

SONI: Article 14 (8) Notice and Licence Modification Decision

SONI Annual Reporting: Regulatory Instructions and Guidance Decision

26 Nov 2018



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 and 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

This paper sets out the Utility Regulator's (UR's) Decision on introducing a regular reporting structure to SONI. This Decision includes changes to the Transmission System Operator (TSO) Licence held by SONI.

Audience

This document is likely to be of interest to SONI, NIE Networks, electricity customers, other regulated companies in the energy industry, government and other statutory bodies and consumer groups with an interest in the energy industry.

Consumer impact

This regular reporting structure will provide the Utility Regulator (UR') a greater ability to measure SONI's performance in general and specifically against their allowed revenue through their price control. This allowed revenue is funded by all electricity consumers in Northern Ireland. The reporting structure will also help inform future allowed revenue for SONI, ensuring ongoing efficiency and value for money for NI Consumers.

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1. Background

- 1.1 This document sets out the Utility Regulator's (UR) Regulatory Decision on the implementation of Regulatory Instructions and Guidance (RIGs) for annual reporting of electricity transmission system operator (TSO) costs and outputs for SONI Ltd, the System Operator for Northern Ireland.
- 1.2 The UR has indicated for some time of its intention to introduce annual cost and output reporting for electricity and gas TSOs as signalled in our Final Determinations. This reporting would be in accordance with RIGs – which we are developing.
- 1.3 This reporting should provide us with accurate and consistent information on all TSO's costs and outputs.
- 1.4 The reasons for introducing annual reporting include;
- Monitoring performance against price control allowances and targets (including to inform application of sharing factors)
 - Collating consistent data that we can use in future price controls (and avoiding the need for a 'back-capturing' exercise)
 - Developing our understanding of all TSO's cost and output drivers
 - Analysing historical trends and benchmarking performance
 - Providing transparency to network users and consumers, through developing and publishing annual reports on performance.
- 1.5 The introduction and development of RIGs has also been informed by Ofgem's RIIO RIGs¹ and the RIGs that exist for Northern Ireland Electricity Networks².

¹ Electricity transmission: <https://www.ofgem.gov.uk/publications-and-updates/direction-modify-regulatory-instructions-and-guidance-rigs-riio-et1-version-53>

Gas transmission: <https://www.ofgem.gov.uk/publications-and-updates/notice-proposing-modifications-regulatory-instructions-and-guidance-rigs-riio-gt1-version-51>

² <https://www.uregni.gov.uk/publications/rp6-documentation>

2. Consultation Engagement

- 1.6 The UR's intention to introduce RIGS to SONI was signalled at the last Price Control³. We met with all of the TSO's in April to outline our intention to introduce and harmonise reporting of RIGs for electricity and gas TSOs.
- 1.7 The SONI RIGs were developed from the from business plan templates from SONI's current recent price control. The UR developed the Instructions for Completion of the RIGs and the Draft Reporting Template collaboratively with SONI from April to July 2018.
- 1.8 SONI had sight of the draft consultation, including the new Licence Condition and the draft statutory notices on 9th July 2018 to allow them sufficient time to comment July. SONI were also provided with the final draft of the consultation (with minimal changes following SONI's previous review) 2 days prior to our publication on 27th July⁴.
- 1.9 UR received three responses to the consultation from SONI Ltd, The Consumer Council and Mutual Energy Ltd which are published alongside this Decision.
- 1.10 The Consumer Council was supportive of the proposed RIGs and the Licence Modification. SONI's and Mutual Energy's responses were supportive of the introduction of the RIGs overall but made a number of points which we have sought to address the next section.

