



An Coimisiún  
um Rialáil Fónais  
**Commission for  
Regulation of Utilities**



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# Network Licence Spot Check Q2 2020

## Information Paper

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## Executive Summary

This Information Paper details the Commission for Regulation of Utilities (CRU) first quarterly Spot Check of the energy network licence holder's compliance with a specific aspect of their licence obligations. This Q2 2020 Spot Check was conducted in June 2020 and focused on information and documentation that the energy network licence holders are obligated to publish on their respective website as required under their licences.

The spot check focussed on specific obligations within the ESB Networks (ESBN), Gas Networks Ireland (GNI) and EirGrid licences. There was one finding of non-compliance in the spot check, which has since been remedied. Besides this one finding the CRU is content that on the day of the spot check the licensees were in compliance with their obligations to make information and documentation available on their websites as outlined in the various licences.

This paper provides an overview of the methodology used to conduct the Spot Check, the findings from it, and the next steps.

The CRU will continue to conduct Spot Checks on Ireland's energy network licence holders on a quarterly basis.

## Public/ Customer Impact Statement

It is a function of the CRU to protect the public interest in energy. The CRU in its role; grants, monitors the performance of and enforces the licences of the transmission system operator, the transmission system owner, the distribution system operator, the distribution system owner and market operator. The licences contain a number of terms and conditions that the licence holder must comply with. These conditions are in place to protect the interests of energy customers, maintain security of supply, and to promote competition covering the generation and supply of electricity and supply of natural gas. To ensure the licence holders comply with their licence conditions, regular spot checks on their compliance are carried out.

In line with its Compliance and Enforcement Policy Statement<sup>1</sup>, the CRU conducts compliance monitoring and enforcement actions that represent value in protecting the public interest. The CRU will continue to conduct spot checks on the Energy Network Owners and Operators to ensure a high standard of protection to all customers and to help achieve the outcomes of the Compliance and Enforcement Policy Statement.

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<sup>1</sup> CRU/19134 – Compliance and Enforcement Policy Statement

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## Glossary of Terms and Abbreviations

Abbreviation or Term	Definition or Meaning
<b>BMPS</b>	Balancing Market Principals Statement
<b>CRU</b>	Commission for Regulation of Utilities
<b>DAO</b>	Distribution Asset Owner
<b>DSO</b>	Distribution System Operator
<b>ESBN</b>	ESB Networks
<b>GMARG</b>	Gas Market Arrangements Retail Group <i>This is made up of gas suppliers with the administrative duties of the group residing with GNI.</i>
<b>GNI</b>	Gas Networks Ireland
<b>IGG</b>	Industry Governance Group <i>This is made up of electricity suppliers with the administrative duties of the group residing with RMDS.</i>
<b>MO</b>	Market Operator
<b>RMDS</b>	Retail Market Design Service <i>The “ringfenced” function within ESB Networks responsible for all aspects of the retail electricity market design on behalf of the CRU.</i>
<b>TAO</b>	Transmission Asset Owner
<b>TSO</b>	Transmission System Operator

# 1. Introduction

## 1.1 The CRU

The CRU is Ireland's independent energy and water regulator. The CRU was established in 1999 and has a wide range of economic, customer protection, and safety responsibilities in energy and water. In its role as economic regulator of energy, the CRU's aim is to protect the interests of energy customers, maintain security of supply, and to promote competition covering the generation and supply of electricity and supply of natural gas. The CRU (in its 2019-2021 Strategic Plan<sup>1</sup>) has committed to continue in strengthening its compliance and enforcement framework to ensure best regulatory practice in all areas of the organisation's remit. This is achieved whilst following the CRU's core values of integrity, professionalism, openness and accountability. Spot checks help ensure that the network companies are compliant with the requirements of their licences.

The CRU in its role grants, monitors the performance of and enforces the following network licences;

- Transmission System Operator (TSO),
- Transmission Asset Owner (TAO),
- Distribution System Operator (DSO),
- Distribution Asset Owner (DAO)
- Market Operator (MO).

The licences specify the conditions that the licence holders must comply with. As part of its function, the CRU monitors the licence holder's compliance with such terms and conditions as are specified in their licence.

## 1.2 Network Licence Compliance Audit

This Spot Check is the first regularly scheduled check to be carried out by the CRU on energy network companies. The following sections of this paper describe the methodology of the audit, the findings, and the next steps.

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<sup>1</sup> CRU/19030a and CRU/19030b – CRU Strategic Plan 2019-2021

## 2. Methodology

### 2.1 Scope

The aim of this Spot Check was to ensure that energy network companies are in compliance with the specific licence requirements that specify what documentation and information should be published on their websites. The CRU considers the publication of such documents to be an important licence requirement, as it facilitates transparency and accountability of the licence holder upon their required codes, procedures and activities.

