licensee of any service in relation to such metering thereunder;

- (g) the connection charges to be paid to the Licensee, such charges:
 - (a) to be presented in such a way as to be referable to the statements prepared in accordance with paragraph 1 (or, as the case may be, paragraph 7) of Condition 30 or any revision of such statements; and
 - (b) to be set in conformity with the requirements of paragraph 5 of Condition 30 and (where relevant) of paragraph 3; and
 - (h) such further matters as are or may be appropriate for the purposes of the agreement.
- 3 For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works (or in relation to any of the other matters referred to in paragraph 5 of Condition 30) under an agreement for making a connection or modification to an existing connection the Licensee shall have regard to:
- (a) the benefit (if any) to be obtained or likely in the future to be obtained by the Licensee or any other person as a result of the carrying out of such works (or of such other matters) whether by reason of the reinforcement or extension of any part of the All-Island Networks or the provision of additional entry or exit points on such networks or otherwise; and
 - (b) the ability or likely future ability of the Licensee to recoup a proportion of such costs from third parties.

Offer of terms - general

- 4 The Licensee shall, as soon as practicable after it receives an application in accordance with paragraph 1 or 2, request (to the extent necessary) an offer from the Transmission Owner and/or the Republic of Ireland System Operator (in accordance with the Transmission Interface Arrangements and/or the System Operator Agreement as appropriate) in respect of that application and the works (if any) necessitated by that application.

- 5 The Licensee shall offer terms for agreements in accordance with paragraphs 1 and 2 as soon as practicable and (save where the Authority consents to a longer period, which consent may be given on the application of the Licensee following consultation by the Licensee with the person making the application and such other persons as the Licensee considers may be affected or interested) in any event not more than the period specified in paragraph 7 after receipt by the Licensee of an application containing all such information as the Licensee may reasonably require for the purpose of formulating the terms of the offer. A form of standard terms for agreements in paragraphs 1 and 2 shall be published on the Licensee's website, together with any subsequent revisions thereof.

- 6 The Licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any Connection Agreement or any Use of System Agreement:
 - (a) if to do so would involve the Licensee:
 - (a) in breach of its duties under Article 12 of the Order; or
 - (b) in breach of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the transmission system; or
 - (c) in breach of the Conditions of the Licence;
 - (d) in breach of the Grid Code; or
 - (b) if the person making the application does not undertake to be bound by such parts of the Grid Code and to such extent as the Authority shall from time to time specify in directions issued to the Licensee for the purposes of this Condition; or
 - (c) if, when requested to do so by the Licensee, the Transmission Owner and/or the Republic of Ireland System Operator does not offer to enter into an agreement for connection/extension works in respect of the Connection Agreement or Use of System Agreement in question.

- 7 For the purpose of paragraph 5, the period specified shall be:
- (a) in the case of persons seeking use of system, 28 days; and
 - (b) in the case of persons seeking connection (or modification to an existing connection) or seeking use of system in conjunction with connection, 3 months.
- 8 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 information required by that person in relation to its application for a licence under Article 10 of the Order.

Definitions

9 In this Condition:

"high efficiency cogeneration" has the meaning given to it in Directive 2012/72/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency.

"Relevant Generation Connection" means a connection between the All Island Transmission Networks and a high efficiency cogeneration generating installation (the 'relevant premises') the purpose of which is to enable the All Island Transmission Networks to receive a supply of electricity from the relevant premises.