³ <https://www.uregni.gov.uk/publications/decision-2015-2020-price-control-soni>

⁴ <https://www.uregni.gov.uk/consultations/consultation-proposed-regulatory-instructions-and-guidance-soni>

Table 1 RIGS – SONI Points and UR Responses

	SONI Point	UR Response
1	<p>SONI has highlighted the level of ‘resource intensity’ required to collate the information on an annual basis and have compared it to a ‘mini-price’ control.</p>	<p>UR considers the level of information provision to be consistent with the type of information presented in management accounts. The financial information is much less than would be seen for a network company for example as there is no capex reporting (save TNPPs which are subject to separate reporting structure).</p> <p>Reporting of RIGs therefore has, in UR’s view, an incremental cost only and mainly in the first year as SONI takes their management information and translates it into the agreed RIGs format.</p> <p>UR will consider this incremental cost as appropriate.</p> <p>UR does not agree that the RIGs can be categorised as a ‘mini-price’ control.</p> <p>The annual RIGs reporting will also aid the licensee to inform and help develop business information plans for subsequent price controls.</p>
2	<p>SONI have expressed that the deadline of 31 January 2019 is demanding.</p>	<p>UR acknowledges that this date may not be achievable not least due to the statutory Licence modification process timelines. UR considers that the extension of this deadline to 30 April 2019 would be appropriate.</p> <p>UR does expect the following years to align with the Gas TSO submission timelines with a submission deadline of 31 January each year.</p>

3	<p>SONI commented that an ‘annual review’ is scheduled between UR and SONI to assist with continuous improvement of the data reporting template and reporting commentary.</p>	<p>UR welcomes this suggestion and agrees it should be included in the process.</p>
4	<p>SONI express that the licence modifications are not clearly explained and need re-consulted upon to be compliant with the requirements of Article 14 (2) of the Electricity Order.</p>	<p>The UR referenced sections of the consultation paper itself when setting out the wording in the notice. These sections indicate that effect of the Modification was for the purpose of ‘providing for RIGS’ and that they set out the ‘Scope, contents and common governance arrangements for RIGs.</p> <p>The proposed modification is to include a specific ‘Regulatory Instructions and Guidance’ condition. This is a separate condition and a stand-alone modification (not a series of modifications to the existing Licence test).</p> <p>The effect of this new condition provides a framework for the Authority to collect consistent information from SONI on an annual basis. The consultation also sought to gather stakeholder views on the appropriateness, accuracy and completeness of the Licence modifications, and the response received will help us monitor SONI’s performance and, over time, will provide a database of performance that will inform SONI’s subsequent price controls.</p> <p>UR considers that the notice could have been expanded upon to include this working instead of referencing the paper.</p> <p>SONI were provided with the express content of the Licence Modification well in advance of the public consultation and were invited to comment</p>

		<p>on it. UR considered that SONI were content with the proposed Modification as set out as they provided no comment.</p>
5	<p>SONI consider that paragraph 4 of the new condition does not align with SONI's existing Licence. The condition is requiring a retention of accounting records for a period of eight years as compared to the companies act requirement of a minimum of six years.</p>	<p>UR do not consider this requirement to be inconsistent as we are requiring the retention of records for RIGs purposes only and not on a general basis. In any event the requirements for the retention of such information are a minimum requirement.</p> <p>UR has amended this to six years so that SONI can have one obligation across all records. This does not preclude the review of this requirement in the future as the RIGs process matures. This amendment has been tracked in the copy of the Licence modification at Appendix 1.</p> <p>UR also note that as SONI are a regulated company who are price controlled, it is routine that financial records spanning at least two price control periods, normally ten years are retained and routinely much longer.</p>
6	<p>SONI have commented that paragraph 5 of the modification is more extensive than is described in the consultation paper and specifically draw attention to the point that the RIGs can include <i>'the circumstances in which the Authority may appoint an examiner to examine the recording of the specified information by the Licensee'</i></p>	<p>Paragraph 5 is concerned with potential future matters that <i>'may be included, or for which provision may be made, in the RIGs'</i></p> <p>Throughout this process it has been acknowledged by both the UR and SONI that the development of the RIGs would be a collaborative process and this condition merely sets out potential areas which could be developed in the future. Any decision provided for something such as an examiner would be discussed with and consulted upon with SONI. In addition there would be a specific Licence modification in line with the statutory process if required.</p>