### 2.2 Approach

The spot check was conducted across all the Networks companies' and their associated licences:

- Electricity TSO (Eirgrid)
- Electricity TAO (ESB)
- Electricity DSO (ESBN)
- Electricity DAO (ESB)
- Electricity MO (Eirgrid)
- Gas TSO (GNI)
- Gas TAO (GNI)
- Gas DSO (GNI)
- Gas DAO (GNI)

Each of the licences outlined above were reviewed to identify all the required pieces of information/documentation that the licensee is obligated to make available on their website<sup>2</sup>.

This was the basis for the spot check.

The spot check was conducted on 30/06/20.

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<sup>2</sup> The tables outlining these are provided in the Annex.

## 3. Findings

The Spot Check resulted in one finding and two clarifications. The licensee to whom the finding was related to was notified of the finding and provided a two-week period in which to make representation. The licensee engaged with the CRU providing timely response and remedying the issue.

Please note a clarification does not represent an instance of non-compliance, rather clarifies where there is pre-approved variance in a specific licence obligation, due to a decision by the CRU.

An overview of the finding and two clarifications is outlined below:

### (i) **Finding 1: Electricity TSO Licence – Balancing Market Principles Statement**

Condition 10B Balancing Market Principles Statement

(2) The Balancing Market Principles Statement shall be in a form approved by the Commission and shall be based upon and fully comply with the BMPS Terms of Reference. The Balancing Market Principles Statement shall be published on the Licensee's website.

On the date of the spot check, the current Balancing Market Principles Statement (for 2019) was not published on the Eirgrid website as per Condition 10B of the TSO Licence.

**Outcome:** Eirgrid accepted the CRU's finding and subsequently published the current Balancing Market Principles Statement (Version 3 dated 14<sup>th</sup> June 2019) on the Eirgrid website.

**Final Finding** – on the date of the spot check (30/06/20) Eirgrid as the Electricity TSO Licence holder was not in compliance with Condition 10B (2) of its Electricity TSO Licence. As of 11/08/20 this issue of non-compliance was remedied.

### (i) **Clarification 1: Gas (DSO/DAO/TSO/TAO) Licences - Revenue Protection Code of Practice**

**Licence wording:**

***Preparation, review of and compliance with codes of practice, etc (Condition 20 (TSO); 15 (TAO); 22(DSO); and 15(DAO)***

*(1) This Condition applies to any statement, code of practice or procedure required to be prepared by the Licensee pursuant to a Condition of this licence.*

*(6) The Licensee shall: (c) publish such statements, codes and procedures and make them available on the Licensee's web-site.*

**Revenue Protection (Condition 8 (TSO); 7 (TAO); 8(DSO); and 7(DAO))**

*4. The Licensee shall, at such time as the Commission may direct, after this licence has come into force, prepare and submit for approval by the Commission a code of practice for revenue protection (which shall include the actions mentioned in paragraph 3) and shall comply with the relevant provisions of that code.*

The CRU notes the licence states that the revenue protection code of practice, as a required code of practice under the licence, should be published and available on the Licensee's website. However, due to prior decisions by the CRU, the Licensee is not obligated to make their revenue protection code of practice available publicly. This is due to the sensitive nature of the document. The CRU does not consider it appropriate to publish the detail of the metrics applied in the detection of gas theft, as to do so may more readily enable the evasion of such methods. The code of practice on revenue protection is therefore only required to be provided to licenced suppliers by GNI. As part of this spot check, GNI confirmed that the code of practice is provided to all licenced suppliers.

The fact that the available information does not match the licence obligation does not imply any breach of licence obligations.

**(ii) Clarification 2: Electricity DSO - Revenue Protection Code of Practice**

**Licence wording:**

**Condition 16 Compliance with Codes of Practice, Procedures and Publishing Arrangements**

*(1) This Condition applies to any code of practice or procedure required to be prepared by the Licensee pursuant to Conditions 7, 14 and 15 of this Licence.*

*(4) The Licensee shall: (c) publish and make such codes and procedures available on the Licensee's web-site.*

**Condition 7 Detection and Prevention of Theft of Electricity**

*3. The Licensee shall, no later than three months after this Licence has come into force, prepare and submit for approval by the Commission a code of practice for revenue protection and shall comply with the relevant provisions of this code.*

The CRU notes the licence states that the revenue protection code of practice, as a required code of practice under the licence, should be published and available on the Licensee's website. However, due to prior decisions by the CRU, the Licensee is not obligated to make their revenue protection code of practice available publicly. This is due to the sensitive nature of the document. The CRU did not consider it appropriate to publish the detail of the metrics applied in the detection of electricity theft, as to do so may more readily enable the evasion of such methods. The code of practice on revenue protection is therefore only required to be made available to supply licensees. ESNB confirmed that the code of practice for revenue protection is available to all licenced suppliers.

