



Single Electricity Market and Introduction of the EU Directive 2003/54/EC

**Proposed Conditions of the Licence to Participate in the Transmission of
Electricity for SONI**

Response to Industry Comments and Conclusions

18th May 2007

(AIP/SEM/07/180)

1. Background

On 5th April 2007 the Regulatory Authorities published version two of the draft System Operator licences to apply to SONI and Eirgrid as part of the introduction of the Single Electricity Market and introduction of changes for Directive compliance in Northern Ireland from November 2007¹. In response to this consultation the RAs received non confidential submissions from:

- Eirgrid
- SONI
- NIE
- Viridian

In light of these responses, following further consideration of the licences the RAs are now issuing conclusions document outlining our responses to individual suggestions or queries raised and concluding upon the form of the enduring conditions of the Northern Ireland SO licence that is proposed will apply from SEM/Directive go-active in July 2007.

It is noted that a separate consultation is being undertaken on the transitional conditions proposed to apply to this licence.

It is also noted that a separate conclusions document will be issued in relation to the Eirgrid Licence in the near future.

2. Next Steps

The licence conditions accompanying this document set out the RAs' view of the enduring conditions that should apply to the system operation activity from SEM/Directive go-live and which should form the basis of a consultation by DETI on the grant of a licence to participate in transmission as system operator. It is recognised that the need for consequential amendments to this licence might emerge following the consideration of responses to other licences that are yet to be finalised for SEM/Directive go-active.

Subject to the outcome of the expected consultation on the granting of the licence by DETI, it is expected that these conditions would form the basis of the licence granted in relation to the SO activity in Northern Ireland. These would be included in a licence granted at or by SEM/Directive go-active and immediately amended in accordance with the transitional conditions (which are the subject of a separate consultation).

¹ This paper can be found under the Harmonisation section of the All Island Project Website www.allislandproject.org

3. Response to Comments from Interested Parties

Condition	Comment	Respondent	Regulatory Response
General	<p>We remain concerned at the lack of conditions in the proposed licences in relation to conditions of service delivery by System Operators to Market Participants. The consequences of the actions of the system operator can have significant commercial implications for market participants. This should be reflected in appropriate performance criteria in the licences in relation to the quality of and timeliness of information provision to Market Participants.</p> <p>Performance criteria should be required in relation to System Operator provision of information to Market Participants. There should therefore be explicit requirements in both licences for the reporting of provision of information to market participants to ensure information provision to Market Participants:</p> <ul style="list-style-type: none"> • is provided in a timely manner • is correct • is in an appropriate form of delivery (whether by E-mail, text message etc.) • is handled appropriately when deemed confidential <p>In the interests of accountability and transparency in the provision of services to</p>	VPE	<p>The RAs view is that performance incentive arrangements for the SOs should be developed through the revenue restriction conditions. It is proposed that these will be progressed in the transition period.</p> <p>The RAs do not accept that it is necessary to set out a separate licence condition relating to the performance of a system operator in providing information to market participants.</p>

	Market Participants by the System Operator there should be a licence condition requiring an appropriate level of responsibility for this kind of service delivery underpinned by an audit process. This should be included in Condition 26 of the Eirgrid licence and a separate, additional Condition in the SONI licence.		
Grant	We note the new wording “ <i>for the purpose of giving a supply to any premises or enabling a supply to be so given</i> ”. We understand that the wording derives from the language used in the 1992 Order (as amended) but believe that the wording adds confusion here and is not required for the purposes of the licence. The licence grant refers to Article 10(1)(b) in any event and the reference to supply here is inconsistent with many of the licence conditions, which relate to the transmission of electricity but not necessarily to supply (e.g. interconnector role, obligation to offer terms etc.). We request that the wording is removed.	SONI	Whilst the RAs accept that this is somewhat misleading, this is standard wording applying to transmission licences in ROI (e.g. for Moyle and NIE T&D) and it is proposed to retain this wording.
Condition 1 (Interpretation and Construction)	In the definition of “authorised electricity operator” reference is made to licensed undertakings and “any person transferring electricity across a Northern Ireland Interconnector...”. We are not sure that there would be any unlicensed persons transferring electricity across the interconnector. What is	SONI	This is essentially based on the existing definition and it is not considered that there is a need to amend the definition to remove references to those trading across the NI interconnector.