Table 2 RIGS – Mutual Points and UR Responses

	Mutual Issue	UR Response
1	<p>Mutual commented on the proposed timing of the submissions and expressed that while challenging this seemed achievable.</p> <p>Mutual further commented that sufficient time between the effective date of the Licence modifications and the submission deadline.</p> <p>A further point was made that the decision is very near the end of the regulatory period.</p>	<p>The timeline for the first submission has been extended to 30 April 2019 this is three months after the Licence modification become effective to allow for time to collate the information.</p> <p>SONI’s regulatory accounting year end is September (as is their financial year end) so there should be no undue burden.</p> <p>The template was largely based on the last price control submission so SONI are very familiar with the format meaning completion should be relatively straightforward.</p> <p>The collaborative nature in which we developed the RIGS also aids understanding and should assist in timely completion.</p>
2	<p>Mutual commented on the reporting format and referenced the OFGEM comprehensive glossary used in the past for their RIGS.</p> <p>Mutual further expressed specific comments around line items.</p>	<p>The UR felt that a comprehensive glossary did not add value in this instance, particularly given that the majority of items are standard operating expenditure lines.</p> <p>As we progress the RIGS with SONI, if stakeholders feel a glossary would add value we will consider it.</p> <p>On the specific line items that Moyle commented on UR consider these appropriate as they are in line with SONI’s business plan submission and were agreed throughout this process with the licensee. In particular UR considers both indirect staff costs and pension costs to be material costs in the context of SONI. Indirect staff costs may include staff working on network planning which is critical information. In respect of pensions UR consider that employer rates are relevant as regulatory allowances have been provided based on agreed employer/employee contribution rates.</p>

3	<p>Mutual raised a question around the potential administrative burden of including forecasts in annual RIGs submissions.</p>	<p>It is currently the intention that RIGs covers historic data only. The RIGs will enable network operators to complete the reporting requirements associated with the price control arrangements.</p> <p>SONI's licence forecasting is a requirement within certain licence conditions and would be an activity that we would expect Network Operators to be comfortable with, we consider that the Price Control process and future business plan submissions cover the forecasting requirements.</p>
4	<p>Mutual considered that Paragraph 2.7 is unclear and that could be interpreted to require the inclusion of all data on affiliates and related undertakings of the licensee.</p>	<p>The intention is that this information will be provided in so far as this affiliate or related undertaking <i>'directly or indirectly provides goods or services to the licensee'</i>.</p> <p>This does not mean that UR need to see all of the financial information for this affiliate or related undertaking, only the elements that are relevant to the reporting of the licensee for the activity under the Licence.</p>
5	<p>Mutual stated that reconciliation to the regulatory accounts may be challenging due to timing differenced.</p>	<p>UR does not consider this a significant issue as reporting periods will be consistent.</p>

3. UR Decision

- 1.11 The UR welcomes that all respondents to the consultation were supportive of the introduction on annual cost reporting to SONI in the form of RIGs, including SONI themselves.
- 1.12 This information will help the Authority monitor SONI's performance and, over time, will provide a database of performance that will inform SONI's subsequent price controls.
- 1.13 The UR considers it important that RIGs are introduced across all of the companies we regulate, including both SONI as the electricity TSO and the gas TSOs. Reporting already exists in Northern Ireland Electricity Networks, NI Water and the Gas Network owners.
- 1.14 The UR is therefore implementing the RIGs structure to SONI as outlined in the consultation paper of 27 July 2018. We have sought to address any issues SONI raised in their consultation response in Section 2 of this paper and look forward to engaging with them to develop the RIGs over the coming years.
- 1.15 The UR has maintained the original drafting of the Licence Modification, save a minor amendment to Paragraph 4 following SONI's representation, for maintained records, to six years, so that SONI can have one obligation across all records. An Article 14(8) Notice outlining the intention to modify SONI's Licence, alongside a copy of the new condition is included in this paper.

Article 14 (8) Notice

THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION NOTICE UNDER ARTICLE 14(8) OF THE ELECTRICITY (NORTHERN IRELAND) ORDER 1992 (AS AMENDED)

MODIFICATIONS TO THE ELECTRICITY TRANSMISSION LICENCE HELD BY SONI LIMITED

In accordance with Article 14(2) of the Electricity (Northern Ireland) Order 1992 ("the **Order**") the Northern Ireland Authority for Utility Regulation ("the **Authority**") published (on 27 July 2018) a notice of its intention to modify the conditions of the electricity transmission licence ("the **Licence**") held by SONI Limited ("the **Licensee**").

