

# RP7 - NIE Networks Price Control 2025-2031

Final Determination Annex S  
Price Control Design (Uncertainty Mechanisms)  
30 October 2024



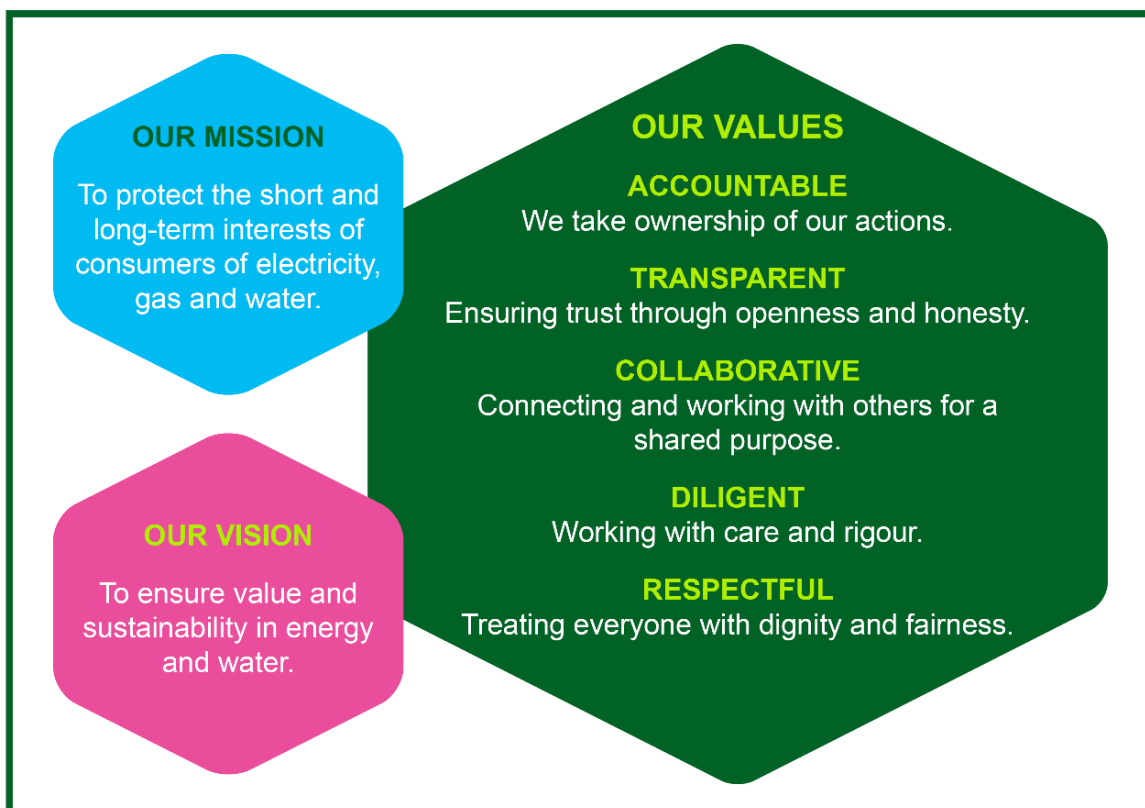
## About the Utility Regulator

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 and two Executive Directors lead teams in each of the main functional areas in the organisation: CEO Office; Price Controls; Networks and Energy Futures; and Markets and Consumer Protection. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.



## Abstract

This annex to the RP7 Final Determination sets the design of the RP7 price control. It shows how the price control design builds on the design of the RP5 and RP6 price controls. It responds to proposals which NIE Networks made in its business plan and in response to our draft determination, to amend existing uncertainty mechanisms or introduce new mechanisms which allow funding to be amended or determined during the course of the price control.

## Audience

NIE Networks, consumers, consumer representatives, consumer groups, other regulated companies in the energy industry, government, and other bodies with an interest in the energy industry.

## Consumer impact

The design of the price control defines an allocation of risk between NIE Networks and consumers as it delivers the price control. The design of the price control ensures that we can determine reasonable ex-ante amounts which will allow NIE Networks to discharge its general functions. A cost risk sharing mechanism provides a strong incentive for the company to reduce costs and share these savings with consumers. The use of volume drivers and re-opener mechanisms ensures that we do not have to estimate key activity rates or project costs before sufficient information is available. We believe that the design of the price control acts in the interest of consumers.

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# Executive Summary

## Introduction

This annex to the RP7 Final Determination sets out the design of the RP7 price control. It shows how the price control design builds on the design of the RP5 and RP6 price controls. It responds to proposals which NIE Networks made in its business plan submission and in response to our draft determination, to amend existing uncertainty mechanisms or introduce new mechanisms which allow funding to be amended or determined during the course of the price control.

The underlying principle of the price control design is that a reasonable estimate of most future costs can be determined in advance. It is then for NIE Networks to meet its obligations within these ex-ante allowances. The existing price control mechanisms allows these ex-ante allowances to be determined in one of three ways:

- Allowances for capex and opex set out in the final determination of the price control. These are intended to cover the company's normal activities and are based on historical costs, subject to efficiency challenge and reasoned adjustments for future changes in activities.
- Volume drivers which apply pre-determined unit cost rates to the actual number of units delivered (for example meter installation).
- Re-opener mechanisms, whereby additional ex-ante allowances are determined within a price control for a project or activity once there is more certainty on the needs case, project scope or quantities (for example large transmission projects).

The price control allows for some uncertain categories of costs which NIE Networks cannot control to be passed through to consumers, although these are limited.

## Building on RP5 and RP6 price control designs

The design of the RP7 price control builds on the design of the RP5 and RP6 price controls.

First, it continues key design features from the RP5 price control including:

- The determination of ex-ante allowances for most of the costs incurred by NIE Networks to discharge its functions, through a combination of allowances fixed in the price control, volume drivers and re-opener mechanisms described above.

- The retention of 50:50 cost sharing of the difference between actual costs and ex-ante cost allowances. This provides a strong incentive for NIE Networks to deliver for less than the determined costs while providing consumers and company with some protection against cost forecasting risk.
- A mechanism to protect consumers against costs which are demonstrably inefficient and wasteful.
- The ability and incentive for NIE Networks to defer certain categories of planned investment in a way which reduces short term costs for consumers, but also ensuring that any deferred investment is not funded a second time in a subsequent price control.
- The ability to delay the determination of ex-ante allowances (initially limited to major transmission projects), mitigates a major source of scope and cost forecasting risk.
- The use of volume drivers which apply ex-ante cost rates to activities (such as the number of meters installed) to calculate an allowance.

The high-level design for RP5 formed the basis of the design of the RP6 price control with some amendments and additions including:

- The introduction of a reliability incentive mechanism designed to incentivise the company to reduce customer minutes lost due to planned and unplanned interruptions to supply.
- The introduction of additional categories of costs determined through a re-opener mechanism. For example, innovation, low carbon technology investment and investment to address generation congestion on the 33kV network.
- An additional volume driver for undereaves wiring allowed capex.
- A mechanism to provide flexibility on investment decisions by allowing NIE Networks to substitute between different investment categories while maintaining the overall value of outputs delivered to consumers.
- A Rate of Return Adjustment Mechanism which allows the determined cost of capital to be updated for the benchmark nominal cost of debt when NIE Networks raises new debt.

Much of the high-level price control design for RP5 and RP6 has been carried forward into RP7 with appropriate modifications to address additional challenges and uncertainties of developing electricity networks to support the delivery of net zero.

## **NIE Networks proposals for RP7**

In its business plan, NIE Networks set out its proposals on various price control mechanisms which it thought should be retained, amended or added for RP7. We have summarised these proposals and our response in Table 1 below with a more detailed assessment provided in Section 4.

Key changes to the price control design in response to the proposals made by NIE networks are:

- The introduction of re-opener mechanisms and volume drivers for distribution primary network and secondary network load related expenditure in place of the lump sum allowances in RP5 and RP6.
- The determination of ex-ante allowances for IT investment up to Year 2 of RP7 with a re-opener mechanism for the determination of investment in the subsequent years.
- The determination of business rates as pass through cost (subject to checks on efficiently incurred costs) as opposed to ex-ante allowances in RP5 and RP6.

In addition, we have identified two key uncertainties which we have not been addressed in the design of the price control because the likely outcome is too great to capture in pre-defined uncertainty mechanism as follows:

- The introduction of smart metering.
- The development of a new connection charging policy.

We intend to address these changes through future licence modifications when there is sufficient clarity to scope them. This will include the determination of additional allowed capex and opex as appropriate. In view of the Department for the Economy' (DfE's) recent consultation on the development of smart metering, we have introduced an additional reopener mechanism covering the planning and development of smart metering.

## **Other key design changes for RP7**

In addition to considering the changes proposed by NIE Networks, we have concluded that other changes should be made to the design of the price control in RP7 including:

- The introduction of an Evaluative Performance Framework incentive mechanism which provides an incentive for NIE Networks to develop its Forward Work Programme in RP7 taking account of stakeholder engagement (see Annex V).



- Amendments to the Rate of Return Adjustment Mechanism to adjust for actual inflation and risk-free rate throughout RP7. This will remove the inflation forecasting risk from the determination of cost of capital and align the calculation of revenue with the inflation of the Regulatory Asset Base.

### **Giving effect to the price control design**

The outworking of the principles and processes which underpin the design of the price control are codified in NIE Networks' transmission and distribution licences, particularly those sections of the licence which detail how the maximum regulated revenue the company can recover from its customers is calculated i.e. Annex 2 - the Charge restriction condition.

In parallel with the publication of the RP7 Final Determination, we are publishing a consultation on licence modifications which give effect to our determination. The equivalent Annex S (Price Control Design) of the RP7 Draft Determination included detailed indication of how our proposed decisions might be implemented through the conditions, definitions, terms and calculations within Annex 2 of the licences. We also indicated that we would consider opportunities to rationalise and simplify the structure of the licence, for example, we suggested that there may be merit in bringing together all re-opener mechanisms under a single licence term to avoid the proliferation of different terms for individual reopeners. Because our detailed proposals are now set out in the licence modifications consultation, we have removed this detail from the annex.

Uncertainty/Risk		RP6 Framework	Proposal for RP7	UR determination
Primary Network – Forward Power Flow		Ex-ante allowance with 50/50 mechanism	Ex-ante plus reopener	Multiple approaches to cover all eventualities (50:50, deferral, substitution, ex-post review and reopener windows)
Primary Network – Reverse Power Flow		Reopener	Ex-ante plus reopener	Accepted in principle with the exception that materiality threshold is increased to 10%
Secondary Network Reinforcement		Ex-ante allowance with 50/50 mechanism	Ex-ante plus volume driver with mid-point review	Volume driver for all expenditure.
Low rated cut outs		Ex-ante allowance with 50/50 mechanism	Volume driver	Accepted in principle
Looped Services		Ex-ante allowance with 50/50 mechanism	Volume driver with mid-point review	Accepted in principle but no mid-point review
Net zero		n/a	Reopener	Reopener, limited to initiation by UR.
Environmental		n/a	Reopener	Existing change of law mechanism to apply
Sub-sea cables		n/a	Ex-ante allowance for inspection and testing and reopener as business case materialises	Accepted in principle
Telecoms	SONI asset transfer	n/a	Reopened	Accepted in principle
	DSO Operation Telecoms		Reopener (2-stage)	Accepted in principle
	OTN Comms conditional investment		Reopener	Accepted in principle
Creosote Poles		n/a	Reopener	Existing change of law mechanism to apply
Non-recoverable alterations		Ex-ante allowance with 50/50 mechanism	Pass through	Not accepted. Ex-ante allowances increased in FD.
Innovation		UIOLI allowance approved through reopener mechanism	Ex-ante for defined projects plus reopener (light touch) for network innovation (NIF)	Not accepted. Existing re-opener mechanisms to be updated in line with proposals in Annex N.

