

Consultation by NIAUR
on the
Run Off of Pre-SEM Arrangements
in
Northern Ireland

1. Purpose and Scope of this Paper

- 1.1 The transitional licence conditions which were introduced on 3rd July 2007 required licensees to take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to fully and effectively run-off, from SEM Go-Live, the Pre-SEM Arrangements for which it is responsible.
- 1.2 The approach on run-off requires steps to be taken by “responsible licensees” with the implementation of aspects of that approach requiring utilisation of powers available to the Authority under the licences. The Authority therefore considers it appropriate to consult with licensees in general as to the way in which the Pre-SEM Arrangements should be run-off.
- 1.3 The approach recommended by the Authority is seen as a pragmatic way forward, but comments are invited from all licensees.

2. Arrangements that need to be Run-Off

- 2.1 The following arrangements were identified in the transitional licence conditions as those Pre-SEM Arrangements that will require to be run-off:
 - 2.1.1 the Supply Competition Code;
 - 2.1.2 the Interim Settlement Code and Interim Settlement Agreements;
 - 2.1.3 the renewable output factor arrangements;
 - 2.1.4 the small renewable spill arrangements;
 - 2.1.5 the top-up and standby arrangements (if any);
 - 2.1.6 the arrangements for payment of the bulk supply tariff; and
 - 2.1.7 the arrangements for wheeling

3. The Run Off Arrangements

- 3.1 The proposal for run-off is that a single document “the Run-Off Arrangements” sets out the way in which it is proposed to deal with each of the Pre-SEM Arrangements detailed at paragraph 2 above.

- 3.2 To this extent, there are two principal options. A generic direction requiring licensees to comply with one set of Run-Off Arrangements or specific directions requiring licensees to comply with run off in relation to their contracts. The Authority's preferred approach is the former as it would provide a single reference point for all licensees in relation to run off. If considered necessary however the Authority could issue individual directions requiring licensees to either;
- 3.2.1 enter into an Amendment Agreement to give effect to changes to the Pre-SEM Arrangements;
- 3.2.2 in the case of the Interim Settlement Code to change the Interim Settlement Code; or
- 3.2.3 to effect changes to a Charging Statement of the relevant licensee.

4. Specific Points for Consideration

- 4.1 At what point in time do licensees consider it appropriate to terminate the Interim Settlement Agreements and thus the Interim Settlement Code (paragraph 3.2.6 of the Proposed Run-Off Arrangements)? Is it appropriate to set out the date or should the flexibility be afforded so that the Code is terminated at a time determined by the Authority? If considered appropriate a shortstop date could be inserted so that the Code would continue until at least a specified date.
- 4.2 For what length of time is it appropriate to continue the confidentiality provisions of both the ISC (and its related ISAs) and the ROF arrangements (paragraphs 3.7 and 5.8 of the Proposed Run-Off Arrangements)?
- 4.3 NIE is giving further thought to the data required for settlement. (paragraphs 5.1.4 of the Proposed Run-Off Arrangements).
- 4.4 At what point in time do licensees consider it appropriate to terminate the ROF arrangements (paragraph 5.3.6 of the Proposed Run-Off Arrangements)? Is it appropriate to set out the date or should the flexibility be afforded so that the ROF arrangements are terminated at a time determined by the Authority? If considered appropriate a shortstop date could be inserted so that the arrangements would continue until at least a specified date.

5. Comments

- 5.1 NIAUR welcomes comments on both the general approach and any of the specific points covered in this paper. All responses, except those marked as confidential, will be published on the NIAUR website.

Respondents should try to confine any confidential material in their responses to appendices. NIAUR prefer to receive responses in an electronic form so that they can easily be placed on the website. Responses should be sent by 12 noon on 30th October to Barbara Cantley.

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Proposed Run-Off Arrangements

23rd October 2007

1. Introduction

1.1 Condition D of the transitional licence obligations of Northern Ireland Electricity plc (“NIE”), SONI Limited (SONI), Northern Ireland generators, suppliers (including NIE Energy Limited) and Moyle contains a general requirement on the relevant licensee to take all reasonable steps and to do all such reasonable things as are within the licensee’s power and necessary or expedient in order to fully and effectively run-off from SEM Go-Live, the Pre-SEM Arrangements for which each relevant licensee is responsible.