In accordance with Article 14(5) of the Order the Authority has considered representations duly made to it and has decided to proceed with the making of certain modifications to the conditions of SONI's electricity transmission licence in exercise of its powers under Article 14(1) of the Order.

In accordance with Article 14(8) of the Order the Authority gives notice as follows–

1. The Authority has decided to proceed with the modifications to the electricity transmission licence (the "**Licence**") held by SONI (the "**Licensee**")
2. On 27 July 2018 the Authority published a notice and an accompanying consultation paper (together the "**Consultation Notice**") stating that it intended to modify the Licence, and stating the reasons for and effect of the modifications.
3. The purpose of the Consultation Notice was to bring the proposed modifications to the attention of the Licensee and other persons likely to be affected by them, and to invite representations or objections in connection thereto.
4. Formal responses were received from SONI Ltd, The Consumer Council and Mutual Energy Ltd. These responses are published together with this Notice.
5. The Authority has summarised the representations received, set out how it has taken account of them and (if appropriate) its response to them. The Authority has described a minor change to Paragraph 4 of the new condition proposed in the notice of 27 July 2018 in its paper entitled " SONI Annual Reporting: Regulatory Instructions and Guidance Decision " published on 26 November 2018 together with this notice (the "**Decision Paper**"). The Authority has amended Paragraph 4 (b) for maintained records, to six years, so that SONI can have one obligation across all records.
6. The effect of the decision will be to include a new condition in the Licence, Condition 41. This condition will introduce a regular reporting structure to SONI. The proposed Licence condition provides a framework for the Authority to collect consistent information from SONI on an annual basis.

7. The reasons why the Authority proposed to make Article 14(8) modifications were set out in the Consultation Notice and clarified in the Authority's paper entitled " SONI Annual Reporting: Regulatory Instructions and Guidance Decision " published on 26 November 2018.
8. The modifications will take effect from 28 January 2019.
9. The Authority has, pursuant to Article 14(8) of the Order, published this notice on its website and sent a copy of this notice to the licensee. In addition, a copy of this notice has been provided to the Department for the Economy and the Consumer Council for Northern Ireland.
10. A copy of the modifications can be obtained in hard copy from Natalie Dowey at: Utility Regulator, Queens House, 14 Queen Street, Belfast, BT1 6ED. Email natalie.dowey@uregni.gov.uk
11. Dated this 26 day of November 2018.

Jenny Pyper



For and on behalf of the Northern Ireland Authority for Utility Regulation

CC June Ingram, Infrastructure and Regulation Group, DfE
Robin McCormick (General Manager), SONI Limited
John French (CEO), Consumer Council for Northern Ireland

Appendix 1

Condition 41. Regulatory Instructions and Guidance

- 1 The purpose of this Condition is to set out the scope, contents, and common governance arrangements for the Regulatory Instructions and Guidance (“RIGs”) published by the Authority pursuant to this Condition.
- 2 The RIGs are the primary means by which the Authority directs the Licensee to collect and provide the information to the Authority that the Authority needs to enable it to administer the Annex 1 Charge Restrictions of this Licence and any determinations made by the Authority under or for the purposes of the Annex 1 Charge Restrictions.

Licensee’s obligation under this Condition

- 3 Unless and so far as the Authority otherwise consents, the Licensee must have in place and maintain appropriate systems, processes, and procedures to enable it:
 - (a) to estimate, measure, and record the information detailed in the RIGs (“specified information”); and
 - (b) to provide such information to the Authority in respect of such periods and within such timeframes as are specified in the RIGs.
- 4 To facilitate compliance with paragraph 3 of this Condition, the accounting records and other records kept by the Licensee with respect to the specified information must:
 - (a) be so arranged as to ensure that such information can be separately identified and reasonably attributed as between the Licensee’s business and the business of any affiliate, associated business or related undertaking of the Licensee; and
 - (b) be maintained for a period of **six** years, or such shorter period as set out in the RIGs, from the date that they are made.