Uncertainty/Risk	RP6 Framework	Proposal for RP7	UR determination
Capex asset replacement (Asset requirements may change as needs arise)	Limited substitution offered in RP6 50/50 Mechanism	Broader use of substitution mechanism	Substitution increased to 40% of programme value
Transmission capacity and capability projects (For projects brought forward by SONI)	Reopener: the 'D5 mechanism'	Refinement to the D5 mechanism	Accepted. Further engagement proposed on pre-construction cost approvals.
Large scale capex asset replacement (For large scale projects whose costs are uncertain at the time of setting the price control)	Reopener: the additional capex reopener. Specific projects cited for both transmission and distribution.	Retain RP6 arrangement	Accepted for projects defined in the RP7 determination
Transmission protection philosophy (Philosophy set by SONI. Changes can have cost implications)	Reopener	Retain RP6 arrangement	Accepted
Severe weather	Ex-ante allowance with 50/50 mechanism	Pass-through	Not accepted, ex-ante allowance increased for the FD.
Distribution undereaves	Volume driver	Retain RP6 arrangement	Accepted
Cluster developments	Connecting customers bear the costs through the SoCC Unrecovered costs added to the RAB	Retain RP6 arrangement	Accepted
Distribution connection charging policy (Cost implications of change of policy)	n/a	Reopener	Not accepted. Further licence modifications would be considered, when required.
Meter installations/replacements (Costs driven by volumes)	Volume Driver	Retain RP6 arrangement	Accepted
Smart meters (Cost implications if smart meters are mandated)	No explicit method to address costs	Reopener (2-stage)	Reopener proposed for planning and development costs. New licence modifications would be considered, if and when required.
I-SEM (Cost implications if there are changes to the wholesale market)	Some opportunity for additional allowances through the ESt term (For the Enduring Solution)	Retain RP6 arrangement	Accepted

Uncertainty/Risk	RP6 Framework	Proposal for RP7	UR determination
IT Systems (New requirements)	Some opportunity for additional allowances through the NEST term (for new energy strategy IT solution or market services IT systems)	Refinement of the RP6 arrangement to incorporate the delivery of the S/4 HANA project in RP7	Ex-ante allowance determined for the first 2 years with a reopener mechanism for the determination of investment in the subsequent years.
Injurious affection (cost implications of IA claims)	Reopener: the IAt term	Retain RP6 arrangement	Accepted
Business rates (cost implications following revaluations)	Ex-ante allowance with 50/50 mechanism	True-up mechanism	Accepted as pass through, subject to checks
Corporation tax (tax rates are outside our control)	Applicable rate varies according to the prevailing rate set by HMRC	Retain RP6 arrangement	Accepted
Pension historic deficit repair (cost implications if deficit worsens)	Customers bear 100% of deficit repair costs for pre-April 2012 deficit. The balance is borne by the company	Retain RP6 arrangement	Accepted
UR licence fees	Pass through	Retain RP6 arrangement	Accepted
Change of law (CoL)	Reopener: the Change of Law provision	Retain RP6 arrangement	Accepted
Price indexation	RPI used to adjust allowances	CPIH used to adjust allowances	Accepted
Real price effects	Ex-ante allowance with 50/50 mechanism	True-up adjustment based on indexation	True-up mechanisms accepted in principle subject to further engagement.

**Table 1: Amendments proposed by NIE Networks and UR final determination.**

# 1. Introduction

## Overview

- 1.1 This annex to the RP7 final determination sets out the design of the RP7 price control. It shows how the price control design builds on the design of the RP5 and RP6 price controls. It responds to proposals which NIE Networks made in its business plan submission and in response to our draft determination, to amend existing uncertainty mechanisms or introduce new mechanisms which allow funding to be amended or determined during the course of the price control.
- 1.2 The underlying principle of the price control design is that a reasonable estimate of most future costs can be determined in advance. It is then for NIE Networks to meet its obligations within these ex-ante allowances. The existing price control mechanisms allows these ex-ante allowances to be determined in one of three ways:
- a) Allowances for capex and opex set out in the final determination of the price control. These are intended to cover the company's normal activities and are based on historical costs, subject to efficiency challenge and reasoned adjustments for future changes in activities.
  - b) Volume drivers which apply pre-determined unit cost rates to the actual number of units delivered (for example meter installation).
  - c) Re-opener mechanisms, whereby additional ex-ante allowances are determined within a price control for a project or activity once there is more certainty on the needs case, project scope or quantities (for example large transmission projects).
- 1.3 The price control allows for some categories of costs which NIE Networks cannot control to be passed through to consumers, although these are limited.
- 1.4 The outworking of the principles and processes which underpin the design of the price control are codified in NIE Networks' transmission and distribution licences, in particular those sections of the licence which detail how the maximum regulated revenue the company can recover from its customers is calculated.
- 1.5 In parallel with the publication of the RP7 Final Determination, we have published a consultation on proposed licence modifications which will give effect to our decisions, including the price control design set out in this annex.

## Structure of this annex

1.6 This annex provide an overview of the development of the licence and considers and responds to NIE Networks proposals for changes to the various mechanisms of the licence which embed the price control determination, manage change and set out how revenues are determined, as follows:

Section 2 RP5 Price Control design

Section 3 RP6 Price Control design

Section 4 NIE Networks proposals for uncertainty mechanisms in RP7.

Section 5 Other changes to the price control design

1.7 We conclude with Section 6 Next steps.

## 2. RP5 Price Control Design

### Introduction

- 2.1 The RP5 price control covered a period of 5½ years, running from the 1 April 2012 and ending on 30 September 2017.
- 2.2 The Utility Regulator (UR) published a final determination for RP5 on 23 October 2012 together with proposed draft modifications to the transmission and distribution licences. NIE Networks responded, rejecting the proposed licence modifications and suggested that a reference should be made to the Competition Commission (CC) (now the Competition and Markets Authority (CMA)).
- 2.3 The CC published its final determination<sup>1</sup> on the RP5 price control on 15 April 2014, amended on 22 April 2014. The CC's decision specified licence modifications to be implemented by UR. Underpinning the specified licence modifications was a price control design. The principles of this design were carried forward into the RP6 price control.
- 2.4 In this section we provide an overview of the design of the RP5 price control. This serves as an introduction to the principles which underpin the detailed mechanisms of the RP6 price control design as described in section 3 below.

### RP5 price control design

- 2.5 An underlying principle of the CC's price control design for RP5 was that ex-ante allowances could be determined for most of NIE Networks operational and capital expenditure as either:
  - a) lump sums set in the price control determination;
  - b) unit cost set in the price control determination and applied to specified volume drivers; or
  - c) further determinations made in the course of the price control for specified projects, in particular, projects to improve the capacity and capability of the transmission network.
- 2.6 A cost sharing mechanism was introduced against these ex-ante allowances which maintained a strong incentive for NIE Networks to out-perform the

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[https://assets.publishing.service.gov.uk/media/535a5768ed915d0fdb000003/NIE\\_Final\\_determination.pdf](https://assets.publishing.service.gov.uk/media/535a5768ed915d0fdb000003/NIE_Final_determination.pdf)

determination and, in doing so, share savings with customers and reveal more efficient baseline costs.

2.7 The CC established a number of price control design features used to either define or moderate the determination. These design features were annotated as D1 to D10. They are summarised below with a reference to the relevant sections of the CC determination where a full consideration of the mechanisms can be found.

- a) **D1: Cost risk-sharing mechanism** (CC determination Paragraphs 5.49 to 5.96). This mechanism was set up to adjust NIE Networks' maximum revenue and Regulated Asset Base (RAB) according to differences between the expenditure forecasts in the determination and NIE Networks' out-turn expenditure. CC determined that 50% of such differences should be passed through to consumers via adjustments to NIE's maximum regulated revenue and Regulated Asset base (RAB). The purpose of the mechanism is to provide some financial protection to both consumers and NIE Networks against potential inaccuracies in estimates of NIE Networks efficient expenditure requirements and against unforeseen future developments that affect NIE Networks' costs, while also maintaining clear and strong financial incentives for NIE Networks to operate and invest efficiently.
- b) **D2: Inefficient spend clause** (CC determination Paragraphs 5.97 to 5.111). CC determined that NIE Networks' licence should include a provision that UR can adjust NIE Networks' maximum regulated revenue or RAB to protect consumers from exposure to costs incurred by NIE Networks which UR finds to be demonstrably inefficient or wasteful.
- c) **D3: Measures to tackle risks from deferral of planned network investment** (CC determination Paragraphs 5.112 to 5.214). This ensures that there should be no double-funding of any deferred network investment at future price control reviews. It involves an assessment of the extent to which NIE Networks' investment forecasts for the subsequent price control include expenditure that is needed because of deferral of projects and investment volumes identified in the forecasts used for the previous determination. As well as avoiding double funding of deferred network investment, it also provides an incentive to defer investment, sharing the financial benefit with consumers and potentially revealing lower activity rates for future price controls.
- d) **D4: Investment projects for distribution network load-related**



**expenditure** (CC determination Paragraphs 5.215 to 5.245). The CC decided to set an upfront allowance for load related investment which would not be varied, and therefore not subject to the D3 deferral mechanism described above.

- e) **D5: Investment projects to increase transmission system capacity** (CC determination Paragraphs 5.246 to 5.279). This made provision for the determination of ex-ante allowances for large transmission projects at a later stage on the basis that the cost of these projects are uncertain and large and the need and scope of works (determined by the System Operator for Northern Ireland (SONI)) is not within the control of NIE Networks. The scope of this mechanism included some nominated large transmission replacement projects.
- f) **D6: Smart grid initiatives** (CC determination paragraphs 5.280 to 5.286). The CC made provision for some smart grid initiatives within the determined allowances. NIE Networks could have invested in Smart grid initiatives sharing 50% of the cost with consumers under the D1 cost sharing mechanism (unless UR deemed the investment to be demonstrably inefficient or wasteful under the D2 clause). This did not include allowances for the general introduction of smart metering.
- g) **D7: Electricity meter investment and smart meter programme** (CC determination paragraphs 5.287 to 5.303). Metering was determined as a volume driver with unit costs per meter type. No provision was made for smart metering. The CC stated that it would expect UR and NIE Networks to make use of either the change of law provision in the existing licence conditions or a licence modification in the event of smart metering being introduced.
- h) **D8: Pass-through of part of connections charges to NIE's RAB** (CC determination paragraphs 5.304 to 5.315). This allows for the pass through of some connection costs up to the 1 October 2015. The current licence extended this principle.
- i) **D9: Pass-through of specified operating costs** (CC determination paragraphs 5.316 to 5.384). Pass through was permitted for regulatory licence fees and injurious affection. The CC was explicit that it had not allowed pass through of rates and wayleave costs but had included these activities in the ex-ante determined allowed opex.
- j) **D10: Other terms to remove from current Licence conditions** (CC determination paragraphs 5.385 to 5.395). These related to adjustments to the Power team costs and prior re-opener mechanisms superseded by the CC's other decisions.

2.8 Much of the high-level price control design for RP5 was carried forward into RP6 with some modifications and additions as set out in .

Ref	Description	Notes
D1	Cost risk-sharing mechanism	The principle of a 50/50 cost risk sharing mechanism for qualifying expenditure is continued in our proposals for the RP7 licence.
D2	Inefficient spend clause	The principle of the disallowance of demonstrably wasteful and inefficient expenditure is continued in our proposals for the RP7 licence. We have published guidance on the application of the licence mechanisms.
D3	Measures to tackle risks from deferral of planned network investment	The principle of the deferral of planned network investment is continued in our proposals for RP7. It will be applied to deferral of projects and investment volumes identified in the forecasts used for the determination when we consider the next price control. Annex Q shows the strands of investment identified as projects or with investment volumes which will be treated in this way.
D4	Investment projects for distribution network load-related expenditure	The principle of setting an upfront allowance for load related investment which would not be varied is continued in our proposals for RP7. Annex Q shows the strands of investment with upfront allowances which will be treated in this way.
D5	Investment projects to increase transmission system capacity	This reopener mechanism has been continued in our proposals for RP7. It continues to include some large asset maintenance projects identified in the final determination.
D6	Smart grid initiatives	While NIE Networks can make such investments as it deems necessary subject to 50/50 cost risk sharing and the inefficient spend clause, we have not made any specific proposals in respect of smart grid initiatives. Our wider proposals for IT investment includes wide ranging proposals to improve the management, control and responsiveness of the network,
D7	Electricity meter investment and smart meter programme	The principle of using a volume driver for general metering activities has been continued in our proposals for RP7. We have introduced a specific reopener mechanism for the planning and development of smart metering, subject to certain conditions. We intend to consider a reopener mechanism for the further development of smart metering once the scope of any work has been clarified.
D8	Pass-through of part of connections charges to NIE's RAB	The principle of allowing part of connections charges to pass through to the RAB has been continued in our proposals for RP7.
D9	Pass-through of specified operating costs	The principle of allowing pass-through of specified operating costs has been continued in our proposals for RP7 and we propose expanding the scope of these pass through costs to include

Ref	Description	Notes
		business rates.
D10	Other terms to remove from current Licence conditions	This term was specific to RP5. In RP7, we have continued to make a range of other additions and deletion in our proposed licence modifications.

**Table 2.1: Continuation of the RP5 price control design mechanisms**

- 2.9 We intend to continue to apply this general approach for RP7 with appropriate modifications to address additional challenges and uncertainties of developing electricity networks to support the delivery of net zero.