1.2 In the case of NIE, the agreements for which it is responsible are as follows:

- 1.2.1 the Supply Competition Code;
- 1.2.2 the Interim Settlement Code and Interim Settlement Agreements;
- 1.2.3 the renewable output factor arrangements;
- 1.2.4 the small renewable spill arrangements;
- 1.2.5 the top-up and standby arrangements (if any);
- 1.2.6 the arrangements for payment of the bulk supply tariff; and
- 1.2.7 the arrangements for wheeling.

In the case of other persons, whether they are specifically “Responsible” for the run-off of the particular document generally depends on whether the Authority so directs following consultation with the relevant person and (in most cases) the Power Procurement Business.

1.3 This document sets out the arrangements for run-off of these documents (“Run-off Arrangements”).

1.4 The Run-off obligations in the transition licences provide:

- “3 Without prejudice to paragraphs 1 and 2, the Licensee shall take all reasonable steps, and do all such reasonable things, as are (in each case) within its power and necessary or expedient in order to comply with any direction made from time to time by the Authority in accordance with paragraph 4 (and shall by so doing be taken to have complied with such direction).
- 4 The Authority may issue directions to the Licensee setting out the steps to be taken (or procured) by the Licensee which are, in the Authority’s reasonable opinion, appropriate in order to fully and effectively run-off, from SEM Go-Live, the Pre-SEM Arrangements for which it is Responsible.
- 5 The Authority may, at any time, by a further direction in accordance with paragraph 4 (in order to fully and effectively run-off, from SEM Go-Live, the Pre-SEM Arrangements for which the Licensee is Responsible) amend or cancel any direction (or part thereof) previously made under paragraph 4.
- 6 The Authority may not make a direction under paragraph 4 until it has undertaken such period of prior consultation with the Licensee (and such other persons as the Authority deems appropriate) as is reasonable in the circumstances. No direction made under paragraph 4 shall be effective until a copy is served on the Licensee.”

1.5 The Run-off Arrangements allow for a direction to be made pursuant to the above transition licence obligation and bind all persons who hold an electricity licence under the Electricity Order 1992. In relation to other persons, the Run-off Arrangements describe the process by which the relevant counterparty to the agreement or arrangement with NIE will be bound to the Run-off Arrangements (principally by modification of the relevant Spill and BST tariffs and Charging Statement in relation to Wheeling Tariffs to require counterparties to the relevant agreements to comply with these Run-off Arrangements as applicable to them).

2. General Matters

2.1 General obligations of parties

Without prejudice to any specific provisions under these Run-Off Arrangements as to the time within which or the manner in which a party should perform its obligations under the Run-off Arrangements, each party (a party being a person subject to any of the documents listed in paragraphs 1.2. to 1.2.8 above and required to comply with these Run-Off Arrangements under regulatory obligations or otherwise) is required to take any step or measure under the Run-off Arrangements, such a requirement shall be construed as including an obligation:

- 2.1.1 to take such steps as are reasonably practicable; and
- 2.1.2 to do such associated or ancillary things (within the power of the party) as may be necessary to complete such step or measure as quickly as reasonably practicable.

2.2 Relationship with run-off documents

- 2.2.1 The provisions of the ISC, ISA and interim renewable output factor arrangements shall be varied or suspended by and in accordance with, and for the period and to the extent set out in, the Run-off Arrangements.
- 2.2.2 In the event of any conflict or inconsistency between the provisions of the ISC, ISA or the interim renewable output factor arrangements, the provisions of the Run-off Arrangements shall prevail.

2.3 Disputes

In the event of any dispute between the parties as to whether a particular step, or action is reasonable, or whether a particular provision of any of the documents listed in paragraphs 1.2.1 to 1.2.8 should continue to apply during the period of run-off, the parties to the Run-off Arrangements may refer the matter to the Northern Ireland Authority for Utility Regulation (the “Authority”) for determination.

