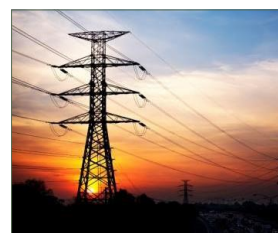


Information Paper following proposal to modify
Condition 5 “Security Arrangements” of all electricity
generation licences

Information Paper

1 December 2022



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.

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1. Summary

Key information

- 1.1 A notice under Article 14(2) of the Order proposing modifications to Condition 5 “Security Arrangements” to all electricity generation licences was published by the Utility Regulator (UR) on 3 August 2022¹.
- 1.2 The licence modification proposals sought to introduce, where applicable, a requirement for relevant generators to maintain a minimum of five days’ of continuous running of secondary fuel stock and monthly secondary fuel stock reporting to SONI.
- 1.3 While there was support for the proposals, a number of respondents highlighted that obligations already exist on generators in respect of minimum fuel stock levels contained in ‘Article 39 consents to construct’ and through application by DfE of provisions available in the NI Fuel Security Code, through Connection Agreements between generators and SONI and through the ability for generators/ service providers to enter into a Fuel Switching Agreement with SONI.
- 1.4 Having taken account of the responses to the statutory consultation, the UR has decided not to proceed to make the proposed licence modifications but to undertake a more detailed assessment of any related existing obligations relating to fuel security and fuel stock levels in other regulatory documentation. If following that assessment the UR considers that any particular licence modifications are required it will undertake a fresh consultation under Article 14 of the Order accordingly.
- 1.5 The published All-Island Generation Capacity Statement for 2022-31² (published annually) provides information about generation adequacy for the next ten year period. For this winter, a surplus of generation for Northern Ireland is forecasted, meaning that it is expected that demand levels can be met. The Winter Outlook³ for Northern Ireland also suggests the risk of the system entering the Emergency State due to

¹ [Consultation on proposed modifications to Condition 5 of electricity generation licences | Utility Regulator \(ureg.gov.uk\)](https://www.ureg.gov.uk/consultation-on-proposed-modifications-to-condition-5-of-electricity-generation-licences)

² [EirGrid SONI 2022 Generation Capacity Statement 2022-2031.pdf](#)

³ [210963-EirGrid-Winter-Outlook-2022-2023.pdf \(soni.ltd.uk\)](#)

insufficient available generation is low. However, the loss of a large unit in Northern Ireland could lead to a risk of the system entering the Alert State, most likely at periods of low wind and interconnection. Should any risk to security of supply be foreseen or experienced, a number of procedures are in place to reduce any potential impact for electricity users.

Provision of Information by key NI generators to the UR and SONI for winter 2022/23

- 1.6 In early October 2022, the UR issued requests for ‘Provision of information to the Authority’ (under Condition 11) and ‘Provision of Information’ (under Condition 16, to SONI TSO) to NI thermal generators including EP Ballylumford, EP Kilroot and ESB Coolkeeragh to provide information relating to current fuel stocks/ the number of continuous days’ running that this equates to and the technical capability of each generating site to store fuel. In addition, the UR requested that the relevant licensee flags if it becomes aware of any circumstances which will or could affect fuel stock levels, or any other issues which could affect operations this winter. The UR also requested that the licensees submit a report to SONI on a monthly basis about fuel stocks held, replenishment arrangements and timelines. This latter request is similar to the information provision obligation which was proposed in our licence modification consultation in August 2022. The requests for information apply to the winter period to early April 2023.

Next Steps

- 1.7 In respect of winter 2022/23, the UR (and SONI, as appropriate) will monitor all information received from EP Ballylumford, EP Kilroot and ESB Coolkeeragh to the requests for Provision of Information about fuel stocks.
- 1.8 The UR will undertake a more detailed assessment of any related existing obligations relating to fuel security and fuel stock levels in other regulatory documentation.
- 1.9 The UR will also continue to engage with the Department for the Economy, SONI and Electricity Generation Licence holders in

relation to electricity security of electricity supply for the benefit of Northern Ireland consumers.