## 3. RP6 Price Control Design

### Introduction

- 3.1 The RP6 price control covers a period of 6½ years, running from the 1 October 2017 and ending on 31 March 2024. We published a final determination for RP6 on 30 June 2017 together with proposed draft modifications to the transmission and distribution licences covering a 6-year period. Subsequently UR published further modifications to extend the RP6 price control by a year to give a total of 7½ years.
- 3.2 Our RP6 uncertainty mechanisms built on both the Competition Commission's determination of RP5 and our experience in developing the RP5 Licence Modifications. In this section we have provided an overview of key changes made to the design of the price control in RP6.

### Modifications made through the RP6 final determination

- 3.3 As part of the final determination for RP6, we introduced a number of key modifications to the design of the price control which are described below. These introduced new mechanisms which allowed for further modification to outputs, allowances and revenues to manage change and address potential forecasting errors, as follows:
- A reliability incentive related to customer minutes lost (CML)
  - Contestability
  - Determination of additional allowed capex
  - Innovation
  - Low carbon technology funding
  - 33kV congestion due to LV generation connections
  - A volume driver for undereave service connections
  - Rate of return adjustment mechanism
  - Direct network investment allowance substitution
- 3.4 We have provided an outline of these changes below. Further information on the detailed working of these mechanisms and the reasons for introducing them can be found in the RP6 final determination and the subsequent UR consultation and decisions on licence modifications.

### **Reliability incentive (customer minutes lost)**

- 3.5 We introduced a reliability incentive in RP6 to incentivise reductions in customer minutes lost (CML) due to planned and unplanned interruptions. The incentive was symmetrical and subject to a cap and collar originally estimated at 1.5% of distribution revenue converted to fixed amounts in the RP6 final determination.
- 3.6 The detail of the incentive mechanism was captured in a Reliability Incentive Model published with our decision on licence modifications for RP6<sup>2</sup>. During RP6, the company has delivered a stepped change in performance on CML. We plan to continue the incentive in RP7, recalibrating the performance targets and cap and collar to reflect performance to date and the benefits of investment.
- 3.7 We accept NIE Networks argument within their business plan submission that there is greater uncertainty in relation to future planned CML performance. Therefore have adjusted the revenue allocation on an 80:20 split and use a tailored 3-year rolling average to set planned CML targets. Further detail is provided in Annex M.

### **Contestability**

- 3.8 We made provision in the RP6 licence modifications to add £3.6m to the RP6 opening regulatory asset base for costs associated with the introduction of contestability. This was a single one-off adjustment in respect of costs already incurred by NIE Networks.

### **Determination of additional allowed capex**

- 3.9 For RP6, we amended the licence to include two categories of investment which could be addressed through the D5 mechanism established by the CMA in its final determination for RP5.
- a) Major transmission asset replacement projects which were defined in the RP6 final determination.
  - b) Nominated distribution projects which were defined in the RP6 final determination whose scope could be materially impacted by potential transmission capacity projects carried out under the reopener section of the transmission licence (D5 projects).
- 3.10 These were in addition to the provision made for transmission system capability and capacity projects included in the RP5 licence to give effect to the CC's 'D5' mechanism.

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<sup>2</sup> [RP6 Licence Mods Appendix 5 : Reliability Incentive Model](#)

- 3.11 We also confirmed that changes to the transmission protection philosophy required by SONI would fall within the scope of this mechanism as projects which improve the capability and capacity of the transmission system.
- 3.12 We have made and published a number of decisions during the RP6 period under all categories of investment above. We expect to continue these mechanisms in RP7.

### **Innovation**

- 3.13 The RP6 price control did not include any ex-ante allowance for innovation. Instead, a re-opener mechanism was introduced to allow capital allowances for this work to be determined once sufficient information was available. The mechanism was subject to a cap of £6.4m (2015/16 prices). We subsequently raised this limit to £9.5m (2015/16 prices) through licence modifications which extended the duration of RP6 by one year.
- 3.14 We have retained an innovation re-opener mechanism in RP7, excluding innovation activities for which an ex-ante allowance has been included in the price control. The scope of this mechanism is set out in Annex N, including details of re-opener requirements and windows.

### **Low carbon technology funding.**

- 3.15 The RP6 final determination recognised the potential increasing use of low carbon technologies and the impact that this might have on load related investment. However, this was at the very early stages of development and the impact on future investment was highly uncertain. As a result, we made provision for low carbon technology investment in RP6 in two parts:
- a) First, an ex-ante allowance for low carbon technology load growth of £2.6m to cover investment in the first three years of RP6.
  - b) Second, a ring-fenced allowance of £10.5m in anticipation of low carbon technology load replacement investment in the second half of RP6. This place holder would be replaced by an ex-ante allowance to be determined on the basis of assessment of low carbon technology load growth at the midpoint of RP6.
- 3.16 We made decisions in respect of the ring-fenced allowance in October 2022 under a 'Green Recovery' initiative which saw the start of increased load related investment expected to continue into RP7. We extended this funding in the RP6 extension year decision.
- 3.17 We have decided to continue the low carbon technology mechanisms established for RP6 in RP7. Instead, our final determination includes a series of primary and secondary network load related volume drivers and reopener

mechanisms which will allow funding to be amended, if appropriate, in response to changes in the impact of low carbon technology.

### **33kV congestion due to Low Voltage generation connections**

- 3.18 The RP6 final determination made no allowance for future 33kV congestion due to Low Voltage (LV) generation connections. Generation connections are expected to pay for necessary reinforcement costs at the voltage level they connect to and one level up. As a result, NIE Networks would not be able to recover the costs of the aggregated impact of LV connections on the 33kV network. We introduced a mechanism in RP6 to allow 33kV reinforcement due to LV generation connections to be recovered.
- 3.19 The company has not asked for any additional allowances under this mechanism. We have removed this mechanism for RP7 on the basis that a new primary load related reopener makes it redundant.

### **Volume Driver for undereaves service connections**

- 3.20 In RP6, we decided to introduce a volume driver to cover undereaves wiring replacement work. This would ensure that the company could be funded for the volume of work it planned to carry out and also ensure that consumers are protected if further survey work did not reveal the volume of defective undereaves wiring assumed by the company in its plans.
- 3.21 The allowance is subject to a cap of 19,500 properties over the RP6 period which was the volume proposed by the company in its business plan submission. We noted that there may be circumstance where the company will want to exceed the 19,500 output cap by substituting an allowance in from other investment areas and if this was the case we would consider such a request and would be open to considering further licence modifications to allow such a change.
- 3.22 Work on the replacement of undereaves wiring is expected to continue into RP7 and have maintained the undereaves volume driver to fund this work.

### **Rate of return adjustment mechanism**

- 3.23 We introduced a rate of return adjustment mechanism in RP6 which provides for the allowed rate of return to adjust up or down in line with prevailing benchmark interest rates at the time NIE Networks raises new debt.
- 3.24 We introduced this mechanism to address the risk that NIE Networks can earn excess returns, or sub-normal returns, during RP6 because the forecast costs of debt in our determination were wrong. We also noted that there have been criticisms of such 'windfall' gains and losses on financing costs in regulated industries, with the likes of the National Audit Office and the UK

Government highlighting that it is unfair for regulation to be set up in such a way as to produce outcomes in which prices are likely to be significantly higher or significantly lower than they need to be in order to cover companies' actual costs of debt.

- 3.25 The detail of the mechanism was captured in a Rate of Return Adjustment Mechanism set out in Annex H<sup>3</sup> and Annex I<sup>4</sup> of the RP6 final determination. The model adjusted the rate of return to reflect the benchmark cost of debt at the time the company raises finance (subject to a 20:80 sharing of movement in benchmark from the final determination). The model also adjusted for changes in corporation tax over the price control.
- 3.26 We have maintained a Rate of Return Adjustment Mechanism during RP7. However, we have amended the mechanism to adjust for actual inflation and risk-free rate. This will further reduce the forecasting risk for real rates of interest and better align the rate of return used to determine revenues with the application of actual inflation to the Regulatory Asset Base. Chapter 13 of the RP7 Final Determination provides further detail of these modifications.

#### **Direct network investment allowance substitution**

- 3.27 In its RP6 business plan submission, NIE Networks highlighted the uncertainty inherent in estimating planned volumes of network investment in RP6. Over this period, NIE Networks noted that it was likely that changes in the rate of deterioration of different types of assets will change and the rate and/or extent which assets will require refurbishment or replacement will vary, either up or down.
- 3.28 To deal with this uncertainty, the company proposed that UR introduce a new mechanism in RP6 which will allow it to substitute higher priority outputs for lower priority outputs which are then deferred to a future price control without a financial penalty to NIE Networks. In its business plan submission, the company proposed a cap on substitutions equal to 15% of the overall RP6 asset replacement programme (excluding rolling programmes).
- 3.29 For the RP6 final determination, we decided to set an overall limit on substitution of 10% of the value of the relevant allowances. For the sake of clarity and given the level of judgement in the assessment, we determined that the total limit on substitution should be £25m. We concluded that this provided more than ample headroom for the company to make substitutions.
- 3.30 We noted that substitution should only be made on the basis of need where the company is able to demonstrate that the substitution has clear benefits. We also noted that we expected the company to be able to provide a brief

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<sup>3</sup> [RP6 FD Annex H – Rate of Return Adjustment Mechanism](#)

<sup>4</sup> [RP6 FD Annex I – Rate of Return Adjustment Mechanism Model](#)



explanation to consumers of the substitutions it carried out and demonstrate that each substitution has clear benefits and was made at value.

- 3.31 The substitution mechanism is an administrative process which would amend the direct network investment volumes capture in Annex P of the RP6 Final Determination. We would consider substitution as part of our review of deferral at the end of the relevant price control.

### **Licence changes after the RP6 price control**

- 3.32 After the RP6 Price Control determination and licence modifications, UR consulted on and implemented licence changes which introduced new mechanisms which impact on the design of the price control as follows:

- IT requirements
- Pass through capex expenditure – Shared asset charge
- RP6 extension licence modifications

- 3.33 We have provided further explanation of these changes below. We have maintained and extended the mechanisms for IT requirements and Shared Asset Charge in RP7.

#### **IT requirements**

- 3.34 On the 16 August 2021, modifications to both the transmission and distribution licences for new IT requirements for NIE Networks came into effect. These licence modifications were consulted on in March 2020<sup>5</sup>.
- 3.35 These new licence conditions were required to enable UR to approve costs related to the need for further IT investment by NIE Networks to facilitate the delivery of the NI Executive’s Energy Strategy.
- 3.36 The licence modifications allowed NIE Networks to recover efficiently incurred opex and capex costs in relation to:
- a) A New Energy Strategy IT Solution.
  - b) Any significant changes required to the specification of the information technology systems utilised by the licensee for the purposes of providing the Market Data Service or the Market Registration Service.

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<sup>5</sup> [Consultation on NIE Networks licence modifications for new IT requirements | Utility Regulator \(uregni.gov.uk\)](#)

### **Pass through capex expenditure – Shared asset charge**

- 3.37 On the 18 January 2020, the transmission and distribution licences were modified to add an additional category of pass through capex in respect of shared asset charges payable by the distribution business for the connection of the distribution system to that part of the transmission system that has been funded by a third party pursuant to a connection agreement entered into between that third party and the Transmission System Operator (the **CCAS\_Xt term**).
- 3.38 The decision paper for these licence modifications were published in November 2019<sup>6</sup>. These licence modifications were consulted on in September 2019<sup>7</sup>

### **RP6 extension licence modifications**

- 3.39 On the 24 May 2023, the transmission and distribution licences were modified to extend the duration of RP6 by one year and defer the start of the RP7 price control.
- 3.40 The modifications were required in order to enable UR to:
- a) Extend the duration of NIE Networks' current price control (RP6) by one year, moving the end date of the RP6 Price Control from 31 March 2024 to 31 March 2025.
  - b) Introduce allowed values, unit rates and amounts for the RP6 extension year including values, rates and amounts for operational expenditure, capital expenditure and pension deficit repair.
  - c) Extend the definition of various terms to include the year ending 31 March 2025.
  - d) Modify the reliability incentive model as it applies in respect of the RP6 extension year.
- 3.41 The modifications allowed the maximum regulated revenue to be calculated for the additional year of the RP6 price control (1 April 2024 to 31 March 2025) for the purposes of setting tariffs for the distribution and transmission networks.

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<sup>6</sup> <https://www.uregni.gov.uk/publications/decision-modifications-nie-networks-transmission-and-distribution-licenses-capex>

<sup>7</sup> <https://www.uregni.gov.uk/news-centre/consultation-proposed-modifications-nie-networks-transmission-and-distribution-licenses>

## 4. Price Control Design for RP7

### Introduction

- 4.1 In Chapters 2 and 3 above we outlined the high-level design of the RP5 price control and key amendments made to it during the RP6 price control. We have carried much of this existing price control design forward into RP7.
- 4.2 In this section we have responded to the proposals which NIE Networks made in respect of the uncertainty mechanisms for RP7 in its business plan submission. We have also considered the company's response to our draft determination and made amendments to the price control design where we considered that this was appropriate. We have also highlighted other changes we think are necessary including noting circumstances which would require licence modifications in response to material changes.
- 4.3 As noted in our final approach to RP7, the RP7 price control period will be impacted by the increased demands and expectations placed on the electricity network. The rate of development and distribution of new renewable generation, uptake of electric vehicles (EVs), and other technologies will have an impact on demand. The use of new technologies will impact the way electricity is transmitted, distributed and consumed. The mechanisms outlined below are designed to address this uncertainty.