The fact that the publicly available information does not match the stated licence obligation does not imply any breach of licence obligations by the licensee.

## **4. Remedial Actions & Next Steps**

The CRU is satisfied that the one finding of non-compliance in the spot check has been remedied.

This spot check in its clarifications highlighted the fact that decision making, specifically decisions made in industry fora (IGG and GMARG), have not been made public more broadly, thereby allowing all stakeholders to be aware of the decision.

The CRU has taken the action to review their internal processes to address this. Separately, the CRU will review the specific licence obligations which require the publication of codes of practice which includes the Revenue Protection Code of Practice and may amend the licences regarding publication of such to reflect the confidential nature of their content.

The CRU will continue to conduct quarterly spot checks on different aspects of the Network licence holder's obligation to ensure compliance with their conditions are maintained.

## Annex

Electricity TSO Licence Condition	Requirement
<b>Condition 3, General Functions</b>	Report on security of supply as specified in Regulation 28(2) of SI 60 of 2005 as directed by the Commission. Published on Eirgrid Website. Ten-year forecast, updated every year.
<b>Condition 5, Connection to the Transmission System and/or Use of the All-Island Transmission Networks</b>	Publication of approved statement of charges for connection to and use of the transmission system. Published on Eirgrid Website
<b>Condition 7, Forecast Statement</b>	Revise information in Forecast Statement. Licensee publish on their Website
<b>Condition 8, Development Plan</b>	Development plan to guarantee security of supply for the next five years, revised annually Licensee publish on their Website
<b>Condition 10B Balancing Market Principles Statement</b>	Prepare and review Balancing Market Principles Statement The Balancing Market Principles Statement shall be published on the Licensee's website. In consultation with DSO and NI SO establish transmission system security and planning standards Licensee publish on their Website
<b>Condition 15, Transmission System Security and Planning Standards</b>	Establish standards for day to day operating security Licensee publish on their Website
<b>Condition 16, Operating Security Standard</b>	Establish compliance programme including specific obligations imposed on employees to prevent discrimination. Report upon its implementation annually Licensee publish on their Website
<b>Condition 17, Duty of Non-Discrimination</b>	Report on the performance of the TSO business Report on performance published on licensee Website
<b>Condition 18, Performance of the Transmission System Operation Business</b>	Code of practice setting out principles and procedures Licensee will follow in respect of any person acting on its behalf who requires access to land and/or premises. Licensee publish on their Website
<b>Condition 19, Access to Land and/or Premises</b>	Appoint Compliance and Assurance Officer to report on activities and investigations Licensee publish on their Website (upon approval by CRU)

<b>Electricity MO Licence Condition</b>	<b>Requirement</b>
<b>Condition 3B Agent of Last Resort</b>	AoLR Contract and AoLR Procedures. Produce annual review on Scope and Operation AoLR services AoLR Contract and Procedures published on SEMO website
<b>Condition 4 Market System Development Plan</b>	Market System Development plan. Revise and review annually via public consultation process. CRU approve and licensee publish on website.
<b>Condition 9, Duty of Non-Discrimination</b>	Establish compliance programme and report to Commission specifying measures taken and level of compliance. Report published by Licensee in such manner as determined by Commission
<b>Condition 10, Performance of the Single Market Operation Business</b>	Report on performance of the SEM Trading and Settlement System against the performance criteria. Published on SEMO website
<b>Condition 15, Charges of the Market Operator</b>	Publish Statement of Charges SEMO publish approved tariffs on MO website.

<b>Electricity TAO Licence Condition</b>	<b>Requirement</b>
<b>Condition 11, Performance of the Transmission System Owner's Business</b>	Report annually on the performance of the Transmission System Owner's Business:  1. The Licensee shall, no later than four months after this Licence has come into force submit to the Commission for approval a report setting out the criteria against which the performance of the transmission system owner's business can be measured. The Commission may from time to time make amendments to such criteria as it sees fit and shall notify the Licensee of such amendments.  6. The performance criteria specified in paragraph 1 as approved by the Commission and the report on performance specified in paragraph 5 shall be published and made available on the Licensee's web-site.

<b>Electricity DAO Licence Condition</b>	<b>Requirement</b>
<b>Condition 2, Operation Agreements</b>	The Licensee shall, by 1 January 2009 (or such later date as the Commission may direct), enter into, and thereafter comply with, and, in conjunction with the Distribution System Operator, at all times maintain in force the Operation Agreements The Licensee shall publish the Operation Agreements on its web-site.

