

License to Participate in the Transmission of Electricity

AIP/SEM/07/45

Response by Airtricity

Introduction

Airtricity is pleased to have the opportunity to comment on the Regulatory Authorities' draft of the NIE licence to participate in Transmission. As a general point, we believe that, with the proliferation of licences for various roles as a result of SEM, it would be useful to include the role being licensed as part of the licence title; in this instance "... to participate in transmission as a network asset owner". This would assist to distinguish between the various transmission participation licences that cover network operation and interconnector asset ownership.

We also support the replication of wording between the various licences, as this facilitates both commonality of understanding and ready identification of issues specific to each particular licence.

Condition 2 – Preparation of Accounts

2.3 (c) business separation

The draft MO licence includes a requirement that the auditor should seek to verify,

"that the internal accounting and financial reporting arrangements of the Licensee are implemented in such a way as to ensure there is no discrimination or cross subsidisation between Separate Businesses¹".

We believe that this requirement should be replicated across all NIE business licences.

Condition 6 – Health and Safety of Employees

We do not see any need for this Licence condition, as its objectives are more clearly and comprehensively addressed in safety and employment legislation.

Condition 10 – Restriction on Use of Certain Information

10.1 (b) unfair commercial advantage

It is unclear why the word "unfair" has been included in this draft. Almost by definition the use of protected information for commercial advantage of an affiliate is unfair. Therefore inclusion of the word will only result in unnecessary debate in the event of a complaint and it should be removed to avoid such ambiguity.

10.5 new requirement

From experience it would appear that staff involved in the business of licensees often have only the broadest awareness (if any) of licence conditions to which their employers are subject. We therefore believe that it is in the interests of all parties that this condition should include an obligation to develop, maintain and enforce an employee code of conduct, to ensure that staff are aware of their obligations and to facilitate the licensee in the discharge of its obligations.

Condition 11 – Compliance with Supply Competition Code

11.2 relevance of the SCC

We believe that the proliferation of regulatory documentation is more likely to undermine effective regulation than strengthen it. Having a range of documents to consider in different circumstances introduces the risk of a

¹ Draft SONI MO licence 2.3 (d)

relevant requirement being overlooked by a user or other affected party. Multiple documents are also more difficult to maintain in a coherent and comprehensive state. The purpose of the SEM is to address the failings of current arrangements and a great deal of work is going in to licence developments that will deliver correct behaviour by market participants.

We therefore consider that this licence condition should be removed and that any SCC runoff provisions, including a sunset provision, be incorporated in revisions to the SCC itself.

Condition 13 – Independence of the Transmission and Distribution Business

13.3 (d) specific duties

Full separation is required, including separate branding. The licensee should not through any advertising, logo, trademark, website address, or in any other way, give the impression that in the discharge of its licence obligations, it is in any way functionally associated with an affiliate or Separate Business.

Meeting rooms can be construed as including shared canteens. We believe it is wrong in principle to contemplate any sharing of facilities, as the risk of inadvertent or casual exchange of protected information cannot be eliminated if staff share any common facilities.

Call centres and telephone numbering systems should also be organisationally and physically separated and internal telephone lines between NIE T&D and other Viridian businesses should be barred.

Sharing of IT systems and facilities should not be permitted, even if "firewalled" to prevent sharing of data drives.

13.13 (c) Compliance Manager duties

The Compliance Manager should also be required to facilitate, as well as investigate, complaints and representations. This change would create a more proactive outlook by the manager and ensure that the complaints process is made fully visible and is straightforwardly accessible to, affected parties.

Condition 17 – Transmission Interface Arrangements

We agree with the suggestion that this condition be expanded to address the interface between the TSO and the Distribution business, particularly as separation of the Distribution and Transmission Grid Codes may well introduce requirements that are specific to each business and therefore require different interface arrangements.

Condition 18 – Obligation to Provide Transmission Services

Two new obligations are required;

- an obligation to develop the system in order to facilitate the objectives of the SEM, and
- an obligation to consult with the TSO during development of plans for works that will impact the flow of electricity on the system.

The first of these is required to ensure there is a link between the level, prioritisation and nature of investment in the Transmission system in a way that addresses constraint and other costs associated with the physical system and that result in higher than necessary costs to final customers.

The second obligation is required to ensure that the TSO is fully aware of licensee plans, with sufficient lead time to co-ordinate generation outages and all-island system operation in the most effective, and therefore least cost way. In complying with condition 16, the licensee should interpret the requirement as meaning that, where possible, it will amend plans for works on the system, if requested to do so by the TSO for material operational reasons.

Condition 26 – Market Registration Service and Market Data Service

26.2 (a) and 26.2 (c)(ii) functions of the MRS

It is not clear why the PPB is specifically mentioned as being in particular need of market registration services and data when, on the basis of it being properly ringfenced in compliance with the regulatory design of the market, it is a business exactly analogous to independent suppliers and generators. We consider that continued reference to PPB suggests that business is in some way a special case requiring special treatment.

Condition 27 – Market Registration Arrangements

This condition should be reworded to ensure that the market registration codes and agreements are developed by NIE acting on behalf of market participants. The documents should not be understood to be "owned" by T&D; they should be owned by the Authority in the same way that the T&SC is owned by the RAs and maintained by a licensee on their behalf.

With this approach T&D would not be seen to have final say in developing and maintaining the content of these arrangements. Currently they are regarded in a proprietorial way by the licensee, as a result of drafting in the existing licence.

Condition 30 – Basis of Charges for Use and Connection to the Distribution System

30.7 (a) distribution capacity statement

It is wrong to include a getout condition for provision of information, based on the commercial interests of the licensee. The licensee is a monopoly and as such the release of commercial data can never be of any value to a third party; there are no competitors to take advantage of the information.

Condition 31 – Standards of Performance

Those who pay for use of the distribution system are reasonably entitled to be provided with a means of establishing whether or not the licensee has complied with this condition. It would therefore be reasonable to include an obligation to facilitate benchmarking of the its performance against other similar businesses.