2. Background

- 2.1 The Utility Regulator's principal objective in carrying out our electricity functions is to protect the interests of consumers wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity, and by having regard to a number of matters, as set out more fully in The Energy (Northern Ireland) Order 2003.
- 2.2 A notice under Article 14(2) of the Order proposing modifications to Condition 5 "Security Arrangements" to all electricity generation licences was published by the Utility Regulator on 3 August 2022. The consultation closed on 31 August 2022 and eight responses were received, one of which was marked as confidential.
- 2.3 While the modification was proposed to be included in all electricity generation licences in order to standardise content and future-proof, its effect would only apply to those licensees who have capability of running on more than one fuel.
- 2.4 The Article 14(2) notice set out the reason for the proposed modifications which was to mitigate against a security of supply risk in instances where secondary fuel stocks held are of limited sufficiency to effectively contribute to a security of supply risk or fuel security event⁴. A further reason was that these proposed modifications align with the NI energy transition.
- 2.5 The effect of the proposed modifications was also set out in the Article 14(2) notice which was to clearly specify the required quantity of secondary fuel to be held by those generators with secondary fuel capabilities, together with the requirement for regular monthly reporting on those fuel stock levels (including details of last inspection and testing) to the Transmission System Operator (System Operator for Northern Ireland (SONI)). The overall effect

⁴ As defined in the Fuel Security Code
[FSC PUBLISHED VERSION OCTOBER 2015.pdf \(economy-ni.gov.uk\)](#)

was intended to increase security of supply, particularly the short term response available from relevant generators. The aim was to have the modification effective for winter 2022/23.

Fuel Security Code and Fuel Switching Agreement Background

- 2.6 The most recent revision of the NI Fuel Security Code was published in October 2015 by the Department for the Economy. The proposed licence modification, consulted upon in August 2022, sought to extend Condition 5 of generation licences which already requires generation licence holders to comply with the provisions of the NI Fuel Security Code.
- 2.7 The 2015 revisions to the NI Fuel Security Code clarified processes, roles and responsibilities and also reflected the requirement for subsequent “Fuel Switching Agreements” to be put in place between the electricity Transmission System Operator (TSO), generators and others considered appropriate by the electricity TSO (SONI) or UR.
- 2.8 During 2014 and 2015, the Department, UR, relevant generation licensees and other interested parties engaged throughout the process, which included opportunities for affected licensees to review and comment on draft versions of both the revised Fuel Security Code and also the Fuel Switching Agreement template.
- 2.9 In 2015 the UR issued a consultation and decision on licence modifications to enable SONI to implement Fuel Switching Agreements. These required SONI to enter into a Fuel Switching Agreement if an authorised generator requested to do so. The licence modifications took effect in 2016.
- 2.10 Following this, SONI submitted a formal Fuel Switching Agreement template to the UR for approval. This was subsequently approved⁵ and published on SONI TSO website⁶. The Fuel Switching Agreement stipulates:
- secondary fuel stocking levels equivalent to five days

⁵ [Fuel Switching Agreements Approved | Utility Regulator \(ureg.gov.uk\)](https://www.ureg.gov.uk/fuel-switching-agreements-approved)

⁶ [Fuel-Switching-Agreement_template.pdf \(soni.ltd.uk\)](https://www.soni.ltd.uk/fuel-switching-agreement-template.pdf)

continuous running at the generating unit's maximum rated capacity;

- fuel stock testing, inspections, replenishment and reporting arrangements;
- fuel switching tests; and
- provides a mechanism for cost recovery if a generator is instructed to switch and costs are beyond those recoverable from the electricity market.

2.11 The approved Fuel Switching Agreement template followed engagement via all-party workshops and the licence modification consultation and decision to the SONI TSO licence as referred to above. At that time and given the out-workings of engagement, the expectation was that relevant generators would voluntarily request SONI to enter into a Fuel Switching Agreement and thereby ensure cost recovery by the generator should it be required to switch⁷ fuels by SONI TSO. However, not all relevant generators have taken the option to enter into such an agreement.

2.12 The proposed licence modifications which were consulted upon by the UR in August 2022 to Condition 5 "Security Arrangements" of the generation licences were drafted with the intent of being consistent with the five day secondary fuel stocking requirement already contained within the Fuel Switching Agreement. This was done in the knowledge of the extent of the engagement between the Department, UR and industry when drafting the Fuel Switching Agreements in 2014 and 2015.

