



**Draft Supply Licence for  
Northern Ireland  
to facilitate the implementation of the  
Single Electricity Market  
and EU Directive  
Consultation Paper**

**AIP-SEM-07-56**

**27<sup>th</sup> March 2007**



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## I INTRODUCTION

As explained in a consultation paper<sup>1</sup> published by the Commission for Energy Regulation (“CER”) and Northern Ireland Authority for Energy Regulation (“NIAER”) in February 2007 (“the February paper”), the implementation of the Single Electricity Market (“SEM”) and EU Directive 2003/54/EC (“the Directive”) requires significant changes to the licensing framework in Northern Ireland (“NI”).

Following that previous document, this document proposes enduring conditions to apply in supply licences in NI from November 2007 for the introduction of the SEM and for implementation of the Directive. The Supply licence for NIE will also contain licence conditions covering the Power Procurement Business (“PPB”) functions of NIE; these will be consulted upon separately.

Proposals, including further licence conditions, for the legal transition for the SEM and Directive will also be consulted upon separately, and it is likely that, for the purposes of transition, elements of the proposed licence will be put in place prior to November 2007.

The Regulatory Authorities would be interested to receive the views and comments of interested parties on the proposals contained within this consultation. The Regulatory Authorities intend to publish all comments received. If any respondent wishes certain sections of their submission to remain confidential they should submit these sections as an appendix marked confidential.

Comments, preferably in electronic form, should be forwarded not later than 5.00pm on the 27 April 2007 to:

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<sup>1</sup> “Enduring Licensing and Contractual Framework Applying under the SEM and associated changes for EU Directive Compliance in Northern Ireland Consultation Paper”, AIP/SEM/07/11, 2 February, 2007.

## II OVERVIEW OF THE SUPPLY LICENCE CONDITIONS

Presently, Northern Ireland Electricity plc (“NIE”) holds a licence for transmission and a licence for Public Electricity Supply (“PES”). Distribution is not a separately licensable activity and distribution activities are regulated as part of PES. There are also a number of Second Tier Supply licences that permit the supply of electricity to “eligible premises”. Currently, these Second Tier licences also contain conditions appertaining to distribution activities. Conversely, the power purchasing function of NIE, which also is not separately licensable, is undertaken under the auspices of the transmission licence.

As part of meeting the requirements of the Directive, the February paper explained that it was proposed that the supply and PPB activities associated with NIE would be undertaken on a legally separate basis from the activity of distribution system operation. Conditions relating to the distribution activity would be included as part of the transmission licence. The paper also explained that it was envisaged that changes to the Order<sup>2</sup> would remove the concept of the PES and that NIE would henceforth supply under the terms of a supply licence, like other Suppliers, albeit with additional conditions taking account of its special position. The paper also described how the Directive also requires full retail competition and that, in support of this, additional licence conditions would be required in all Supply licences.

In February 2007, the Regulatory Authorities also published a consultation paper on the regulation of the PESs under the SEM<sup>3</sup>. It is recognised that, depending on the outcome, this consultation could give rise to further conditions on the supply licence issued to NIE. Any such conditions will be consulted upon separately. The Regulatory Authorities have also published a consultation paper<sup>4</sup> on the Directive requirement for the disclosure by Suppliers of fuel mix information. This, too, is likely to require a further licence condition.

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<sup>2</sup> Electricity (Northern Ireland) Order 1992 (as amended).

<sup>3</sup> “A Strategy for the Regulation of ESB and NIE in the Single Electricity Market: A Consultation Paper”, AIP/SEM/07/16, 26 February 2007.

<sup>4</sup> “Disclosure of Information to Final Customers by Suppliers”, AIP/SEM/07/46, 13 March 2007

### **III OVERVIEW OF THE PROPOSED CONDITIONS**

It is proposed that the supply licence conditions are divided into four sections. Parts I and II will apply to all Suppliers:

Part I: general conditions; and

Part II: customer related conditions.

Parts III and IV will apply only to NIE:

Part III: special conditions for NIE; and

Part IV: special conditions applicable to NIE power procurement.

A number of conditions apply to both Suppliers generally and to NIE, although in modified form. In the NIE licence, the generic conditions included in Part I will be not used and the specific variants for NIE included in Part III.

A synopsis of the proposed conditions in Parts I to III is attached as Appendix A, and a draft of the proposed conditions as Appendix B. As explained in the Introduction, Part IV will be the subject of separate consultation.

#### ***III.1 Part I - General Conditions***

Part I contains a number of conditions covering general matters including compliance with Grid and Distribution Codes, provision of information and prohibitions on discrimination for dominant Suppliers. These conditions are modelled closely on existing supply licence conditions, with consequential changes.