### Overview of NIE Networks proposals

- 4.4 Table 4.1 below summaries NIE Networks proposals for uncertainty mechanism's which it considered should be maintained, amended, or added for the RP7 period.

Uncertainty/Risk		RP6 Framework	Proposal for RP7
Primary Network – Forward Power Flow		Ex-ante allowance with 50/50 mechanism	Ex-ante plus reopener
Primary Network – Reverse Power Flow		Reopener	Ex-ante plus reopener
Secondary Network Investment		Ex-ante allowance with 50/50 mechanism	Ex-ante plus volume driver with mid-point review
Low rated cut outs		Ex-ante allowance with 50/50 mechanism	Volume driver
Looped Services		Ex-ante allowance with 50/50 mechanism	Volume driver with mid-point review
Net zero		n/a	Reopener
Environmental		n/a	Reopener
Sub-sea cables		n/a	Ex-ante allowance for inspection and testing and reopener as business case materialises
Telecoms	SONI asset transfer	n/a	Reopened
	DSO Operation Telecoms		Reopener (2-stage)
	OTN Comms conditional investment		Reopener
Creosote Poles		n/a	Reopener
Non-recoverable alterations		Ex-ante allowance with 50/50 mechanism	Pass through
Innovation		UIOLI allowance approved through reopener mechanism	Ex-ante for defined projects plus reopener (light touch) for network innovation fund (NIF)
Capex asset replacement (Asset requirements may change as needs arise)		Limited substitution offered in RP6 50/50 Mechanism	Broader use of substitution mechanism
Transmission capacity and capability projects (For projects brought forward by SONI)		Reopener: the 'D5 mechanism'	Refinement to the D5 mechanism
Large scale capex asset replacement (For large scale projects whose costs are uncertain at the time of setting the price control)		Reopener: the additional capex reopener. Specific projects cited for both transmission and distribution.	Retain RP6 arrangement
Transmission protection philosophy (Philosophy set by SONI. Changes can have cost implications)		Reopener	Retain RP6 arrangement
Severe weather		Ex-ante allowance with 50/50 mechanism	Pass-through

Uncertainty/Risk	RP6 Framework	Proposal for RP7
Distribution undereaves	Volume driver	Retain RP6 arrangement
Cluster developments	Connecting customers bear the costs through the SoCC Unrecovered costs added to the RAB	Retain RP6 arrangement
Distribution connection charging policy (Cost implications of change of policy)	n/a	Reopener
Meter installations/replacements (Costs driven by volumes)	Volume Driver	Retain RP6 arrangement
Smart meters (Cost implications if smart meters are mandated)	No explicit method to address costs	Reopener (2-stage)
I-SEM (Cost implications if there are changes to the wholesale market)	Some opportunity for additional allowances through the ESt term (For the Enduring Solution)	Retain RP6 arrangement
IT Systems (New requirements)	Some opportunity for additional allowances through the NEST term (for new energy strategy IT solution or market services IT systems)	Refinement of the RP6 arrangement to incorporate the delivery of the S/4 HANA project in RP7
Injurious affection (cost implications of IA claims)	Reopener: the IA term	Retain RP6 arrangement
Business rates (cost implications following revaluations)	Ex-ante allowance with 50/50 mechanism	True-up mechanism
Corporation tax (tax rates are outside our control)	Applicable rate varies according to the prevailing rate set by HM Revenue and Customs (HMRC)	Retain RP6 arrangement
Pension historic deficit repair (cost implications if deficit worsens)	Customers bear 100% of deficit repair costs for pre-April 2012 deficit. The balance is borne by the company	Retain RP6 arrangement
UR licence fees	Pass through	Retain RP6 arrangement
Change of law	Reopener: the Change of Law provision	Retain RP6 arrangement
Price indexation	RPI used to adjust allowances	CPIH used to adjust allowances
Real price effects	Ex-ante allowance with 50/50 mechanism	True-up adjustment based on indexation

**Table 4.1: NIE Networks RP7 uncertainty mechanism proposals**

## Overview of NIE Networks' response to draft determination.

- 4.5 NIE Networks response to the proposals for the design of the RP7 price control can be found in the was set out in the main document of its response beginning at page 268. The company provided a summary of its key concerns included:

- the design of certain uncertainty mechanisms inhibits the company's ability to invest to enable delivery of long-term net zero ambitions, even if this investment is ahead of shorter-term need in RP7, by placing too much risk on NIE Networks (e.g. through scope for clawbacks), thereby encouraging the company to delay investment to mitigate that risk;
- the proposed materiality thresholds for several uncertainty mechanisms are too high and are likely to incentivise over-scoping of projects in order to benefit from triggering an uncertainty mechanism or de-prioritisation of projects that do not hit the materiality threshold;
- the proposed mechanics (including timing) of certain uncertainty mechanisms introduce unnecessary delays that are likely to push up costs and delay essential investment; and
- notwithstanding the availability of uncertainty mechanisms, an expedited review of the NI transmission infrastructure approval process is required to ensure the achievement of 2030 renewable targets (and beyond).
- The UR's proposals with respect to uncertainty mechanisms contribute to one of NIE Networks' three main concerns with the DD – namely, that aspects of the price control design will inhibit NIE Networks' ability to invest to enable delivery of long-term 2050 net zero ambitions, even if this investment is ahead of short-term need in RP7. The risk of clawbacks in particular will act as an incentive to delay investment until the latest possible time, in order to achieve greater certainty that the cost will be allowed.

4.6 In its response to the draft determination, NIE Networks set out specific concerns about our proposals in respect of the following:

- Primary Network;
- Secondary Network Reinforcement
- Looped Services;
- Net Zero;
- Environmental;
- Creosote Poles;
- Business Rates;

- Non-Recoverable Alterations;
- Capex Asset Replacement
- D5 Mechanism
- Severe Weather.

4.7 We have reviewed our proposals for the design of the RP7 in light of these concerns and the company's response to specific areas of our draft determination which are set out below.

## **Primary network**

### **NIE Networks proposals – Forward power flow**

- 4.8 NIE Networks proposal for primary network Load Related Expenditure (LRE) was categorised into forward and reverse power flow, driven by demand and generation growth respectively.
- 4.9 Its proposal for a forward flow ex-ante allowance was based on its 'best view' Low Carbon Technology (LCT) uptake scenario. NIE Networks stated that it has deliberately taken a prudent approach to its network modelling to make sure that there is low risk of the ex-ante expenditure not being fully required. However, in doing so NIE Networks consider there is risk that this ex-ante funding will not be sufficient enough during the RP7 period.
- 4.10 NIE Networks noted that it has adopted a 'flexibility first' approach which looks to purchase services (load shedding or generation) to avoid or defer capital investment. Some savings from this approach are built into its RP7 business plan from the outset. However, the company was concerned that if the flexibility market does not materialise as assumed in its business plan, then it will have to revert to more costly conventional solutions.

### **NIE Networks proposals – Reverse power flow**

- 4.11 NIE Networks noted that its primary network has significant reverse power flow constraints due to the volume of distributed generation connected to achieve the 40% RES-E target by 2020 and that most of the latent network generation capacity on our primary network has been exhausted as is evident in its capacity map.
- 4.12 NIE Networks highlighted that its customers have told it that investment is essential in this area to achieve 80% RES-E targets by 2030, especially given the changes to building regulations and rising cost of energy, both of which are likely to drive more dispersed Photovoltaic (PV) installations.

- 4.13 NIE Networks considered that there is significant uncertainty with regards to the number and location of small-scale generators that will seek to connect to the distribution network in RP7. It further noted that its stakeholders felt it should be investing more ahead of need. NIE Networks considers that with an appropriately agile uncertainty mechanism it can ensure that the network does not become a blocker to the development of LCTs.
- 4.14 NIE Networks noted that it has only asked for ex-ante allowances to address primary substations where there is currently no reverse power flow capacity remaining, with a re-opener mechanism to increase allowances as the investment need arises at other substations which are not currently fully utilised.
- 4.15 NIE Networks noted that the primary network investment, both forward and reverse power flow, when compared to secondary network investment can be categorised as lower volumes with higher costs which vary significantly between projects. The company consider that that a re-opener mechanism is the most appropriate uncertainty mechanism to manage this risk. NIE Networks proposed uncertainty mechanism for the forward and reverse power flow categories in shown in Table 4.2.



Parameter		Description
Allowance type		Lump sum
Output Measures	Forward	Retention of existing output measure (LI5s <2% at the end of the period.
	Reverse	No. of substations with no reverse capacity at the end of the period.
Reopener window		April 2027 (Year 2) and April 2029 (Year 4)
Trigger		Triggered by NIE Networks, if the full RP7 expenditure for either forward or reverse power flow investment is forecast to exceed its respective ex-ante allowance plus materiality threshold.
Materiality threshold		5% of ex-ante allowance for respective categories.
Scope	Forward	<p>This re-opener will be used where NIE Networks expects to incur additional expenditure above the ex-ante allowance plus materiality threshold, due to:</p> <ul style="list-style-type: none"> <li>• Forecast demand growth exceeding our ‘best view’ scenario.</li> <li>• Flex market failure.</li> <li>• Whole system solution investment where there is a strong case to invest.</li> </ul> <p>This will require a formal submission by NIE Networks to UR, at the reopener window, setting out the needs case and justification for increased allowance.</p>
	Reverse	<p>This re-opener will be used where NIE Networks expects to incur additional expenditure above the ex-ante allowance plus materiality threshold due to:</p> <ul style="list-style-type: none"> <li>• Actual or forecast generation growth resulting in additional substations forecast to become fully utilised within the RP7 period.</li> <li>• Whole system solution investment where there is a strong case to invest.</li> </ul> <p>This will require a formal submission by NIE Networks to UR setting out the needs case and justification for increased allowances.</p>
Application of cost sharing mechanism		50:50 cost sharing mechanism retained.

**Table 4.2: NIE Networks proposed Primary Network Uncertainty mechanism**

**Implementation – Primary Network (forward power flow) Uncertainty Mechanism**

4.16 See Annex P, from paragraph 2.39 – 2.44 for our decision.

**Implementation – Primary Network (reverse power flow) Uncertainty Mechanism**

4.17 We will introduce the uncertainty mechanism for reverse power flow as it is described in Table 4.2 above with the exception that the materiality threshold will be increased to 10% ex-ante allowance.

4.18 Our decision for both forward and reverse power flow can be implemented without a licence change via the additional allowed capex which can be determined through the **ACDR<sub>X<sub>t</sub></sub>** term of the existing licence.

## Secondary Network Investment

### NIE Networks proposals – Secondary network uncertainty mechanism

4.19 NIE Networks noted that its secondary network ex-ante allowance request is based on its ‘best view’ LCT uptake scenario. NIE Networks noted that it has deliberately taken a prudent approach to its network modelling to make sure that there is low risk of the ex-ante expenditure not being fully required. In doing so, it suggested that there is risk that this ex-ante funding will not sufficient during the RP7 period. It has therefore proposed, a volume driver uncertainty mechanism to manage this which is outlined in the Table 4.3 below:

Parameter	Description
Type of uncertainty	LCT uptake and whole system solutions
Proposed uncertainty mechanism	Volume driver and mid-point review
Volume measures	<ol style="list-style-type: none"> <li>1) Substations: capacity of ground mounted and pole mounted transformers added to network</li> <li>2) Circuits: km of underground cable and Overhead Line (OHL) installed</li> <li>3) Flexibility: Deferred MVA/annum of substations and/or km of circuit</li> </ol>
Unit Costs	<ol style="list-style-type: none"> <li>1) £85.7/MVA pole mounted substation               <ul style="list-style-type: none"> <li>• £80.2/MVA ground mounted substation</li> </ul> </li> <li>2) £95.9/km HV cable               <ul style="list-style-type: none"> <li>• £57.0/km HV OHL</li> <li>• £101.7/km LV cable</li> </ul> </li> <li>3) [X/X]/MVA/annum flexibility procured</li> </ol>
Control measures	Yearly reporting measures to ensure efficient use of volume driver: <ol style="list-style-type: none"> <li>1) Transformer utilisation</li> <li>2) Circuit utilisation</li> <li>3) Positive Common Evaluation Methodology (CEM) output</li> </ol> A mid-point review of the effectiveness of the volume driver.
Application of cost sharing mechanism	50:50 cost sharing mechanism applied to unit costs only as volumes will vary in line with volume driver.