2.4 Definitions

- 2.4.1 Unless the context otherwise requires, capitalised terms used in:
 - (a) Section 3 shall have the same meaning as in the Interim Settlement Code and the Interim Settlement Agreement;
 - (b) Section 5 shall have the same meaning as in the Interim ROF Arrangements; and
 - (c) Section 8 shall have the same meaning as in the Bulk Supply Tariff published by NIE.
- 2.4.2 “Authority” means the Northern Ireland Authority for Utility Regulation.
- 2.4.3 “SEM Go Live” means the time and date designated as “SEM Go-Live” by the Northern Ireland Authority for Utility Regulation (with the consent of the Department of Enterprise Trade and Investment) for the purposes of, amongst other things, licences granted under the Electricity Order 1992, being the commencement date for a number of matters including the SEM.

- 2.4.4 “Single Electricity Market” or “SEM” has the meaning given to “Single Electricity Market” in the Supply Licence.
- 2.4.5 “Supply Licence” means the licence to supply electricity granted under the Electricity (Northern Ireland) Order 1992 to NIE plc which will be transferred to NIE Energy Limited at SEM Go Live pursuant to a property arrangements scheme made pursuant to Regulation 14 of the Electricity Regulations (Northern Ireland) 2007.

3. Interim Settlement Code and Interim Settlement Agreements

3.1 Responsibility for Run-off

- 3.1.1 With the exception of the matters referred to in 3.1.2, the principal responsibility in relation to run-off of the settlement calculations under the Interim Settlement Code (pursuant to the transition licence obligations in the NIE Supply Licence) fall to the power procurement manager (“PPB”), which will be NIE plc to SEM Go-Live and NIE Energy Limited from SEM Go-Live. In relation to matters other than settlement calculations which are required for full and effective run-off, such as disputes over the input data (for example, nominations or meter data) the entity responsible for these matters shall be the entity that has access to the relevant information, which in the case of NIE shall be PPB, NIE or SONI as appropriate. Any clarification as to which of these entities should be responsible may be referred to NIAUR for determination
- 3.1.2 To the extent of the system support services charges made by SONI, these will be run-off by SONI.
- 3.1.3 NIE shall remain the counterparty to the Interim Settlement Agreements, and to the extent that PPB and SONI carry out run-off activities in relation to the Interim Settlement Code, these shall be carried out by PPB and SONI as the agents of NIE.
- 3.1.4 The rights and obligations of NIE and each Participant under the Interim Settlement Code and Interim Settlement Agreement shall be modified so as to have effect only to the extent required to meet the overall objectives set out in clause 3.2. Each Participant and PPB shall comply with the Interim Settlement Agreement and the Interim Settlement Code, and do all such things as are reasonably necessary in accordance with the overall obligations in relation to run-off in their respective licences, so as to achieve the overall objectives set out in paragraph 3.2.

3.2 Overall objectives to be achieved by Run-off

From SEM Go Live, the rights and obligations of each Participant and PPB (acting as agent of NIE) under the Interim Settlement Code and Interim Settlement Agreements shall be amended so as to achieve the following:

- 3.2.1 *From SEM Go Live*, Standing Data, and data in relation to nominations and bids, shall not need to be provided in relation to any Settlement Periods from SEM Go Live.
- 3.2.2 *From SEM Go Live*, obligations in relation to the processing of data relating to the facilitation of trading in Settlement Periods from SEM Go Live shall not apply.
- 3.2.3 *From SEM Go Live*, all information to allow full, final and effective calculation, invoicing, settlement, adjustment or resolution of any disputes in relation to Settlement Periods up to SEM Go Live shall be provided and/or maintained (as required) by each Participant and PPB, NIE and SONI as relevant, and obligations on all parties in relation to the provision of information for all Settlement Periods up to SEM Go Live shall continue to apply from SEM Go Live to the extent necessary to achieve this.
- 3.2.4 *From SEM Go Live*, all obligations in relation to settlement calculations, Supplier and Generator Payments shall continue to apply in relation to Settlement Periods up to SEM Go Live only.
- 3.2.5 *From such time as PPB confirms in writing to the Participant that the Participant has no further monies due to NIE under the Interim Settlement Agreements*, the requirement on the Participant to maintain Security Cover pursuant to clause 6 of the Interim Settlement Agreement shall no longer apply, provided that if subsequently any such liability is identified then the obligations under clause 6 of the Interim Settlement Agreement shall be reinstated in relation to such Participant to the extent of such liability for the period that such liability remains outstanding (which shall be no longer than is specified in paragraph 3.2.6).
- 3.2.6 *From [x] months after SEM Go Live, being [date]*, Participants and PPB shall terminate the respective Interim Settlement Agreements and so the Interim Settlement Code shall cease to have effect. Until such date (the “ISC run-off period”) PPB and each Participant shall comply with the Interim Settlement Code and the Interim Settlement Agreement to the extent required to ensure that the objectives in this paragraph 3.2 can be achieved. The accrued rights and liabilities of each Participant and PPB and NIE shall not be affected by such termination.