<b>Electricity DSO Licence Condition</b>	<b>Requirement</b>
<b>Condition 2, Connection to and Use of the Distribution System</b>	Publish a statement of charges and connection to the use of the Distribution System Publish and make available on the Licensee's web-site
<b>Condition 2, Connection to and Use of the Distribution System</b>	Use of system charges methodology and connection policy documents. Publish and make available on the Licensee's web-site
<b>Condition 3, Operation Agreements</b>	Operation Agreements Publish and make available on the Licensee's web-site
<b>Condition 11, Distribution System Security and Planning Standards</b>	Distribution System Security and Planning Standards Publish and make available on the Licensee's web-site
<b>Condition 13, Performance of the Distribution Business</b>	Report setting out the criteria against which the performance of the Distribution Business can be measured Publish and make available on the Licensee's web-site
<b>Condition 16, Compliance with the Codes of Practice, Procedures and Publishing Arrangements</b>	A any code of practice or procedure required to be prepared by the Licensee pursuant to Conditions 7, 14 and 15: (7) code of practice for revenue protection (14) code of practice setting out the principles and procedures the Licensee will follow in respect of any person acting on its behalf who requires access to land and/or premises for the purposes set out in this licence. (15) Distribution System Customer Service Code (15) Complaints Handling Procedure (15) Disconnection Code of Practice

	Publish and make such codes and procedures available on the Licensee’s web-site. (d) Make such codes and procedures as apply to Household Customers available in a format appropriate for customers with a visual impairment.
<b>Condition 17, Records and Reporting</b>	Annual Report on its general operation of arrangements in conditions 7, 8, 9, 13, 14 and 15. Publish and make available on the Licensee’s web-site

<b>Gas TSO &amp; TAO Licence Condition</b>	<b>Requirement</b>
<p><b>Condition 15 (TAO) 20 (TSO): Preparation, review of and compliance with codes of practice, etc.</b>  <b>Publish such statements, codes and procedures and make them available on the Licensee’s web-site:</b></p>	<ul style="list-style-type: none"> <li>• Condition 11 (TSO): Long term development statement</li> <li>• Condition 12 (TSO) Transmission System Standards “Transmission System Standards</li> <li>• Condition 17 (TAO) 22 (TSO): Ring-fencing of the TAO/TSO Business and restriction on use of certain information Publish a statement in a form approved by the Commission setting out the practices, procedures and systems which the Licensee has adopted (or intends to adopt) to ensure its compliance with the obligations set out in this Condition.</li> <li>• Condition 7 (TAO) 8 (TSO): Revenue Protection. Code of practice for revenue protection</li> <li>• Condition 10 (TSO): Provision of metering and data services. Code of practice for metering and data services</li> <li>• Condition 14 (TAO) 18 (TSO): Access to land and/or premises (Code of Practice or procedure)</li> <li>• Condition 19 (TSO): Customer service code, complaints handling procedure and disconnection code of practice.</li> <li>• Transmission System Operator Business customer service code b) complaints handling procedure c) disconnection code of practice</li> <li>• Condition 10 (TAO): National Gas Emergency Plan 3 (ii) procedures and arrangements to direct persons conveying natural gas to secure, where necessary, a reduction in consumption and to verify that such directions have been followed; (iii) procedures to monitor the situation throughout a Natural Gas Emergency and to restore safely the natural gas supply to customers once the emergency is over.</li> </ul>

Gas DSO & DAO Licence Condition	Requirement
<p>Condition 15 (DAO) 22 (DSO): Preparation, review of and compliance with codes of practice, etc: 6c) publish such statements, codes and procedures and make them available on the Licensee’s web-site.</p>	<ul style="list-style-type: none"> <li>• Condition 11 (DSO): Long term development statement</li> <li>• Condition 12 (DSO): Distribution System Standards Publish that document in the format and manner notified</li> <li>• Condition 17 (DAO) 24(DSO): Ring-fencing of the Distribution System Operator/ Owner Business and restriction on use of certain information publish a statement in a form approved by the Commission setting out the practices, procedures and systems which the Licensee has adopted (or intends to adopt) to ensure its compliance with the obligations set out in this Condition. (updated annually)</li> <li>• Condition 7(DAO) 8(DSO): Revenue Protection code of practice for revenue protection</li> <li>• Condition 10( DSO): Provision of metering and data services. Code of practice for metering and data services</li> <li>• Condition 14 (DAO) 20(DSO): Access to land and/or premises (Code of Practice)</li> <li>• Condition 21 (DSO): Customer service code, complaints handling procedure and disconnection code of practice <ul style="list-style-type: none"> <li>1(a) Distribution System Operator Business customer service code</li> <li>(b) complaints handling procedure</li> </ul> </li> <li>• (c) disconnection code of practice</li> </ul>