**Table 4.3: NIE Networks proposed Secondary Network Uncertainty mechanism**

## **Implementation – Secondary network uncertainty mechanism**

- 4.20 For the final determination, the entire sub-programme has been determined on a volumetric basis as described in Annex P, therefore, there is no need to have a specific uncertainty mechanism for this allowance.
- 4.21 We allowed an additional amount of £1m in the opex budget to cover the costs of both customer and network flexibility services.
- 4.22 We require the three annual reports mentioned in the control measures section of Table 4.3 to be submitted with the RIGs reporting. We will not implement a mid-term review of unit costs
- 4.23 In addition to the above controls, we will place a cap on the value of VDA\_DNt licence term of forecast expenditure +10%, with the provision that NIE Networks will be able to request an extension to this cap explaining its reasons.

## **Low rated cut-outs**

### **NIE Networks proposals – Low rated cut-outs**

- 4.24 The majority of LV service cables to consumer premises are terminated in a service cut-out with a fuse which is located before the meter and the subsequent customer's consumer unit/fuse board. The cut-out fuse provides protection against overload of the service and provides back-up fault protection to the meter and customer's installation.
- 4.25 When a consumer is installing a low carbon technology such as an EV charge point and/or heat pump, their existing older type of cut-out may need to be replaced of insufficiently rated. In these circumstances, the consumer's cut-out would be replaced with a modern equivalent within each customer's agreed connection capacity and in accordance with health and safety requirements.
- 4.26 Historically, the condition, age and fault rates of cut-outs in service were used to determine an appropriate volume for replacement during a price control period. For RP7 NIE Networks has proposed that additional replacement volumes be allowed that are driven by consumer uptake of LCTs.
- 4.27 NIE Networks has stated they will only carry out LCT driven cut-out replacements reactively but have forecast that 1,456 cut-outs would need to be replaced during RP7. This volume is based on its 'best view' LCT uptake scenario, however it has concerns that this forecast may be conservative

and therefore is requesting an uncertainty mechanism to allow additional replacements should its forecast be exceeded.

- 4.28 NIE Networks has proposed replacing 15,000 condition-based cut-outs in RP7, but also indicated that this volume would need to be increased as part of smart meter roll-out considerations. They state that current manual meter reading allows for inspection of cut-outs on a quarterly basis, enabling the cut-out condition to be closely monitored and delivery of a prioritised replacement programme. The company has highlighted a risk that, if smart metering is introduced, cut-outs will not be subject to regular inspection as part of the meter reading process. This is an issue which will be considered through any licence modifications which are necessary once plans for smart metering have been further developed.
- 4.29 In its submission, NIE Networks stated that the uncertainty associated with the impact of smart metering could be addressed through the smart metering reopener mechanism. However, its preference, for consistency and efficiency purposes, is that one mechanism addresses both the uncertainties of LCT uptake and the impact of smart metering.

#### **UR consideration – Low rated cut outs**

- 4.30 We agree that there is uncertainty regarding the number of LCT uptake driven cut-out replacements that will be required in RP7. Actual numbers will be dictated by consumer decisions on LCT uptake, the load demand of their chosen LCT(s) and whether their property has an inadequately rated cut-out.
- 4.31 Determining an ex-ante volume is inappropriate as it risks blocking deployment of LCTs, that could contribute to the achievement of the Northern Ireland's Executive's net zero targets, should forecasts be exceeded. This is an emerging issue and there is no experience on which to base an ex-ante volume estimate. A volume driven allowance will give NIE Networks flexibility to meet demand, and consumers will be protected as expenditure will only be incurred when necessary.

#### **UR decision for RP7 – Low rated cut outs**

- 4.32 We have accepted the proposed volume driver uncertainty mechanism to facilitate additional cut-out replacements driven by consumer uptake of low carbon technologies. The volumes will not be capped. Adjustments to allowed expenditure will be based on actual volumes of LCT uptake driven replacements and our determined unit rate.
- 4.33 We will assess what is appropriate for cut-out replacements as a result of smart metering, as part of considerations for that project outside of the RP7 price control process. Further engagement and analysis outside of the RP7

process will be required to establish what changes to the condition-based volumes are required as result of decreased inspection frequencies.

- 4.34 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on low-rated cut outs in principle, but made representations in respect of the form of the volume driver.

#### **Implementation – Low rated cut-outs**

- 4.35 We are establishing separate cut-out replacement programmes to capture LCT driven replacements, distinct from the condition-based replacements which will continue set by an ex-ante allowed capex, subject to the deferral mechanism. This will simplify analysis and adjustment during annual tariff determinations.
- 4.36 We have accepted the proposals in NIE Networks' draft determination response, to create a separate single phase and 3-phase cut out replacement unit rates. In order to carry out 3-phase cut-out replacements safely it is required to isolate the service via excavations in all cases, which would incur higher costs than the single phase cut out replacement works
- 4.37 The unit cost for volume driven and condition based programmes will be the same for each cut-out type. We will account for total volumes and outturn costs across both programmes for the purposes of the cost risk sharing mechanism and informing any future unit rate determinations.
- 4.38 We have added the additional volume driven outputs into the volume driver licence term VDA\_DNt via a new line in Annex 2, Table 5 of the distribution licence. The total allowance will be calculated on the volume of cut-out replacements driven by LCT uptake multiplied by the relevant determined unit rate, adjusted by our determined frontier shift for that reporting year.
- 4.39 NIE Networks provided detail, as shown in Table 4.4 below, on how the various cut-out replacement scenarios will be initiated and subsequently reported within the condition based or LCT uptake driven RP7 sub-programmes, depending on cut-out type. Facilitating loads more than 80A would require a change to the customers connection arrangement, therefore works to facilitate this scenario, including upgrading the cut-out, would be directly chargeable to the customer.

Scenario	Reporting Sub-programme
Poor condition/non-compliant single phase cut out identified and scheduled for replacement	D11a – Replace Service Cut-outs - Condition Based
Poor condition/non-compliant 3-phase cut out identified and scheduled for replacement	D11b Replace 3-Phase Service Cut-outs - Condition Based
LCT application to connect to a single phase cut out that is identified in poor condition/non-compliant/<80A Rating	D11c – Replace Service Cut-outs - Volume Driven
LCT application to connect to a 3-phase cut out that is identified in poor condition/non-compliant/<80A Rating	D11d – Replace 3-Phase Service Cut-outs - Volume Driven

**Table 4.4: Service cut-outs replacement process and reporting**

## Looped services

### NIE Networks proposals – Looped services

- 4.40 NIE Networks has noted that analysis by its consultants had concluded that looped services are inadequate for homes with any LCTs connected and that unfortunately, many of its customers don't inform NIE Networks when they have connected an LCT, despite being obligated to do so. This creates an immediate safety and network risk once the LCT connects. NIE Networks strongly considers that it must be proactive in removing this legacy asset from the network in the RP7 period and its ambition is to unloop the vast majority of looped services on its network by the end of RP7.
- 4.41 NIE Networks has acknowledged that there will be challenging situations with some looped services running under houses and customers refusing to facilitate what can be disruptive work. NIE Networks consider that an ex-ante allowance to unloop all looped services would carry risk of under delivery.
- 4.42 NIE Networks has requested an ex-ante allowance of £4.8m in RP7 to adopt a reactive approach to the removal of looped services from a demand growth perspective i.e. waiting until an LCT seeks to connect or has connected to the network.
- 4.43 However, NIE Networks outlined that a reactive approach would not be sufficient from a safety and network risk perspective. It is therefore proposing that a volume driver is introduced, to provide allowances above the ex-ante level to enable the proactive removal of looped services from the network.
- 4.44 NIE Networks noted, that considering this programme is more extensive than previous price control and targets a wider range of properties and scenarios, it considers that there is unit cost uncertainty. To mitigate this to both the customer and the company, NIE Networks has proposed a mid-point review; whereby, the unit cost is reviewed based on the outturn unit cost position during the first half of the RP7 period.

## **NIE Response to the draft determination**

- 4.45 In the draft determination, we agreed with the addition of a volume driven reopener coming into being at the point where NIE Networks has efficiently expended its ex-ante allowance. We proposed that the company should present to UR a written submission laying out the case for further funding to be allowed and shall proceed with additional works at its own risk until agreement from UR is given to invoke the volume driven mechanism. We also proposed that the cost rate for the volume driven additional allowances shall be based on the latest average outturn unit rate (from 2018 to time of submission).
- 4.46 In its response to the draft determination of the design of the price control in respect of a net-zero reopener, NIE Networks raised a number of concerns about our proposed approach:
- a) first, in deciding not to approve a mid-point review, the UR has not taken into account the fact that a lower unit cost could be implemented for the second half of RP7; and
  - b) second, the current timing of the written submission would disincentivise NIE Networks from carrying out additional works while it awaits the UR's approval.
- 4.47 Having considered the broader design of the price control, including the introduction of a real price effects reopener mechanism, we have decided not to mid-point review of unit rates. We accept that over the course of the price control some rates might increase and some reduce (relative to inflation). On balance, we do not consider it appropriate to introduce a reopener for specific unit rates.
- 4.48 We are content that the timing of the additional report requested to support an extension of the programme should not be detrimental. It is for NIE Networks to decide when there is compelling evidence to support the activation of this mechanism. As a result, the risk of the company proceeding at risk in advance of the mechanism being implemented is not considered material.

## **Implementation – Looped services**

- 4.49 We have introduced a term into the VDA\_DNt via a new line in Annex 2, Table 5 to allow an additional volume of looped service replacement replacements from 2028/29 onwards in excess of that anticipated in our ex-ante allowance for RP7.

- 4.50 The additional volume driver for the replacement of looped services triggered by LCT connections will only come into effect if and when the determined volume for other looped services has been exceeded.
- 4.51 We have not introduced a mid-point review of unit rates.

## **Net zero**

### **NIE Networks proposals – Net zero**

- 4.52 NIE Networks in its business plan submission stated that the journey to net zero will present unexpected requirements which the RP6 suite of uncertainty mechanisms do not account for. To this end it proposed including a general net zero reopener mechanism that can be triggered by either the company or UR at any time during the price control.
- 4.53 Whilst this mechanism is broad in nature, NIE Networks proposed that it was clearly linked to the achievement of net zero targets and stated that it may be particularly pertinent where more strategic investment is required which cannot be accommodated within the other uncertainty mechanisms NIE Networks proposed for RP7.
- 4.54 NIE Networks provided an example relating to EV charging. They claimed that following recommendations by the EV task force or a Government Department a need is established to reinforce strategic parts of the network to facilitate the connection of EV charging infrastructure, it is unlikely that these types of large and strategic reinforcement jobs could be accommodated within the 20% tolerance outlined within the proposed secondary network reinforcement uncertainty mechanism.

### **UR consideration – Net zero**

- 4.55 We consider that a 'net zero' reopener is appropriate for the RP7 Price Control in order to ensure that the price control can adapt to major changes to the delivery of net zero. This provides a means to amend the price control in response to changes relating to meeting net zero carbon targets which affect the costs and outputs of NIE Networks. The benefit of this approach is that necessary changes can take place within the price control period without further licence modification or waiting until the RP8 Price Control.
- 4.56 This approach recognises that net zero policy will not develop in six-year cycles in line with our electricity network price controls and therefore there may be circumstances within a price control period where assumptions used to set the price control are no longer appropriate due to significant changes related to net zero.



- 4.57 Changes could include changes in government policy, the role of NIE Networks, or market developments. The impact of these changes could be to increase, or decrease, the allowed revenue for NIE Networks during the price control rather than waiting until the next price control. We consider that this approach complements our other uncertainty mechanisms related to net zero.
- 4.58 This re-opener mechanism would be used to take account of changes connected to the achievement of net zero carbon targets not otherwise captured by other RP7 mechanisms, especially where changes are driven by external factors such as material changes in government policy at a national level, or more locally in Northern Ireland, which impact the nature of the connection of new low carbon generation and the uptake of low carbon technologies.

### **NIE Networks response to the draft determination**

- 4.59 In our draft determination we agreed that a Net Zero re-opener was appropriate for the RP7 price control. We noted that a net zero re-opener mechanism could be used to take account of changes connected to the achievement of net zero carbon targets not otherwise captured by other RP7 mechanisms, especially where changes are driven by external factors such as material changes in government policy at a national level or more locally in Northern Ireland which impact the nature of the connection of new low carbon generation and the uptake of low carbon technologies. We did not expect this mechanism to be used as an alternative to adjustments to investment which can be addressed through other mechanisms including the primary network and secondary network load related expenditure mechanisms.
- 4.60 However, we concluded that UR should retain the sole ability to trigger the net zero reopener. This is to ensure that the re-opener is only used where UR is satisfied that there is a sufficient level of certainty over the change in question and its impact. We consider that a materiality threshold of 0.5%<sup>8</sup> of revenue is reasonable for any one instance, calculated on the basis of combined transmission and distribution revenues.
- 4.61 In its response to the draft determination of the design of the price control in respect of a net-zero reopener, NIE Networks raised a number of concerns about our proposed approach:
- a) It suggested that in order for this reopener to be effective it must have a more reasonable materiality threshold – NIE Networks considered

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<sup>8</sup> This materiality threshold relates to changes to allowances resulting from our assessment, multiplied by the cost risk sharing rate of 50% relative to a threshold of 0.5% of annual average base revenues.

that this should be no higher than £0.8 million.