⁷ Instruction to switch fuels can be issued by SONI TSO via the NI Grid Code

3. Consultation Responses

3.1 Eight responses were received to the consultation, one of which was marked confidential. All responses have been taken into consideration in concluding that a decision to modify generation licences in line with the proposals consulted on in August 2022 will not proceed. Non-confidential responses received were from:

- Department for the Economy
- Electricity Association Ireland (EAI)
- ESB Generation & Trading (ESB GT)
- Energy Saving Trust
- Mutual Energy
- Power NI Energy Ltd: Power Procurement Business (PPB)
- System Operator for Northern Ireland (SONI)

3.2 The Department for the Economy supported the introduction of measures that contribute toward minimising the risk to security of supply for both domestic and commercial electricity users in Northern Ireland.

3.3 EAI did not believe there was a requirement for additional explicit licence obligations, particularly as those proposed add a new onerous licence obligation with the only generator recourse to refer the change to the Competitions and Markets Authority. The issues raised by EAI are outlined in Section 3 'Issues Raised'.

3.4 ESB GT recognised that for generators which have entered into and are compliant with a Fuel Switching Agreement with SONI TSO, the proposed licence modifications would place the same requirements on generators. ESB GT were of the view that there is no requirement for these additional explicit licence obligations. The issue raised by ESB GT is outlined in Section 3 'Issues Raised'.

3.5 Energy Saving Trust recognised the complexities of the current international energy supply environment, and the need to adequately protect the security of supply of electricity in Northern Ireland. On balance the Energy Saving Trust supports the Modifications aimed

at assisting with the effective management of an event where primary fuel supplies for electricity generation are, or at risk of being, disrupted and generators instructed to prepare for or switch to secondary fuels in anticipation for, or the result of, the Department for the Economy declaring a Fuel Security Event.

- 3.6 Mutual Energy takes on the role of the NI gas Network Emergency Co-Ordinator (NINEC) responsible for co-ordinating responses to natural gas emergencies in Northern Ireland. As part of this role there is a possible measure (which is legally binding) to request or instruct NI power stations to reduce gas demand. Such a reduction in gas demand may be achieved by the power station switching to secondary fuel. Therefore Mutual Energy are supportive of the proposed Modification. They did however caution about 'hard coding' the five day requirement into licences and this is outlined in Section 3 'Issues Raised'.
- 3.7 PPB was confused by the purpose of the proposed modifications which, rather than improve clarity, actually increase the scope for misalignment of obligations. In PPB's view there is no benefit from the proposed modifications whereas there is scope for making matters unclear and distorting the wider SEM arrangements. PPB therefore see no justification to progress with the proposed licence changes. The issues raised by PPB are outlined in Section 3 'Issues Raised'.
- 3.8 SONI broadly supported the changes proposed. SONI focused its response on the added explicit obligations to provide information to SONI in relation to secondary fuel and that this proposal would remove ambiguity around such requests, emphasizes the importance of fuel security for Northern Ireland and introduces a clear route to enforcement if the information is not provided. SONI also noted the need for access to these reports ahead of the coming winter and therefore a timely decision is important.

4. Issues Raised

- 3.1. No issues were raised by the Department for the Economy or the Energy Saving Trust.
- 3.2. EAI noted that there are already obligations in respect of minimum fuel stocking levels contained within the Article 39 Consent to construct⁸. Furthermore, in EAI's view the NI Fuel Security Code has an object of "adequately protecting security of supply of electricity in Northern Ireland" and was amended to reflect Fuel Switching Agreements to be put in place between SONI and Generators which created contractual obligations on the level of fuel stocks to be held and addressed fuel switches, testing and stock replenishment. Concerns were also held by EAI in relation to the Single Electricity Market (SEM) and that there should not be discrepancies on Generator obligations in the all-island wholesale market.
- 3.3. ESB GT considers the NI Fuel Security Code to already have provisions that overlap with the proposed Modification and therefore there is no requirement for these additional explicit licence obligations. In terms of reporting to SONI, ESB GT requested that any submissions made in respect of obligations under the Fuel Switching Agreement would be duly accepted by the UR as compliance with any modification to Condition 5.
- 3.4. Mutual Energy, while being supportive of the Modification, were concerned with 'hard coding' the five-day requirement into licences which may create undesirable inflexibility in an emergency situation given the requirement for consultation and a 56 day standstill period should this number need to change in the future. In their view, the five-day requirement is best referenced in a Direction or other agreement and the wording in the licence changed to reference this secondary document so as there is more flexibility should the requirement need to be increased or decreased in future. Alternatively, an amendment could be made to the Fuel Security Code to strengthen

⁸ Article 39 Consent required for construction of generating stations
[The Electricity \(Northern Ireland\) Order 1992 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1992/12/section/39)

incentives to hold 5 days' worth of secondary fuel and subsequently update references to e.g. the Fuel Switching Agreement.

