



**Draft Power Procurement Business Licence  
Conditions  
to facilitate the implementation of the  
Single Electricity Market  
and EU Directive  
Consultation Paper**

**13 April 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”). In Northern Ireland the modifications to licences will be made by the Department of Enterprise, Trade and Investment under Article 3 of the Electricity (Single Electricity Market) Order 2007 or under Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005 in order to implement EU Directive 2003/54/EC.

This document sets out proposed enduring conditions for the Power Procurement Business (PPB) that will apply from November 2007 for the introduction of the SEM and for implementation of the Directive. The proposed NIE Energy licence will as well as containing PPB conditions also contain licence conditions covering the NIE Supply business functions of NIE Energy; 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 draft for 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.

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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 Proposed Conditions

### Condition 53

This is a general condition pertaining to the Power Procurement Business. It is taken from the existing PPB conditions.

### Condition 54

This condition reflects the condition regarding the Public Service Obligation in the Transmission licence being consulted on presently and also PPB's obligations with respect to the PSO charges. However depending on the method of revenue collection some or all of the condition may not be required. At present the regulatory authorities are considering three options.

1. A single contract between either NIE T&D or PPB on the one hand and suppliers on the other. Whichever party collects PSO revenues passes to the other via a bi-lateral side agreement.
2. A multi lateral contract to which T&D, PPB and suppliers are parties. Each supplier would have two agreements, one with T&D and one with PPB with both being incorporated into the one single contract.
3. Two separate contracts, one between PPB and suppliers and one between NIE T&D and suppliers with both recovering their own revenues due to them.

The regulatory authorities have a preference for either option one or two as these options minimise the number of industry documents that need to be managed but invite views from interested parties as to which option they consider is most appropriate.

### Condition 55

This is a new condition that sets out the rules for bidding behaviors in the SEM. This condition reflects the principles set out in the AIP Decision on bidding principles.<sup>2</sup> This condition has been circulated to industry as part of the Kilroot Generation Licence consultation and the results of that consultation if they include any agreed changes will be reflected in this PPB condition.

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<sup>2</sup> AIP/SEM/116/06

#### Condition 56

This condition requires that the licensee shall comply with the Trading and Settlement code. This condition replaces that of the Supply Competition Code which it is assumed will be run off as a result of full retail market opening.

#### Condition 57

This is a new condition which requires that PPB must comply with the Intermediary Agreement. The Intermediary Agreement will be a new agreement between PPB and relevant generators governing their new relationship under SEM with respect to legacy power purchase agreements. This condition has been circulated to industry as part of the Kilroot Generation Licence consultation and the results of that consultation if they include any agreed changes will be reflected in this PPB condition.

#### Condition 58

This condition will be consulted upon as part of a separate consultation process. The draft licence has a placeholder for this condition.

#### Condition 59

This condition sets out the terms by which PPB shall be an independent business from any associated business on a managerial and operational basis. It does not however undermine Viridian's corporate governance rights with respect to PPB. It also requires the implementation of a compliance plan and the appointment of a compliance manager. The condition may be expanded to allow for certain clauses existing in the legacy contracts as part of the second phase of this consultation.

#### Condition 60

This condition prohibits PPB from entering into new electricity purchase contracts. The definition of electricity purchase contract has not yet been finalized. This definition will be decided upon after a decision has been formulated regarding options 1 and 2 of 6.1.1 of AIP/SEM/07/16<sup>3</sup>. Following that decision extra clauses may be required in this condition to govern PPB's activity in the contracts market. The condition does however allow for PPB to enter into a

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<sup>3</sup> "A Strategy for the Regulation of ESB and NIE in the Single Electricity Market: A consultation Paper" AIP/SEM/07/16.

new electricity purchase contract if it is necessary for compliance with an existing power purchase agreement.

#### Condition 61

This is a general non-discrimination clause that relates to both generators and suppliers.

#### Condition 62

This condition was formerly part of condition 8 of section II B of the "Transmission and Public Electricity Supply Licence Document granted to Northern Ireland Electricity PLC". The paragraphs relating to indebtedness have been omitted for the time being as it seems to the authority that these are essentially focused only on the network business and have no application either to NIE Supply or PPB. This however may be reviewed and after consultation those paragraphs that relate to indebtedness may be included if it is decided they do have relevance to PPB.

#### Condition 63

This condition is a general Payment Security Policy condition which requires that PPB develop and submit their Payment Security Policy to the authority only. It does not direct that details of any such policy be made public.

#### Condition 64

The detail of this condition will be included in the second part of this consultation process. The draft licence has a placeholder for this condition.

### **III Conclusions**

As previously alluded to this list of conditions is not exhaustive and other conditions may be added if the authority decides they are applicable to the Power Procurement Business. One example of such a condition is an obligation on economic purchasing which is currently a PPB condition. The inclusion or otherwise of this condition however will form part of the second stage of this consultation.

As mentioned in the accompanying draft a condition regarding the cancellation of contracts will be the subject of a separate consultation and the detail of the directed/undirected contracts condition will be included in the second part of this consultation process.

The existing condition regarding Bulk Supply Tariff and PSO charge will be replaced by the new PSO condition. The Bulk Supply Tariff Restriction condition and the existing Supply Competition Code condition are likely to be no longer applicable under SEM and finally the Provision of Information condition is also likely to be no longer applicable under SEM.

#### **Next Steps**

The regulatory authorities request comment from interested parties in relation to the proposed Power Procurement Business conditions.

Comments on these proposed conditions should be forwarded, preferably in electronic form, to [Michael.Campbell@Ofregni.Gov.uk](mailto:Michael.Campbell@Ofregni.Gov.uk) or posted to:

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The deadline for receipt of comments is 17.00h on 11th May 2007.