Scope and content of RIGs

- 5 Subject to paragraphs 6 and 7 of this Condition, the matters that may be included, or for which provision may be made, in the RIGs are:
- (a) instructions and guidance on the establishment of systems, processes, procedures, and ways for recording and providing specified information;
 - (b) instructions and guidance on the standards of accuracy and reliability that are applicable to the recording of specified information (including different classes of such information);
 - (c) a timetable for the development of such systems, processes, and procedures as are required to achieve such standards;
 - (d) the methodology for calculating or deriving numbers comprising specified information;
 - (e) provision with respect to the meaning of words and phrases used in defining specified information;
 - (f) requirements as to the form and manner in which, or the frequency with which, specified information must be recorded;
 - (g) requirements as to the form and manner in which, or the frequency with which, specified information must be provided to the Authority;
 - (h) requirements as to which (if any) of the specified information is to be subject to audit, the terms on which an auditor is to be appointed by the Licensee for that purpose, and the nature of the audit to be carried out by that person;
 - (i) requirements as to the circumstances in which the Authority may appoint an examiner to examine the recording of the specified information by the Licensee;
 - (j) a statement on whether and to what extent each category of the specified information is required for the purposes of the RIGs; and

(k) provision about how the Authority intends to monitor, assess, and enforce compliance with the RIGs (as to which, see also paragraphs 15 and 16).

6 The provisions of the RIGs must not exceed what is reasonably required to achieve the purposes of this Condition, having regard to the materiality of the costs likely to be incurred by the Licensee in complying with those provisions.

7 No specified information may exceed what could be requested from the Licensee by the Authority under Condition 7 paragraph 1.

Development and modification of the RIGs

8 The Authority may issue new RIGs or modify any existing RIGs by issuing a direction for that purpose to the Licensee.

9 Data collected in relation to each formula year must be reported according to the RIGs issued to the Licensee by the Authority as they may be (where applicable) modified in line with this Condition.

10 A direction issued by the Authority under paragraph 8 of this Condition will be of no effect unless the Authority has first:

(a) given notice to the Licensee that it proposes to issue new RIGs or (as the case may be) to modify the RIGs:

(I) specifying the date on which it proposes that the provisions of the document to be issued or modified should take effect;

(II) setting out the text of the RIGs to be issued or (as the case may be) modified and the Authority's reasons for proposing to issue or modify it; and

(III) specifying the time (which will not be less than a period of 28 days from the date of the notice) within which representations in response to such proposals may be made; and

(b) considered any representations in response to the notice that are duly made and not withdrawn.

11 The requirements for the issuing of new RIGs or modification of existing RIGs set out in paragraph 10 of this Condition may be satisfied by actions taken by the Authority before as well as after the coming into effect of this Condition.

Requirements for new or more detailed information

12 This section applies if any modified or new RIGs have the effect of introducing a requirement to provide:

(c) a new category of specified information; or

(d) an existing category of specified information to a greater level of detail, which has not previously been collected by the Licensee, whether under the provisions of the RIGs or otherwise.

13 Where this section applies, the Licensee may provide estimates to the Authority in respect of the relevant category of specified information for any formula year specified by the Authority.

14 The estimates that are mentioned in paragraph 13 of this Condition may be derived from such other information available to the Licensee as may be appropriate for that purpose.

Compliance with the provision of the RIGs

15 The Licensee must at all times comply with the provisions of the RIGs for the time being in force pursuant to this Condition.

16 Nothing in this Condition requires the Licensee to provide any documents or give any information that it could not be compelled to produce or give in evidence in civil proceedings before a court.

Definitions

17 For the purposes of this Condition:

"examiner"

means, in relation to the RIGs, a person whose degree of knowledge and experience of the matters that are the subject of the RIGs will enable him to properly carry out and complete the tasks required of him under the terms of his nomination by the Authority pursuant to the provisions of the RIGs;

"specified information"

means information (or a category of information) that is so described or defined in the RIGs.