	<p>this wording seeking to capture?</p> <p>In the definition of “distribution system” the words “or the North/South Circuits” should be added after the words “any interconnector” inside the brackets.</p> <p>Is it right to delete the reference to meters in the definition of “Northern Ireland Interconnector”?</p> <p>In the definition of “Republic of Ireland electricity operator”, what is meant by the reference to “<i>any person transferring electricity across a Republic of Ireland Interconnector or who has made an application for use of a Republic of Ireland Interconnector which has not been refused</i>”? What unlicensed persons is this intended to capture?</p> <p>The definition of “Republic of Ireland Interconnector” still refers to meters and does not contain the words “(and not for conveying electricity elsewhere)” unlike the other interconnector definitions.</p> <p>In the definition of “Transmission System Operator Business” the reference to SO trades “as permitted by the Single Electricity Market trading and Settlement Code” needs to be deleted. The TSC does not “permit” the trades, it simply provides the settlement</p>		<p>The definition of Transmission System already includes the North South Circuits and consequently this change is not considered necessary.</p> <p>It is accepted that this should be reinstated.</p> <p>Persons using any future ROI interconnector. It is noted that the North South Circuits are not an interconnector under the SEM. No change is considered necessary.</p> <p>It is accepted that this definition needs to be made consistent with the other interconnector definitions.</p> <p>It is proposed to amend this to make reference to approval by the authority.</p>
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	process for such trades. The “permission” is the right to undertake the TSO Business pursuant to the licence		
Condition 2 (Preparation of Accounts)	We note the inclusion of the payment security policy provision. This needs to be developed in conjunction with the revenue restriction conditions.	SONI	This is acknowledged.
Condition 6 (Health and Safety of Employees)	We had understood that it had been agreed that this condition would come out of the licence.	SONI	The RAs’ view is that this condition should remain.
Condition 7 (Provision of information to the Authority)	We note the new obligation on SONI in paragraph 8(c) to comply with any direction from the Authority to enforce any such undertaking and the corresponding restriction in paragraph 9(c). The concern with these two new additions is that SONI may not be able to enforce the undertaking, which would put it in licence breach. SONI cannot have licence conditions such as this compliance with which is not within its control. Moreover, we do not see that this is a SEM or NI 2007 change and would like to understand where this change has come from	SONI	The RAs continue to be of the view that this condition is appropriate and the SONI should be responsible for ensuring those affiliate to whom it is permitted to pass on information should ensure that the confidentiality of the information is conserved. The RAs are of the view that this is a SEM related change. Ensuring that appropriate confidentiality arrangements are in place in cases where companies carrying out central roles (such as SO or MO) which are in receipt of commercially sensitive information have affiliates who actively participate in the market is important in the promotion of competition.
Condition 11 (Restriction on use of certain information)	In paragraph 3 the word “reasonably” has been moved and this significantly alters the meaning of the provision. This is not a SEM/NI 2007 change and is not acceptable.	SONI	The RAs have reinstated the original text.

	<p>The definition of “protected information” has been widened to include information relating to an affiliate or related undertaking of the licensee. What is the reason for this change?</p>		<p>This is intended to ensure that market sensitive information relating to the licensee or an affiliate is appropriately protected.</p>
<p>Condition 12 (Independence)</p>	<p>Paragraph 2(c) refers to “...decisions relating to the transmission system (or any part of it)” being taken by persons engaged in the operation and management of the TSO Business. The draft TO licence refers to decisions in relation to the transmission system being taken by senior management of the TO Business. These two provisions therefore appear to conflict and we suggest inserting the words “by the Licensee” after the word “decisions” in both licences.</p>	<p>SONI</p>	<p>The RAs are of the view that the addition of the text “by the Licensee” would dilute the intention of this clause by removing the restriction on holding companies making decisions about the transmission system. However, it is accepted that as drafted this clause could unintentionally create obligations on the way in which decision making in relation to the transmission system is split between the TO and SO. The wording has been updated in order to address this issue and an equivalent change made to the wording in the TO licence.</p>
<p>Condition 12</p>	<p>We note that paragraph 2(c) of this Condition obliges the System Operator to ensure that decisions relating to the transmission system are taken only by the employees of the Licensee. The corresponding condition in the proposed Transmission Owner Licence requires NIE to ensure that all decisions relating to the transmission (and distribution) system are taken only by its employees. While NIE appreciates that it would not be intended that these two provisions could be construed as creating a conflict, the obligation to facilitate that the other licensee can comply with its obligations through the Transmission Interface Arrangements could technically lead to a conflicting interpretation that only one or</p>	<p>NIE</p>	<p>Please see above discussion.</p>