- b) That the reopener must take account of NIE Networks' key role within the sector by allowing the company to trigger the reopener.

- 4.62 Following consideration of the company's response, we agree that the materiality threshold of the net-zero reopener should be reduced to £0.8m. As a result, due to the 50/50 cost risk sharing mechanism, the exposure to the company in respect of additional costs falls to £0.4m.
- 4.63 While we have reduced the materiality threshold in line with the company's request, the scale of the revised materiality threshold continues to emphasise that the mechanism is meant to address major initiatives which have arisen to fulfil wider net-zero objectives. We do expect the company to continue to inform and respond to developing initiatives within its general funding taking account of its key role and its expertise.
- 4.64 We do not agree with the company that it should be able to trigger the net zero reopener mechanism. We draw a distinction with other mechanisms, such as the change of law mechanism, which provides the protection to the company in defined circumstances and sets out how the UR must consider these changes and make decisions on allowances as appropriate. We also note that we have included change mechanisms in respect of load growth which will allow the company to recover additional allowances in response to changes in policy and consumer choices in an environment where future load growth is difficult to predict.
- 4.65 The net-zero reopener sits between these different types of mechanism. It allows for additional work which may be necessary where NIE Networks is asked to make a significant contribution to development work which does not sit within its general obligations in respect of the transmission and distribution of electricity. We expect these initiatives will develop in response other stakeholders who would assist in providing supporting information on the need for the project, its costs and benefits and why it must be carried out by NIE Networks with the costs added to consumer bills.
- 4.66 We have therefore decided that it remains in the consumer interest to maintain the principle that only the UR can trigger this mechanism. In doing so, we will consider representations from NIE Networks with the support of other key stakeholders on the need for NIE Networks to carry out additional investment and that this should be paid for by electricity networks consumers before we ask NIE Networks to provide any detailed submission on additional costs and outputs.

## **UR decision for RP7 – Net Zero**

- 4.67 We have decided to include an additional re-opener mechanism for net-zero initiatives in the design of the RP7 Price Control.
- 4.68 This mechanism is intended to address major new initiatives which are not covered by other price control mechanisms such as change of law and the load growth reopeners. Therefore we will place a materiality threshold of £0.8m in 2021/22 prices on the reopener. As a result of the 50/50 cost risk sharing mechanism, this materiality threshold exposes NIE Networks to a financial risk of £0.4m. As this materiality threshold was originally calculated from a change in revenue, we will consider the impact on revenue as we implement the materiality threshold. We maintained our draft determination position that this mechanism can only be reopened by UR following representations from NIE Networks and / or other stakeholders.

### **Implementation – Net zero**

We are minded introducing a licence modification to enable net zero re-opener in the RP7 price control, which can only be triggered by UR and where the impact of a change relating to the meeting of net zero carbon targets is material. This follows the approach taken by Ofgem in the RIIO-ED2 final determinations<sup>9</sup>.

## **Environmental**

### **NIE Networks proposals – Environmental**

- 4.69 NIE Networks has noted that its RP7 price control has been developed to enable the fulfilment of its Environmental Action Plan (EAP), NIE Networks notes that legislative requirements and stakeholder expectations are likely to change throughout the period, requiring adjustment to the level of ambition within its EAP. As such, it proposed an environmental reopener mechanism which can be triggered by either the company or UR at any time during the price control.
- 4.70 NIE Networks considers that this mechanism should be broad in nature and that it must be clearly linked to environment and/or sustainability considerations.

### **UR consideration – Environmental**

- 4.71 Ofgem provided for an environmental re-opener in its RIIO-ED2 final determination, to include circumstances where the DNO has incurred or expects to incur costs caused by new, or amended, legislative requirements

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<sup>9</sup> Page 34 of the Ofgem RIIO-ED2 final determination core methodology

that relate to the DNO's impact on the environment that are contained within or could have been contained within its EAP<sup>10</sup>.

- 4.72 There is an existing Change of Law provision in the NIE Networks transmission and distribution licences which can be utilised by NIE Networks to recover efficient costs associated with the impact of legislative changes.
- 4.73 The company has proposed a further re-opener in respect of environmental and/or sustainability considerations which can be triggered by either the company or UR at any time during the price control. This would be in addition to the Change of Law provisions in the current licence. Therefore, we understand that the company intends this to address optional environmental and/or sustainability issues over and above that required in legislation.
- 4.74 The company also responded to the draft determination consultation stating numerous reasons why a reopener would be consistent with UR's statutory duties and failing to include one risked seriously limiting the scope for such initiatives even in circumstances where there is support. The company also suggested the framing of the reopener could address concerns rather than having no reopener at all.
- 4.75 However, we are concerned that the mechanism proposed by the company is wide ranging and unlimited. This risks undermining the general principle of setting ex-ante allowances (largely based on historical costs), and allowing the company to manage all the work it considers necessary within those cost allowances, including work it might want to undertake under the broad heading of social and corporate responsibility.
- 4.76 We are also conscious of that additional, discretionary, expenditure will flow through to consumer bills. Consumers have seen significant increases in energy bills in recent years placing a strain on family and business finances. Additional investment is proposed in RP7 to reinforce the network to deliver the environmental and sustainability objective of net zero. Consumers will pay a cost for these network improvements. These costs may be off-set by reduced transport and heating costs as we adopt alternative technologies, with the distribution of additional costs dependent on uptake. However, at a time of significant change we do not consider it appropriate to make provision for further discretionary costs to pass through to consumers.
- 4.77 NIE Networks continues to have the ability to undertake discretionary activities in line with its corporate social and responsibility objectives. The

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<sup>10</sup> Page 57 of Ofgem RIIO-ED2 final determination core methodology document

licence would allow 50% of these costs to pass through to consumers, unless they are determined to be demonstrably inefficiency and wasteful.

### **NIE Network's response to the draft determination**

- 4.78 In the draft determination, we concluded that we should not introduce a reopener mechanism for environmental concerns. Instead, we noted that the general provisions of the change of law mechanism would allow the company to seek new allowances when new obligations were imposed upon it.
- 4.79 In its response to the draft determination of the design of the price control in respect of environmental costs, NIE Networks raised a number of concerns about our proposed approach:
- a) NIE Networks accepted that the change of law mechanism would allow it to recover additional costs if there was a change of law in respect of environmental obligations. However, the company was concerned that by omitting this mechanism, the UR would:
    - (i) deprive itself of the ability to pursue its duties in relation to the environment by means of allowing funding for relevant initiatives; and
    - (ii) undermine NIE Network's ability and incentive to pursue environmental and sustainability goals.
- 4.80 The company highlighted that UR's secondary duties included:
- a) "To have regard to the effect on the environment of activities connected with the generation, transmission, distribution or supply of electricity"; and
  - b) "To secure a diverse, viable and environmentally sustainable long-term energy supply."
- 4.81 The company was concerned that the lack of a mechanism would constrain NIE Networks' ability and incentive to pursue environmental and sustainability goals, highlighting consumer feedback and support for environmental and sustainability considerations.
- 4.82 We note the material investment which consumers will fund in RP7 which is in pursuit of a clear environmental and sustainability policy and legislative objectives of renewable energy consumption and net-zero goals. We note that NIE Networks must comply with wide ranging sustainability legislation such as that in respect of protected species and habitats. Our proposed RPE reopener will also provide NIE Networks with further protection in respect of

movements in costs, which will take some account of how other businesses respond to non-legislative pressures in their prices to consumers.

- 4.83 In view of the scale of the investment in RP7 to achieve environmental and sustainable goals, the obligation to comply with existing environmental and sustainability legislation and the protections of the change of law mechanism, we have concluded that it is not appropriate to provide a further reopener for additional environmental investment which is not mandated.

#### **UR decision for RP7 - Environmental**

- 4.84 We consider the existing Change of Law provision provides NIE Networks with adequate means of recovering costs associated with the impact of environmental legislative changes that impact NIE Networks costs.
- 4.85 We have not introduced an additional re-opener mechanism in RP7 to allow further costs of discretionary environmental and sustainability costs to pass through to consumers in the absence of a change in law.

### **Subsea Cables**

#### **NIE Networks proposals – Subsea cables**

- 4.86 NIE Networks has highlighted that it has submarine cables to Rathlin Island, Inish Conra and Inish Doney. At the beginning of RP7 the cables will be 18 years old with an expected lifespan of between 20-40 years. The company's view is that they require inspection and testing to inform future asset replacement / refurbishment.
- 4.87 NIE Networks consider that this information is particularly important for submarine cables as the replacement cost is significant and such a decision must be well evidenced; equally, the cost, disruption and timeline to repair a faulted submarine cable is extensive.
- 4.88 NIE Networks has requested allowances for the inspection and testing of the three cables as well as a reopener mechanism to provide allowances for replacement/refurbishment works required within the RP7 period, as a result of the inspection and testing activity. NIE Networks has requested that the uncertainty mechanism can be triggered by the company at any time throughout RP7 as the results of the inspection and testing may require urgent intervention.

#### **UR decision for RP7 – Subsea cables**

- 4.89 We have included an allowance to fund the inspection of sub-sea cables. However, we have made no ex-ante provision from the work which might arise from the inspection of these assets. We recognise that work on these

assets is not covered in the general run rate of costs used to establish our ex-ante allowance for capital maintenance and we recognise that the additional costs could be material. Therefore, we consider it appropriate to include a re-opener mechanism to cover future expenditure which might be required following surveys.

- 4.90 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on subsea cables.

### **Implementation – Sub-sea cables**

- 4.91 The existing **ACDR<sub>t</sub>** term has been amended to allow for additional costs for sub-sea cables should the need arise. Any submission in relation to this re-opener should be well evidenced for the refurbishment/replacement of subsea cables.

## **Telecoms**

### **NIE Networks proposals – Telecoms**

- 4.92 NIE Networks has noted that the Operational Telecommunications Network (OTN) currently serves around 750 control and monitoring points which will increase to 6,000 points in RP7. This is largely driven by the roll out of LV monitors is expected to reach a value of 25,000 by 2050. The existing communications network arrangements do not have the capacity, reach or scale needed to connect all the devices required in the journey to net zero and therefore require significant investment in the RP7 period.
- 4.93 NIE Networks submission also sets out the justification for the investment necessary to support the successful transfer of SONI assets to NIE Networks, as determined by UR in the last SONI price control. Due to the uncertainties as to the timely completion of the investment programmes by SONI, and the service, legal and people issues contained within this paper it is proposed that this will be progressed via a reopener mechanism.
- 4.94 NIE Networks have carried out analysis that recommends a private wireless network as the optimum solution to deliver an OTN that is scalable, reliable, and resilient enough to facilitate net zero requirements for Northern Ireland. However, uncertainty exists with regards to the securing of spectrum from Ofcom, and the potential cost efficiencies associated with a shared utilities model. As such a two-stage reopener mechanism is proposed which can be triggered by the company during RP7. Stage one will cover expenditure associated with planning and design of the LTE network. Stage two will cover expenditure associated with the delivery of the LTE network

## **UR consideration – Telecoms**

- 4.95 To facilitate increasing volumes of LCTs on the distribution network, investment in the OTN during RP7 will be required, to manage a more dynamic network. We agree that the operational telecoms network infrastructure will be essential in connectivity from Transmission and Distribution Control Centres to, and between, generation units and substations.
- 4.96 With the ever-increasing LCT touch points on the system, the OTN interactions will increase from currently around 750 control and monitoring points, to 6,000 points within RP7, and 25,000 by 2050. It is accepted that further analysis is needed to consider the impact and the requirements that will be required to handle the system of the future.

## **UR decision for RP7 – Telecoms**

- 4.97 We accept the uncertainties identified in relation to the timely completion of the investment programmes by all the parties involved, and agree with the proposal that this will be progressed via a reopener mechanism.
- 4.98 We also accept the need for costs associated with the transfer of assets from SONI will be subject to a reopener mechanism.
- 4.99 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on telecoms.

## **Implementation – Telecoms**

- 4.100 The existing ACDR\_Xt and ACTR\_Xt terms have been amended to allow for additional costs of telecoms as set out above.