- 3.3 Where a Participant wishes to clarify whether a particular provision of the Interim Settlement Code or the Interim Settlement Agreement continues to apply in its original or in a modified manner during the ISC run-off period, the Participant shall refer the matter to PPB and shall continue to comply with such obligation until such time as PPB has confirmed PPB's view on the scope of the relevant right or obligation.
- 3.4 Following confirmation from PPB, either pursuant to this provision or by PPB acting of its own accord, that a particular provision shall apply to the Participant in the ISC run-off period in such manner as identified by PPB, taking into account the objectives set out in paragraph 3.2, the Participant shall comply with the provision in the manner identified by PPB.
- 3.5 Where a Participant wishes to dispute whether a particular provision should apply at all or in the manner identified by PPB pursuant to paragraph 3.4, it may refer the matter to the Authority for determination (which determination shall be final for the purposes of the Run-off Arrangements).
- 3.6 All matters other than those relating to the scope of the obligations applicable to Participants and PPB during the ISC run-off period shall continue to be subject to the dispute resolution provisions in paragraph 20 of the Interim Settlement Code and clause 10 of the Interim Settlement Agreement (as applicable).
- 3.7 The confidentiality obligations in clause 16 of the Interim Settlement Agreement shall continue for a period of [12] months following the end of the Run-off Period.

4. Run off of the Supply Competition Code

- 4.1 The run-off of the Supply Competition Code will occur automatically on the cessation of the relevant licence obligations. No further action is required.

5. Run off of the renewable output factor arrangements

5.1 General

- 5.1.1 The renewable output factor arrangements (ROF) are established by PPB under the Transmission & Public Electricity Supply Licence. The terms under which ROF operates are set out in a letter agreement between NIE and each ROF supplier known as "Interim ROF arrangements". While NIE shall remain the counterparty to the Interim ROF arrangements, to the extent that PPB and SONI carry out run-off activities in relation to the Interim ROF arrangements, these shall be carried out by PPB and SONI as the agents of NIE. The Run-off Arrangements shall constitute a

modification of the Interim ROF arrangements pursuant to paragraph 7.11 of the Interim ROF arrangements.

- 5.1.2 ROF provides for settlement over a time period of a year (not a half-hour). Under ROF, for settlement purposes the year runs from the start of April to the end of March. For the 2007/2008 ROF year, the arrangements shall in all respects other than as required for settlement of trades prior to SEM Go Live terminate on SEM Go Live. PPB shall be entitled to exercise its rights to terminate under the interim ROF letter to terminate ROF at the required time. The settlement year will end upon SEM Go Live.
- 5.1.3 Ending of the settlement year at SEM Go Live shall not affect rights accrued before SEM Go Live. PPB will settle out the year as at the Go Live Date, which it would expect to do within the normal timeframes for settlement. In addition, in the normal course PPB expects there to be adjustments to data for a period of some months after initial settlement, which would result in settlement adjustments.
- 5.1.4 The main issue for ROF run-off is the source of the information needed by PPB for settlement and settlement adjustments. In particular there is a need to check what will be available under TSC arrangements relating to the period before go-live, i.e. adjustments to data (primarily metering data and in particular quarterly meter reads) for the pre-SEM period. Where any person to whom these Run Off Arrangements is to provide data to PPB to facilitate settlement of the Interim ROF arrangements, to the extent such data is not available, or accurate data is not available, such person shall provide a reasonable estimate of such data together with the bases on which the estimate has been prepared. Where PPB notifies alternative bases for the estimate, such person shall provide the estimate as revised to reflect such alternative bases.
- 5.1.5 Where under 5.1.4 estimated data is used then licensees will be required to act reasonably and in the event of any dispute as to the value or use of estimated data, either party to the dispute may refer the matter to the Authority for determination.