	other licensee is to make decisions in relation to the transmission system.		
Condition 12A	<p>We note the deletion of this Condition and the inclusion instead of a revocation event where the licensee or any affiliate or related undertaking undertakes either generation or supply on the island of Ireland in Schedule 2 of the SO Licence. We have not been given any reason for this significant change in approach and do not understand why it has been made. We firmly believe that it is inappropriate to move important licence conditions such as this to the revocation schedule. The licence should contain a series of positive obligations on the licensee in the licence conditions, not simply be a list of revocation events. We need to understand the reasons behind this change.</p> <p>We have particular concerns over paragraph 4 of Schedule 2 which appears to give the Authority complete discretion over when this becomes a revocation event. This is not consistent with the general consensus that this licence obligation shall not take effect until the divestment of SONI from NIE plc. We also have concerns over whether paragraph 4 of the Schedule is even possible given that this is not a licence condition but part of the licence itself.</p>	SONI	The RAs have reviewed this matter and accept that it is more appropriate that such matters are dealt with in a licence condition rather than a revocation schedule. The relevant text has now been incorporated into condition 13. It is noted that an equivalent change to the SONI MO licence conditions will be required.
Condition 13	We note that Condition 13 of the proposed	VPE	The condition prevents SONI from purchasing or

<p>(Prohibited Activities)</p>	<p>SONI licence restricts SONI from purchasing electricity without the Authority’s approval. We consider that this should be extended such that SONI would be prevented from owning generating assets in the same manner as Eirgrid in Condition 20 of their licence.</p> <p>VP&E re-iterate that we consider that SONI should not be permitted to purchase electricity under any circumstances, and we note that under Condition 13 they cannot do this unless they have “the prior written consent of the Authority”. Allowing a System Operator to purchase electricity could distort the price in the All Island market and undermine opportunities for Market Participants to perform this task. We therefore consider that the SONI Condition 13 should be worded more like Condition 20 Section 1 of the Eirgrid licence. In any event SONI should explicitly prohibited from owning generating assets.</p>		<p>otherwise acquiring electricity for the purposes of sale or other disposition to third parties on the Island of Ireland. This includes acquisition through own generation and generation.</p> <p>Whilst the RAs consider that the circumstances in which the SO may be permitted to purchase electricity will be extremely limited, this might include purchase associated with the procurement of system support services and/or in support of post-gate closure trading across Moyle. The RAs do not agree that a blanket prohibition is necessary.</p>
<p>Condition 13</p>	<p>We have raised with you our concern that the general restriction in paragraph 3 on SONI owning any transmission lines or electrical plant seems to conflict with sub-paragraph (a) of the definition of “relevant asset” in Condition 9 (Disposal of Relevant Assets). It was agreed that the Authority would issue SONI with a letter confirming that the control centre does not constitute “electrical plant” for</p>	<p>SONI</p>	<p>The RAs remain of the view that this condition is robust although it is accepted that the control centre does not constitute electrical plant for the purposes of condition 13.</p>

	the purposes of Condition 13.		
Condition 17 (Grid Code)	We are not sure what the reference to the NIE Supply Licence in paragraph 5 means or what is being referred to here. Should this be a reference to the TO Licence?	SONI	This is a reference to PPB as an activity carried out under the future NIE Supply licence.
Condition 19 (Transmission Interface Agreements)	<p>These provisions need to be consistent with the equivalent provisions in the TO Licence and we note that this is not yet the case. The provisions also need to reflect the outcome of ongoing discussion on the TIA generally and may therefore be subject to further change.</p> <p>The note in square brackets at the end of the licence condition is not correct. There will be interface arrangements between the System Operator and PPB.</p>	SONI	<p>This comment is accepted.</p> <p>A new condition is proposed governing the relationship between SONI and the PPB activity. Whilst this interface is expected to be strictly limited, it is expected to cover (for example) matters require to support the continued operation of the PPB contracts.</p>
Condition 20 (Operation of the Transmission System and the System Security and Planning Standard)	We note the new provisions in relation to the preparation of and reporting on performance standards for the System Operator. We are considering the implications of these new obligations.	SONI	This is noted.
Condition 22 (Central Despatch and Merit Order)	EirGrid notes that there is still some ambiguity in paragraph 2 with respect to the information that is to be taken account of when undertaking operational planning, as follows, “forecast levels of electricity available to be transferred to or from the Island of Ireland”. This can be interpreted in a number of ways	Eirgrid	The RAs do not agree that this is ambiguous. The drafting refers to the “forecast levels of electricity available to be transferred to or from the Island of Ireland across and Interconnector”, and the RAs are of the view that it is sufficiently clear that the levels of available transfer are limited by the physical constraints of the interconnector.