- 3.5. PPB is of the view that Article 39 consents, obtained from the Department, to construct, extend and/or operate a power station already provide explicit obligations on all generators who are required to be able to operate on a secondary fuel. Furthermore, they understand such consents impose a requirement to hold sufficient secondary fuel stocks to enable such generators to operate at full output for five days on that secondary fuel. Hence the Article 39 consent provides the primary obligation in respect of fuel stocking with Fuel Switching Agreements adding an overlay that provides for additional information flows in exchange for payments. There is no lack of clarity and nothing further is required to assist with security of supply or the NI energy transition. PPB also viewed the Fuel Security Code as providing the Department significant rights to direct generators to increase fuel stocks either in preparation for a Fuel Security Event or during such an event, once declared. This provides substantive rights to the Department to manage risks to security of supply in exceptional circumstances through Directions under Article 37 of the Order. PPB also consider the existing arrangements in NI being consistent with the arrangements in ROI. Such changes will create a divergence which risks distorting the SEM and investment decisions for new generators.
- 3.6. SONI did stress the importance of aligning the terminology used to help avoid ambiguity, but suggested this decision paper could be used to provide clarity. SONI did raise a concern that the provision of information relating to Dual Rated Generator Units is needed for both fuels and not just secondary fuel, so as SONI is able to assess the full status of fuel stocks and hence fuel security for generation in Northern Ireland.

Our response to issues raised

- 3.7. In 2015, the Department revised the Fuel Security Code which focuses primarily on the process when the Department anticipates

and declares a Fuel Security Event. The purpose of the proposed modifications of August 2022 was from a prudent day-to-day operational perspective, particularly given the concerns about electricity security of supply in the context of geo-political issues (and following implications of the Covid pandemic, Brexit and the situation in Ukraine) over the next number of years. The UR's proposals to modify the generation licences also followed concerns raised for winter 2021/22 about fuel stocks and use-ability, and also a number of all-island amber system alerts. The Generation Capacity Statement published by SONI and EirGrid in September 2021 for 2021-2030 (GCS21) indicated an expectation that the number of system alerts would increase over the coming winters as capacity exits and demand increases.

- 3.8. Fuel Switching Agreement arrangements are set out in Condition 29 of the SONI Transmission System Operator licence. The Fuel Switching Agreement stipulates a secondary fuel stocking requirement of five days and has reporting, testing, fuel stock replenishment requirements and allows for cost recovery when SONI, under Grid Code, instructs the generator to switch. Generators can request to enter into a Fuel Switching Agreement with SONI, however this is not mandatory. The proposed modifications of August 2022 were intended to be consistent with the key requirements within the Fuel Switching Agreement. The UR continues to encourage all relevant generators/ service providers to request to enter into a Fuel Switching Agreement with SONI TSO.
- 3.9. We note the feedback received about Article 39 consents to construct (issued by DfE) already containing requirements about secondary fuel. The UR notes that the feedback regarding this was mixed so will continue to liaise with the Department to establish factual accuracy about what the consents stipulate. The UR understands that these consents are likely to be specific to each generation construction.
- 3.10. The UR is also liaising with SONI TSO in respect of relevant information contained within the connection agreements issued, while recognising these agreements are commercially sensitive and specific to each generation connection.

5. Utility Regulator Decision not to proceed with proposed licence modifications

- 5.1 The UR has decided not to proceed to make the proposed licence modifications but to undertake a more detailed assessment of any related existing obligations relating to fuel security and fuel stock levels in other regulatory documentation. If following that assessment the UR considers that any particular licence modifications are required it will undertake a fresh consultation under Article 14 of the Order accordingly.

6. Next Steps

- 6.1 In respect of winter 2022/23 (to early April 2023), the UR (and SONI, as appropriate) will monitor all information received from EP Ballylumford, EP Kilroot and ESB Coolkeeragh to the requests for Provision of Information about fuel stocks.
- 6.2 The UR will undertake a more detailed assessment of any related existing obligations relating to fuel security and fuel stock levels in other regulatory documentation.
- 6.3 The UR will also continue to engage with the Department for the Economy, SONI and Electricity Generation Licence holders in relation to security of electricity supply for the benefit of Northern Ireland consumers.