New conditions are included for:

(i) *Compliance with the Market Registration Framework Agreement*

Currently compliance with the Market Registration Framework Agreement, necessary to underpin supply competition, is required by the Supply Competition Code. However, the Supply Competition Code is principally concerned with the purchase of power by Suppliers from PPB. Under the SEM, Suppliers will purchase power through the Trading and Settlement Code and, accordingly, it is proposed to abolish the Supply Competition Code. Hence compliance with the Market Registration Framework Agreement will be required as a separate condition.

*(ii) Compliance with Trading and Settlement Code*

As described above, Suppliers will need to comply with the Trading & Settlement Code.

*(iii) Supplier of Last Resort*

It is proposed to include conditions supporting the Supplier of Last Resort ("SOLR"), required under the Directive, in all supply licences. It is envisaged that, at Go-Live, the processes and systems will exist only to support SOLR being the former PES. Nevertheless, licence conditions will support the possibility of any supplier being a SOLR and it will be the process of appointment that will, in the first instance, limit the SOLR function to NIE.

### ***III.2 Part II - Customer Related Conditions***

Customer related licence conditions are required to support Directive compliance and full retail competition. The conditions proposed in Part II are modelled on the equivalent conditions, published in November 2006<sup>5</sup>, proposed for NI gas supply licences. These conditions include codes of practice on the payment of bills, services for vulnerable customers, efficient use of electricity and complaint handling procedures. The conditions also include a duty to offer terms.

### ***III.3 Part III - Special Conditions for NIE***

Special conditions relating to NIE are contained in Part III. These conditions are modelled on those in the existing NIE licence, with consequential changes, and cover prohibitions on activities, limits on own generation and an obligation concerning economic purchasing. As explained in section II, above, some of these conditions could be subject to revision as a consequence of the consultation on PES regulation. Nevertheless, views are invited as to the appropriateness of these conditions under the SEM.

### ***III.4 Part IV - Special Conditions applicable to NIE Power Procurement***

Further special conditions will apply to the PPB activity. These are being consulted upon separately.

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<sup>5</sup> "Implementation of Gas Directive 2003/55 into Northern Ireland Gas Licences", Ofreg, 24 November 2006.

## **IV NEXT STEPS**

Responses to this consultation are requested by 27 April 2007. A second draft will be published in mid-May with a view to making any necessary further amendments in time by mid June in time for designation at “Go-Active” in July.

A consultation on conditions for the Power Procurement Business will be issued imminently. The consultation on the regulation of ESB and NIE under the SEM, which was published on 26 February 2007, has recently closed. It is planned that this consultation will be concluded upon by 4 May 2007. The consultation on fuel mix disclosure closes on 2 April 2007 with a draft decision paper published later in April.



## Appendix A - Synopsis of Draft Supply Licence Conditions

Condition		Notes
	Grant and Terms	Further legislation, in particular the regulations to be made under 2(2) of the European Communities Act 1972, is anticipated in order to achieve compliance with the Directive. It will depend on the detail of this legislation as to whether the licence will be a continuation of an existing licence or whether the licence will be a new type of licence, i.e. granted under a new prohibition, and 'converted' from an existing licence.
Part I - General Conditions		
1.	Interpretation and construction	Some references, e.g. in the definition of affiliates to "Companies Act" may change depending on whether the licensee is a company in GB, in Northern Ireland, in Ireland or in any other jurisdiction.
2.	Separate Accounts for Separate Businesses	This condition is modelled on drafting in existing Second Tier Supply licences. The equivalent condition for NIE (currently Condition 3 of Section IIB of NIE's Licence) appears as Condition 47, "Separate Accounts for Separate Businesses".
3.	Compliance with Grid Code and Distribution Code	Based on existing licences.
4.	Market Registration Framework Agreement	Compliance with the Supply Competition Code currently requires compliance with the Market Registration Framework Agreement. With the abolition of the SCC, this requirement is imposed directly.
5.	Cancellation of contracts	This Condition appears in the existing Second Tier Supply licences. It will, however, be the subject of separate consultation.
6.	Security arrangements	Based on existing licences.

Condition		Notes
7.	Compulsory acquisition of land	This condition appears in Second Tier Supply licences, albeit the condition may have expired. For NIE, the powers go to NIE T&D licence.
8.	Powers to carry out road works etc.	As Condition 7.
9.	Health and safety of employees	Based on existing licences.
10.	Provision of information to the Authority	This is as per the existing Second Tier Supply licences, although with a missing definition added. The current NIE licence contains additional provisions, which are incorporated into Condition 42, "Availability of Resources and Undertakings".
11.	Payment of fees	This condition is from the existing NIE and Second Tier Supply licences, modified so that all Suppliers bear a proportion of the costs of the General Consumer Council. References are included to the "SEM Order".
12.	Prohibition of cross-subsidies	This is as per the existing Second Tier Supply licences. In the NIE licence, this condition will be not used, with the equivalent condition for NIE appearing as Condition 48, "Prohibition of cross-subsidies and of Discrimination".
13.	Confidential Information and Separation of Businesses	This Condition appears in a number of Second Tier Supply licences although it would appear to have effect only in the Second Tier Supply business of NIE. Accordingly it is proposed that this Condition remains only in the Supply Licence of Energia.
14.	Prohibition of discrimination in supply	Based on existing licences.
15.	Duration of discrimination conditions	Based on existing licences.
16.	Duty to offer terms for meter provision	Based on existing licences.