	<p>including; the level of availability within BETTA as a whole, or the level of capacity available on any existing interconnector. This ambiguity should be removed.</p> <p>In addition, reference is made in paragraph 2 to EirGrid taking account of the “requirements of the Transmission System Security and Planning Standards” when undertaking operational planning. EirGrid believes that in its case, the more appropriate standards to be taken account of in this activity are the “Operating Security Standards” and requires the wording to be changed to reflect this. A similar change is required in sub-paragraph 5(f).</p>		<p>The comment in relation to paragraph 2 is accepted and an appropriate change has been made.</p>
Condition 24 (system operator agreement)	<p>We continue to have concerns over the use of language. Paragraphs 1(a), (b), (c) and (d) all refer widely to the SOA ensuring that the ROI System Operator, the licensee and the MO can comply on a continuing basis with any licences, laws or regulations applicable to them. This is extremely wide and not what the SOA has been designed to achieve. The SOA will not, for example, ensure that SONI can comply with various finance or environmental laws or regulations. We do not believe that the language “in undertaking its functions” resolves the issue.</p> <p>The SOA will ensure that where either SO or MO, in carrying out its licensed activity,</p>	SONI	<p>Whilst the to believe that the drafting put forward was reasonable and that it did not, for example, imply that SONI needs to discharge Eirgrid’s licence obligations, slightly amended wording has now been included in order to further clarify this issue.</p> <p>The RAs accept that the cost sharing provisions need to be conformed.</p>

	<p>impacts on the other SO or MO, it does so in a manner such that the other SO or MO can carry out its <i>licensed activity</i>. This is very different to ensuring that they can comply with all <i>licences, laws and regulations</i> which is not something the SOA was ever designed to achieve. This is a major issue for SONI as it would put it in immediate licence breach.</p> <p>We also believe that the SOA licence condition must be the same in both System Operator licences. There is currently no equivalent obligation that the SOA provide for the sharing of costs and the making of payments to that in the EirGrid System Operator licence. This needs to be rectified.</p>		
Condition 25 (Requirement to Offer Terms)	In paragraph 1(b) the reference to exit points or points on the “All-Island Transmission Networks” is wrong and should be to the “transmission system”. SONI as SO in Northern Ireland can only deliver electricity to points on the Northern Ireland transmission system.	SONI	This comment is accepted.
Condition 36 (Arrangements in respect of the Moyle Interconnector)	<p>Paragraphs 7 and 8 require SONI to remain party to the BSC and at all time act as and perform the functions of Interconnector Administrator and Interconnector Error Administrator under the BSC.</p> <p>SONI will undertake the role of Interconnector Administrator under the TSC and BSC, Interconnector Error Administrator under the</p>	SONI	<p>It is accepted that the SONI licence should recognise that SONI is undertaking the relevant roles under the TSC.</p> <p>It is also proposed that the Moyle licence be amended to require them to appoint SONI to carry out these TSC related roles whilst the operating agreement remains in place.</p>

	<p>BSC and registrant of the Interconnector Error Unit under the TSC. This is subject to the licence and contractual framework within which SONI undertakes these roles being satisfactory in terms of dealing with the costs and risks associated with the roles and recognising where SONI relies on third parties to undertake the role. We therefore propose the following:</p> <ul style="list-style-type: none">• this licence condition would recognise that SONI undertakes the IA and IEA roles under the TSC as well as the BSC, in similar terms to paragraph 8;• the licence condition will recognise explicitly that SONI undertakes these roles on both sides of the Moyle Interconnector subject to full cost recovery. The placeholder in paragraph 9 of the licence condition needs to be expanded;• the licence would recognise that for SONI to undertake these roles, the co-operation of Moyle is needed (for example, to enable registration under the TSC). We propose that that the licence condition provide that SONI will not be in breach of the obligation to undertake the roles where this is due to Moyle not doing all things necessary to enable the appointments under the BSC and TSC to		
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	take effect, or Moyle otherwise failing to comply with the OAA in so far as relevant to the performance of those obligations.		
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