## **Creosote poles**

### **NIE Networks proposals – Creosote poles**

- 4.101 NIE Networks has noted that it is highly likely that during the RP7 period, new legislation will dictate that new creosote impregnated poles can no longer be installed in Northern Ireland, due to environmental concerns.
- 4.102 The company has also noted that recently implemented legislation which addresses how poles already installed on the network are to be disposed of will be the subject of a Change of Law submission in RP6.



4.103 The company has proposed that the Change of Law mechanism in the current Licences is the appropriate mechanism for dealing with these legislative changes. The company also suggested that it would be prudent to include an additional reopener mechanism specific to the potential ban on creosote poles, to reflect international supply chains potentially moving faster than Northern Ireland legislation and the consequent price impact.

#### **UR consideration – Creosote poles**

4.104 We agree that the Change of Law mechanism in the current licence is the correct mechanism for addressing potential changes in legislative requirements, regarding disposal of existing creosote poles, and any limitations on the use of creosote poles in the future.

4.105 The ex-ante allowances proposed in this final determination do not make any allowances for those changes. The company has indicated that it will make a Change of Law submission in RP6 in respect of recently implemented legislation. We will consider this on its merits, once it is received. If we can make decisions on this submission in advance of the RP7 final determination, we will incorporate any financial impact in the ex-ante allowances determined for RP7. If we have not made a final decision on the issue in advance of the final determination, we will clarify that the financial impact of any Change of Law decision will extend to the end of RP7.

#### **NIE Networks' response to the draft determination**

4.106 In our draft determination we concluded that we did not agree with the company's suggestion that an additional re-opener mechanisms should be included in RP7, in respect of creosote poles against the possibility of international supply chains moving faster than Northern Ireland legislation, resulting in price changes in advance of a change of law. The determination already makes provision for changes in future costs through the inflation adjustment and real price effects. These cover a wide range of risks and opportunities which might increase or reduce specific unit costs during the course of the price control. Identifying specific issues which might result in changes of market rates for individual materials, but which are not related to clearly defined and limited circumstances (such as change of law), undermines the underlying principle of a price control based on ex-ante allowances. It would be asymmetric in that only focuses on costs which might increase. If it were implemented, it would be difficult to distinguish between changes in costs, which reflect how international supply chains potentially moving faster than Northern Ireland legislation, and other causes. In effect, it would make the costs of creosote poles a pass through, but only if they increase.

4.107 In its response to our draft determination of the design of the price control in respect of capex asset replacement, NIE Networks raised a number of concerns about our proposed approach:

- The company noted that recently implemented legislation also addresses how poles already installed on the network are to be disposed of and that will be the subject of a CoL process in RP6. However, these additional disposal costs are not yet fully reflected in the RP6 outturn unit rates and therefore a separate mechanism will be required to review the currently uncertain impact of these costs in the RP7 period. The company therefore proposed that this potential change is also included in the reopener mechanism proposed above. We have not yet received a change of law request for this issue in RP7. However, we agree in principle that, to the extent that the additional costs are not included in our RP7 determined rates, the change of law decision should extend to the RP7 period.

The company was concerned that the UR's provisional determination indicates a lack of understanding of the uncertainty of future overhead line network design, which results from the ever-changing legislative framework regarding the use of creosote poles. We understand the point that the company is making, that future costs are uncertain and this uncertainty might be exacerbated as new legislation is developed and implemented. This is equally true in the past as in the future. The company restated its concerns about potential cost increases in advance of a change of law. We continue to hold to the view that RP7 will be subject to a range of cost pressures and we should not provide issue specific reopener mechanisms.

- The company proposed that a midpoint re-opener could be applied as an alternative to share the cost risk burden resulting from the unprecedented changes in the materials market. We have concluded that RP7 should not be subject to a mid-point reopener. We do propose to develop an RPE reopener mechanism to address future movements in costs relative to our general measure of inflation.

#### **Decision for RP7 on – Creosote poles**

4.108 In view of the commentary above, we have not introduced a re-opener mechanism in RP7 specific to the potential ban on creosote poles to reflect international supply chains potentially moving faster than Northern Ireland legislation.

4.109 We will consider change of law requests under the terms of the licence and note that we will consider how a change of law request on legislative

changes in RP6 on disposal of creosote poles should extend into the RP7 period.

## **Non-recoverable alterations**

### **NIE Networks proposals – Non-recoverable alterations**

- 4.110 Non-recoverable alteration costs are incurred by NIE Networks where a customer cannot be charged for an alteration to electricity equipment on their land. This arises where the alteration complies with Conditions 12 and 13 of an established Wayleave Agreement or where a notice to remove equipment is enforced. For example, electricity infrastructure is impeding a bona fide development.
- 4.111 NIE Networks forecast non-recoverable alteration expenditure of £18.2m for the RP7 period based on its experience to date in RP6. However, it has recommended that expenditure in this area be subject to a pass-through style uncertainty mechanism. NIE Networks has recommended this approach as the volume of activity in this area will be driven by customer behaviour and subsequent scope of required works that it has little control over. It believes this approach will give it greater protection should activity significantly increase over RP6, or should activity decrease, costs to consumers will be minimised.
- 4.112 NIE Networks has also proposed that the scope of works be increased over the current approach to non-recoverable alterations. Specifically, it considers that raising lines to achieve clearances over a property is no longer a technically acceptable solution. Instead, the overhead line route should be altered to ensure no properties are underneath. Currently this solution is offered to connecting customers, but with the customer bearing the additional costs over the line raise.
- 4.113 With this change in approach, it has forecast that non-recoverable alteration expenditure would require an increase of £5.4m over its RP7 ex-ante request. NIE Networks did not include this value in its ex-ante request, but anticipates that its proposed pass-through style uncertainty mechanism will provide the necessary funding.

### **UR consideration – Non recoverable alterations**

- 4.114 We agree with the change in approach to line alterations, though additional alteration costs may be incurred, future costs resulting from access for maintenance difficulties and resolving bird fouling issues should reduce.
- 4.115 We agree that the volume and scope of work for this activity are influenced by factors outside of NIE Networks' control; however, NIE Networks is

responsible for managing and controlling the costs of the required work. Applying a pass-through mechanism to this expenditure would reduce NIE Networks' incentive to minimise the costs passed through to all consumers while continuing to comply with all legal requirements.

### **NIE Networks response to the draft determination**

- 4.116 In our draft determination we concluded that we did not consider that the evidence presented to us was a strong enough case to amend the current arrangements.
- 4.117 In its response to our draft determination of the design of the price control in respect of capex asset replacement, NIE Networks raised a number of concerns about our proposed approach:
- a) The company was concerned that no allowance had been made to reflect change in NRA policy. Our final determination includes an increased ex-ante allowance for NRA policy.
  - b) The company has interpreted our position as one where if investment is linked to customer activity we have generally provided an uncertainty mechanism, and where investment is not linked to customer activity we have generally not provided an uncertainty mechanism and should do so in respect of non-recoverable alterations. This is not the case, in RP6 we provided an ex-ante allowance for non-recoverable alterations as did the CC in its determination for RP5.
  - c) The company asked that, if we continue to hold to an ex-ante allowance, it should be subject to review halfway through the price control.

### **UR decision for RP7 – Non recoverable alterations**

- 4.118 We have provided a £5.4m increase to the non-recoverable alterations allowance in order to reflect the change in approach. The total £22.6m RP7 allowance is based on the RP6 average annual outturn combined with the uplift. The additional sum is the estimate provided by NIE Networks based on its experience in pricing additional line diversion activities through RP6. Fuller detail on the assessment of the allowance is provided in Annex P of this final determination.
- 4.119 This works programme will remain an ex-ante lump sum allowance. A key principle of the underlying design of the price control is that ex-ante allowances are set where possible and pass through costs kept to minimum. We are of the view that this works programme is not suitable to be treated as pass-through for the following reasons:

- a) It would remove the company's incentive to keep costs to a minimum.
  - b) It would remove the company's incentive to keep activity to a minimum i.e. ensuring alterations are only carried when technically necessary.
  - c) It would be difficult to scrutinise costs to ensure they accurately reflect actual works carried out under this programme, given the range of activities that could be undertaken which are similar to other works carried out under other programmes. In contrast, the costs incurred in other areas being treated as pass-through, such as business rates and licence fees, can be directly and simply evidenced by the bill provided by the charging party.
- 4.120 To set an appropriate allowance, we considered allowing costs to be claimed through unit rates set for a range of activities and assets required to divert the existing line, with this approach allowing the allowance to flex with the required volume. However, there would be difficulty in identifying all activities and setting appropriate unit rates. This approach would also remove the company's incentive to keep activity to a minimum and was therefore rejected
- 4.121 Our final determination includes an increased ex-ante allowance for NRA policy.

## **Innovation**

### **NIE Networks proposals – Innovation**

- 4.122 NIE Networks RP7 innovation request consisted of two discrete elements:
- a) £8.8 million in ex-ante funding to deliver projects defined in this paper, and its annexes
  - b) Up to £10.3 million in the form of a Network Innovation Fund (NIF).
- 4.123 NIE Networks noted that the NIF proposal had been endorsed by its stakeholders in the public consultation at the end of 2022, and was intended to enable NIE Networks to propose and fund new innovation projects, subject to a light touch regulatory approval process.
- 4.124 NIE Networks also proposed that an 'Innovation Council' is established to independently monitor and steer NIE Networks' innovation programme in line with stakeholder requirements.

## **UR consideration – Innovation**

- 4.125 RP6 represented the first significant allowance for NIE Networks dedicated to network innovation. NIE Networks has indicated that this has facilitated significant learning in delivering innovation projects and transitioning their outcomes into Business as Usual (BAU) activity.
- 4.126 Annex N sets out our approach to determining innovation allowances for the RP7 price control. We have assessed the specific projects proposed by NIE Networks and provided an ex-ante allowance for those which met our tests.
- 4.127 In relation to NIE Networks proposal for an ‘Innovation Council’ we consider that it is a matter for NIE Networks to develop where it considers external advice would help it better develop its innovation activities in RP7. However, it is not something that we are mandating to support innovation investment requests.

## **UR decision for RP7 – Innovation**

- 4.128 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on innovation, but made representations on its implementation.
- 4.129 We have amended our innovation mechanism to be less onerous and more flexible. As a result we have determined three re-opener windows for innovation after year 1 (August 2026), year 3 (August 2028) and year 5 (August 2030) of the RP7 price control.
- 4.130 We also note that NIE Networks is proposing a set of criteria that would inform what projects could be included in the re-opener. The proposed criteria are broadly in line with those utilised in other areas for innovation funding mechanisms.
- 4.131 The criteria reflect a general direction of travel that is broadly consistent with energy policy in Northern Ireland, and with the criteria used for similar innovation mechanisms in GB and Ireland. Consequently, we are broadly content with the suggestions made by NIE Networks. Full detail on the final re-opener requirements are set out in Annex N (NIF licence request section).
- 4.132 We have not placed any cap on the scale of funding for additional NIF projects. We recognise the need for innovation on the path to net-zero. We expect to assess / approve proposals based on their individual merit.

## **Implementation – Innovation**

- 4.133 The existing ACDR\_Xt, ACTR\_Xt and AOOt terms in both the transmission and distribution licences have been amended to allow for additional costs of innovation.
- 4.134 The licence prescribes three application windows within which submissions should be made if NIE Networks is seeking new innovation project funding.

## **Capex asset replacement**

### **NIE Networks proposals – Capex asset replacement**

- 4.135 NIE Networks noted that the expenditure forecasts in its RP7 Business Plan for asset replacement reflect its best view at the point it submitted its business plan. NIE Networks noted that RP7 will run until 2031, and inevitably the priority to replace particular types of assets may change during that time. For example, a new investment stream may be required as a result of asset type failures not included in the plan or a higher volume of replacement may be required.
- 4.136 To deal with this uncertainty, NIE Networks proposed that there should be greater flexibility within the price control structure, to reprioritise investment based on the changing needs of the network without financial penalty to NIE Networks. NIE Networks consider that investment in the network is part of a long-term planning process and in the majority of instances, equipment highlighted for replacement and refurbishment can only be deferred for a short period of time.
- 4.137 NIE Networks noted that as such, when an urgent network issue arises requiring the unforeseen replacement of assets, there are already inherent limitations on its ability to re-prioritise the plan. It suggested that these limitations are further exacerbated by the 20% restriction at a category level which results in there being no possibility of substitution in investment areas of high value, low volume nature. NIE Networks proposed the removal of this category cap in addition to an increased overall limit on substitution linked to the total value of the Network Investment Plan.
- 4.138 NIE Networks noted, that the ability to substitute only in areas of investment with already identified outputs greatly restricts its ability to react to circumstances which were not foreseeable as part of its long-term investment planning. NIE Networks cited the example of this during the RP6 period was the need to install noise enclosures at Kells Main. NIE Networks thought that the funding position for the investment was unclear under the current price control rules.