5.2 Specific Actions

- 5.2.1 The principal responsibility in relation to run-off of the settlement calculations under the Interim ROF arrangements (pursuant to the transition licence obligations in the NIE Supply Licence) fall to the power procurement manager ("PPB"), which will be NIE plc to SEM Go-Live and NIE Energy Limited from SEM Go-Live. NIE shall from SEM Go Live provide such information as is required by PPB to perform its

functions in relation to run-off of the Interim ROF arrangements. SONI shall invoice directly for SSS charges and shall receive payment for such SSS charges directly to SONI's bank account.

- 5.2.2 The rights and obligations of NIE and each ROF Supplier under the Interim ROF arrangements shall be modified so as to have effect only to the extent required to meet the overall objectives set out in clause 5.3. Each ROF Supplier and PPB shall comply with the Interim ROF arrangements, and do all such things as are reasonably necessary in accordance with the overall obligations in relation to run-off in their respective licences, so as to achieve the overall objectives set out in paragraph 5.3.

5.3 Overall objectives to be achieved by Run-off

From SEM Go Live, the rights and obligations of each ROF Supplier and PPB under the Interim ROF arrangements shall be amended so as to achieve the following:

- 5.3.1 *From SEM Go Live*, All data in relation to nominations and bids shall not need to be provided in relation to the Settlement Years from SEM Go Live (or portion thereof).
- 5.3.2 *From SEM Go Live*, obligations in relation to the processing of data relating to the facilitation of trading from SEM Go Live shall not apply.
- 5.3.3 *From SEM Go Live*, all information to allow full, final and effective calculation, invoicing, settlement, adjustment or resolution of any disputes in relation to the period up to SEM Go Live shall be provided and/or maintained (as required) by each ROF Supplier and PPB, NIE and SONI as relevant, and obligations on all parties in relation to the provision of information for the part of the Settlement Year up to SEM Go Live shall continue to apply from SEM Go Live to the extent necessary to achieve this.
- 5.3.4 *From SEM Go Live*, all obligations in relation to settlement calculations shall continue to apply in relation to the Settlement Year up to SEM Go Live (or portion thereof) only .
- 5.3.5 *From such time as PPB confirms in writing to the ROF Supplier that the ROF Supplier has no further monies due to NIE under the Interim ROF arrangements* the requirement on the ROF Supplier to maintain Security Cover pursuant to the Interim ROF arrangements shall no longer apply, provided that if subsequently any such liability is identified then the obligations to provide security cover under the terms of the Interim ROF arrangements shall be reinstated in relation to such ROF Supplier to

the extent of such liability for the period that such liability remains outstanding, which shall be no longer than the end of the ROF run-off period as defined in paragraph 5.3.6.

5.3.6 *From [x] months after SEM Go Live, being [date], PPB shall terminate the Interim ROF arrangements and they shall cease to have effect pursuant to paragraph 5 thereof. Until such date (the “ROF run-off period”) PPB and each ROF Supplier shall comply with the Interim ROF arrangements to the extent required to ensure that the objectives in this paragraph 5.3 can be achieved. The accrued rights and liabilities of each ROF Supplier and PPB and NIE shall not be affected by such termination.*

5.4 Where a ROF Supplier wishes to clarify whether a particular provision of the Interim ROF arrangements continues to apply in its original or in a modified manner during the ROF run-off period, the ROF Supplier shall refer the matter to PPB and shall continue to comply with such obligation until such time as PPB has confirmed PPB’s view on the scope of the relevant right or obligation.

5.5 Following confirmation from PPB, either pursuant to this provision or by PPB acting of its own accord, that a particular provision shall apply to the ROF Supplier in the ROF run-off period in such manner as identified by PPB, taking into account the objectives set out in paragraph 5.3, the ROF Supplier shall comply with the provision in the manner identified by PPB.

5.6 Where a ROF Supplier wishes to dispute whether a particular provision should apply at all or in the manner identified by PPB pursuant to paragraph 3.4, it may refer the matter to the Authority for determination (which determination shall be final for the purposes of the Run-off Arrangements).