Condition		Notes
17.	Procedures for the detection and prevention of theft, damage and meter interference	Based on existing licences. Note that these obligations are included also in the Transmission Licence.
18.	Licensee's apparatus on Customers' side of meter	Based on existing licences. It is recognised that this Condition does not currently apply to Second Tier Suppliers and thus it may be more appropriate to incorporate this Condition into Part III.
19.	Provision of Information to Transmission System Operator and Market Operator	Specific obligations as to the provision of information to the TSO and MO will be contained in documents such as the Grid Code and Trading and Settlement Code. Nevertheless, obligations here, to provide the TSO and MO with such data as they may reasonably require, are carried over from existing licences.
20.	Single Electricity Market Trading and Settlement Code	New condition, required for the Single Electricity Market.
21.	The PSO Agreement	New condition, required as a result of restructuring of NIE. A new contract is envisaged between NIE Energy (in respect of its Power Procurement Business), NIE T&D (in respect of its Land Bank Business) and Suppliers.
22.	Supplier of Last Resort	New condition for Directive compliance. It is proposed to add this condition to all Supply licences so that, in principle, any Supplier could become a Supplier of Last Resort following the failure of another Supplier. In the first instance, however, it is assumed that a Supplier of Last Resort Direction would be issued only to NIE.
23.	Claims for Last Resort Supply Payments	See Supplier of Last Resort Condition.
24.	Standards of performance	New condition for Directive compliance.
25.	Classification of Premises	New condition for Directive compliance.

Condition		Notes
Part II - Customer Related Conditions		
26.	Duty to Offer Terms	The Conditions in Part II are introduced for Directive compliance, and are modelled on the corresponding conditions proposed for the NI gas supply licences to achieve compliance with the corresponding gas directive.
27.	Terms and Conditions of Electricity Supply Contracts	As Condition 26.
28.	Deemed Contracts	The gas supply licences do not provide for Deemed Contracts. However, this Condition is included to underpin the Supplier of Last Resort arrangements.
29.	Approval of the Authority to the Licensee's Arrangements	As Condition 26.
30.	Code of Practice on payment of bills	As Condition 26.
31.	Code of Practice on services for vulnerable persons	As Condition 26.
32.	Code of Practice on the efficient use of electricity	As Condition 26.
33.	Code of Practice on complaint handling	As Condition 26.
34.	Code of Practice on services for prepayment meter Customers	As Condition 26.
35.	Preparation, review of and compliance with Codes of Practice	As Condition 26.
36.	Report on Performance	As Condition 26.

Condition		Notes
37.	Relations with the General Consumer Council	As Condition 26.
38.	Information given to Customers	As Condition 26.
39.	Security and safety of supplies	As Condition 26.
40.	Marketing of Electricity to Domestic Customers	As Condition 26.
Part III - Special Conditions for NIE		
41.	Additional Definitions	Based on existing NIE Licence.
42.	Availability of resources and undertakings	Based on existing NIE Licence.  Provisions in Condition 6 of Part II B of the existing NIE Licence are also included here, where they are additional to the provisions of the proposed Condition 10, above.
43.	Restriction on Dividends	Based on existing NIE Licence.
44.	Restriction on own-generation and gas pipeline capacity	Based on existing NIE Licence.
45.	Prohibited activities and ring-fencing	Based on existing NIE Licence.
46.	Obligation on economic purchasing	Based on existing NIE Licence.
47.	Separate Accounts for Separate Businesses	Based on existing NIE Licence.
48.	Prohibition of Cross-Subsidies and of Discrimination	Based on existing NIE Licence.
49.	Restriction on use of certain information	Based on existing NIE Licence.

<b>Condition</b>		<b>Notes</b>
50.	Independence of the Transmission and Distribution Business	Based on existing NIE Licence.
51.	Separation of Business	Based on existing NIE Licence.
52.	Supply Charges Restriction	A new supply charge restriction will be required and will be drafted as part of the NIE Energy price control review process.
Part IV - Special Conditions Applicable to NIE for Power Procurement Business		
		Conditions for Part IV will be consulted upon separately.
Schedules		
Schedule 1	Specified Premises	The wording of Specified Premises may differ between licences.
Schedule 2	Terms as to revocation	Based on existing licences.