5.7 All matters other than those relating to the scope of the obligations applicable to ROF Suppliers and PPB during the ROF run-off period shall continue to be subject to the dispute resolution provisions in paragraph 7.7 of the Interim ROF arrangements.

5.8 The confidentiality obligations in clause 16 of the Interim Settlement Agreement shall continue for a period of [12] months following the end of the Run-off Period.

6. Run off of wheeling

6.1 The principal responsibility in relation to run-off of wheeling (pursuant to the transition licence obligations in the NIE Supply Licence) fall to the power procurement manager (“PPB”), which will be NIE plc to SEM Go-Live and NIE Energy Limited from SEM Go-Live. While NIE

shall remain the counterparty, to the extent that PPB and SONI carry out run-off activities in relation to wheeling, these shall be carried out by PPB and SONI as the agents of NIE.

6.2 NIE has use of system agreements in place with persons who wheel across the system. Under the agreement the right to wheel is subject to payment of “charges for the Wheeling of electricity calculated in accordance with the Statement of Charges for Use of the Northern Ireland Electricity plc Electricity Transmission and Distribution System by Authorised Persons as in effect from time to time”. It is proposed that the Charging Statement be modified to require persons who wheel to comply with this Run-off Arrangements.

6.3 From SEM Go Live the right to wheel shall be hereby discontinued, and NIE PPB will advise each relevant person who participates in the wheeling arrangements of the charges due from them in relation to the period to SEM Go Live under the existing agreements. Wheeling customers shall pay accrued charges in accordance with their existing agreements and maintain security cover in accordance with their existing agreements.

7. Run off of small renewable spill arrangements

7.1 The principal responsibility in relation to run-off of small renewable spill arrangements (pursuant to the transition licence obligations in the NIE Supply Licence) fall to the power procurement manager (“PPB”), which will be NIE plc to SEM Go-Live and NIE Energy Limited from SEM Go-Live. While NIE remains principally responsible, to the extent that PPB and SONI carry out run-off activities in relation to small renewable spill arrangements, these shall be carried out by PPB and SONI as the agents of NIE. To the extent of the system support services charges made by SONI, these will be run-off by SONI.

7.2 NIAUR determines and approves the rate for the spill price. Payment for generation spill units is made by PPB, who informs the customer of the current spill price. It is proposed that the NIAUR’s determination be modified to require participate in the spill arrangements to comply with this Run-off Arrangements.

7.3 From SEM Go Live the small renewable spill arrangements shall be hereby discontinued, to be replaced by new spill arrangements and NIE PPB will advise each relevant person who participates in these of the charges due from them in relation to the period to SEM Go Live under the existing agreements. Customers shall pay accrued charges in accordance with their existing agreements and maintain security cover in accordance with their existing agreements.

7.4 Customers who are entitled to payments during the charging period to SEM Go Live must invoice PPB to receive payment for the amount due for spill up to SEM Go Live and shall invoice PPB in accordance with their agreements.

8. Run off of the top-up and standby arrangements (if any)

8.1 There has been no top-up or standby statement produced by the NIE Supply Business in circa 10 years.

9. Run off of the arrangements for payment of the bulk supply tariff (BST)

9.1 The principal responsibility in relation to run-off of the BST (pursuant to the transition licence obligations in the NIE Supply Licence) fall to the power procurement manager (“PPB”), which will be NIE plc to SEM Go-Live and NIE Energy Limited from SEM Go-Live. While NIE remains principally responsible, to the extent that PPB and SONI carry out run-off activities in relation to small renewable spill arrangements, these shall be carried out by PPB and SONI as the agents of NIE. To the extent of the system support services charges made by SONI, these will be run-off by SONI.

9.2 NIAUR will modify the BST tariff to require persons purchasing under the BST to comply with this Run-off Arrangements.

9.3 The BST arrangements shall cease to have effect as from SEM Go Live. NIE PPB will advise each Relevant Supplier purchasing under the BST of the charges due from them in relation to the period to SEM Go Live under the existing BST Agreement with that Relevant Supplier. Relevant Suppliers will be required to pay in accordance with their existing agreements and all matters relating to settlement, invoicing, provision of information, provision of security, disputes and related matters shall continue to be governed by the BST Agreement.