## **UR consideration – Capex asset replacement**

- 4.139 NIE Networks raised similar concerns in its RP6 submission. We considered these concerns at that time and developed the current substitution methodology.
- 4.140 To date, NIE Networks has not brought to our attention any substantive changes under the existing substitution mechanism.
- 4.141 We note that the price control provides the funding necessary for NIE Networks to fulfil its statutory objectives in respect of the electricity network, with a substantial element of ex-ante allowances. We note that the CC in its decision for RP5 did not consider any substitution mechanisms necessary within its overall framework of ex-ante allowances, cost risk sharing and deferral mechanisms. This approach comes with some degree of opportunity and risk. It is not the case that the price control seeks to eliminate that risk in its entirety, and there is merit in ensuring that NIE Networks remains in charge of the decisions it makes on how it funds individual obligations and needs as they arise.

## **NIE Networks response to the draft determination**

- 4.142 In our draft determination we concluded that we did not consider that the evidence presented to us was a strong enough case to amend the current arrangements.
- 4.143 In its response to our draft determination of the design of the price control in respect of capex asset replacement, NIE Networks raised a number of concerns about our proposed approach:
- NIE Networks noted that it is not seeking to eliminate risk in the price control in its entirety and regards the 50:50 cost sharing mechanism as positive.
  - The company was concerned that under the current price control framework, capex incurred as a result of unforeseen issues could be treated as reactive capex. Such incurred capex may fall outside of the 50:50 cost sharing mechanism, and could result in NIE Networks having to fund this capex in its entirety. We note that any capex the company incurs which falls under the definition of ‘qualifying capex’ is subject to the 50/50 cost risk sharing mechanism unless it is deemed to be demonstrably inefficiency and wasteful under the terms of the licence.
  - The company was concerned about uncertainty over future environmental and legislative changes within with lack of certainty regarding the operation of the current substitution and deferral



mechanisms could create a disincentive for the company to invest in its network investment programme. We note that the company can avail of the change of law mechanisms to seek additional allowances were necessary. We do not think there is a lack of clarity regarding the operation of the current substitution and deferral mechanisms which should inhibit the company.

- NIE Networks will continue to prioritise investment in asset replacement on a risk-based approach. However, it is considered that a more flexible substitution mechanism will allow NIE Networks to make necessary and proportionate investment decisions with the confidence that it will not be penalised in future regulatory periods. We agree with this, but note the decision of the CC in RP5 to introduce a deferral mechanism with no allowance for substitution.

#### **UR decision for RP7 - Capex asset replacement (substitution mechanism)**

- 4.144 NIE Networks' primary concern is the current 20% cap on the value of which can be substituted out of a single allowance.
- 4.145 When we considered the deferral mechanism for RP6, we were conscious that the CC, in its decision for RP5, had not allowed for substitution. In our view, there was merit in its approach in that it acted as a strong incentive for the company to develop a robust business plan with a strong commitment to deliver the outputs it planned and consumers were funding. In RP6, we recognised the need for some flexibility and the present substitution mechanism was the result of these deliberations.
- 4.146 The outcome of the current flexibility mechanism is that the company has some opportunity to flex its plan such that some of the changes are not subject to deferral and that where.
- 4.147 Since the draft determination, we have introduced a full volume driver for secondary network reinforcement, subject to an overall upper limit. This provides the company with significant additional flexibility for work which is no longer subject to deferral or the substitution mechanism. We have also included a primary network load related reopener which allows the company further flexibility to increase the volume of work on primary networks in the light of load growth.
- 4.148 While we have taken steps which will reduce the need for substitution between different mechanism, we still conclude that it is appropriate to place a cap on the amount that can be substituted out of a single allowance. The work that NIE Networks has proposed within volume linked allowances seems necessary and has been justified by detailed analysis. We would be

surprised if any of these amounts or volumes of work would reduce to zero. The additional flexibility of the new RP7 mechanisms allows significant parts of the programme which might be affected by load increase to be addressed. However, we do recognise that the changing demands of RP7 might require additional flexibility and, with this in mind, we have decided to increase the cap of the amount which can be substituted out of any individual allowance to 40%.

### **Implementation – Capex asset replacement (substitution mechanism)**

- 4.149 We have maintained the current substitution mechanism, adjusted to reflect an increase in the limit of substitution from any individual allowance as described above.

### **Transmission capacity and capability projects (D5 projects)**

#### **NIE Networks proposals – Transmission capacity and capability projects**

- 4.150 NIE Networks has noted that the expenditure forecasts in its RP7 business plan exclude costs (both direct and indirect) associated with potential load-related projects which are uncertain and have not yet been approved by UR.
- 4.151 NIE Networks notes that SONI is responsible for the planning and design of these projects, which can take many years to proceed through a number of key stages, including an initial identification of the need; a detailed process of evaluating technical design options; extensive consultation with stakeholders and the public; and a rigorous assessment of environmental impacts.
- 4.152 NIE Networks noted that UR will assess the relative merits of these projects, on a case by case basis, having regard to the project costs and benefits. However, considering the scale and volume for D5 projects, the company has proposed minor changes to the D5 mechanism in relation to the approval of pre-construction costs, which it believes will drive efficiencies. It has described this process as its ‘minimum value submission’ proposal.
- 4.153 Under this mechanism proposed by the company, it would only seek prior approval for pre-construction costs, where these are expected to exceed £3m. NIE Networks would seek allowances for all other D5 pre-construction works during the construction phase with the regulatory assessment of pre-construction costs based on outturn costs, as opposed to forecasts. The company suggested that this would help secure timely delivery of a large programme of work critical to the delivery of net zero.

## UR consideration – Transmission capacity and capability projects

- 4.154 The RP5 and RP6 price controls did not include ex-ante allowance for this category of project because their costs are large and uncertain. The need and scope of works (determined by SONI) was not within the control of NIE Networks. Instead, ex-ante allowed capex was determined through subsequent decisions when the scope had been defined and detailed cost estimates prepared. We agree with NIE Networks proposal that this mechanism continues to be applied in the RP7 period.
- 4.155 We note the company's 'minimum value submission' proposal for pre-construction costs whereby pre-construction costs less than £3m would be determined during the construction phase with the regulatory assessment of pre-construction costs based on outturn costs as opposed to forecasts. The company has suggested that removing the need to seek approval at pre-construction stage would reduce regulatory burden and allow it to be more agile as it delivers a major programme of work.
- 4.156 We understand the potential advantages of the proposal put forward by the company. However, we also recognise that it also creates its own risks and process issues:
- a) First, the scale of investment which might flow through this pass-through mechanism is not insignificant. Based on D5 pre-construction approvals to date and the potential scale of the D5 programme in RP7, a rough order of magnitude of pass through costs under the proposed mechanism is £25M.
  - b) Secondly, the company will have to make its own ex-ante decision on the pre-construction costs for a project to determine whether it should seek an ex-ante decision from UR or seek to recover costs incurred ex-post.
  - c) Third, there is no absolute definition of what is included in the scope of pre-construction costs and subsequent construction costs. This creates a risk of uncertainty over whether costs should be included in an ex-post decision or, alternatively, whether the company had completed all work necessary during the pre-construction phase to mitigated construction phase risks and arrive at a robust construction estimate.
  - d) Fourth, it creates a category of internal staff costs which are pass-through, requiring the company to record time for all internal staff activities to ensure that the allocation to this narrow category of pass through cost is reasonable.

4.157 However, we believe that there is merit in the approach proposed by the company, subject to further constraints to secure efficient delivery as follows:

- a) Pre-construction costs should only be determined on an ex-post basis when the pre-construction cost estimate is expected to be less than £1.5M. We estimate that this would be about half the D5 projects proposed for RP7 and would cover all additional small projects.
- b) The company should maintain a clear programme of future projects with its best estimate of pre-construction costs. Once the company has decided to carry out pre-construction work which will be determined ex-post on the basis of costs incurred, it will not seek an ex-ante pre-construction allowance part way through the work.
- c) Pre-construction will include all investigations, surveys, design, procurement and agreements necessary to define the scope of works, mitigate key risks and arrive at a robust cost estimate. We would not expect the company to seek funding for works which should have been completed in the pre-construction phase through an ex-ante construction cost decision. We would not intend to approve high levels of contingency in construction allowances because insufficient pre-construction work had been completed.
- d) The aggregate ex-post allowed capex for pre-construction works will not exceed 12.5% of the total allowed capex for these projects. This will be assessed over time on an aggregated basis. If, at any time there is reason to believe that this threshold has been exceeded in a sustained way, UR will make a negative adjustment to individual ex-ante decisions to secure this threshold, subject to on-going cumulative review. As a result, 50/50 cost risk sharing would apply to costs in excess of this threshold.
- e) Maintain records which will allow staff time and cost to be allocated to individual activities.

4.158 We consider that the approach set out above provides a balance of providing the flexibility and agility highlighted by the company while securing efficient delivery with little regulatory burden.

#### **NIE Networks response to the draft determination**

4.159 In its response to our draft determination of the design of the price control in respect of transmission capacity and capability projects, NIE Networks raised a number of concerns about our proposed approach:

- a) Reducing the individual project ex-post review threshold from £3 million to £1.5 million, would mean that less than half of the proposed

D5 projects will progress through its minimum value submission (MVS). The UR's other proposed constraints will hinder the efficiency improvements required in the D5 mechanism to deliver the underlying work in the time required to meet statutory 2030 renewable targets.

- b) NIE Networks requests that the UR adjusts the proposed constraints in its Final Determination. The UR should increase the individual threshold for ex-post review of pre-construction costs to £3 million, which if exceeded should not automatically prevent the company from seeking additional ex-post allowances above the cap on an individual basis. In addition, the UR should exclude the proposal to impose an overall aggregate ex-post allowance cap for pre-construction capex.
- c) As set out at paragraphs 4.11 to 4.21 of Chapter 3 of this Response, NIE Networks requests that the UR includes in its Final Determination a mechanism that grants additional allowances for indirect costs incurred in circumstances where the UR has approved capex during the course of RP7 under a re-opener mechanism, including under the D5 mechanism. We note that our determination of D5 costs already make provision for additional closely associated indirects. We do not intend to make provision for other additional indirect costs across the capital programme.

- 4.160 We note that NIE Networks would prefer a mechanism which allows D5 pre-construction costs to pass through to consumers subject to an ex-post efficiency review. The company's key concern is that the mechanism we proposed in the draft determination would hinder the company (due to delay) in delivering the D5 programme.
- 4.161 We agree that there is a need to focus on the delivery timelines for the D5 programme and ensure that it is not subject to constraints. We note that it is critical to the delivery of net-zero. We do not think that our processes are a delay on this programme. For example, we have not received a D5 pre-construction cost submission since 2021, although we have received further submissions in respect of enabling works which exceed the threshold proposed by NIE Networks for specific submissions. We have also continued to engage with NIE Networks on construction cost submissions and are equally concerned by some of the delays to the programme, although these delays are not the result of our approval processes. In light of this, we propose to engage further with the company to consider how further improvements can be made to the delivery of the D5 programme.
- 4.162 While we recognise NIE Networks' proposals for a minimum value submission is an attempt to further reduce delays to the programme, we are not convinced by the company's reasoning regarding the resource it would

have to spend making an application for pre-construction allowances. We believe that NIE Networks will and should develop reasonable estimates of project costs in advance of beginning work and these can provide the basis for approvals under the mechanism we proposed or an individual cost submission.

- 4.163 In view of this, we propose to engage further with the company and other stakeholders on the future approvals of pre-construction costs for the D5 programme. In the meantime the company should continue to make submissions in respect of pre-construction works as necessary to expedite this work.

#### **UR decision for RP7 – Transmission capacity and capability projects**

- 4.164 We propose to engage further with the company and other stakeholders on the future approvals of pre-construction costs for the D5 programme. In the meantime the company should continue to make submissions in respect of pre-construction works as necessary to expedite this work.
- 4.165 Following this engagement we will consider how these pre-construction cost can be properly included under the conditions of the licence and whether further modifications are required in the **ACTR\_Xt term** of the transmission licence, subject to consultation.

#### **Large scale capex asset replacement (D5 projects)**

##### **NIE Networks proposals – Large scale capex asset replacement**

- 4.166 NIE Networks has proposed that larger asset replacement projects, where the scope of works cannot yet be determined or where the project scale leads to greater uncertainty in construction cost, would also be accepted as D5 projects in the RP7 period as it believes this will be more effective for management of these projects as they cannot be defined in full detail at this stage. NIE Networks noted that this mechanism has been used during RP6 for two large asset replacement projects.

##### **UR consideration – Large scale capex asset replacement**

- 4.167 Whilst the D5 mechanism was originally designed for projects that added transmission capacity or capability, we recognised in RP6 that some asset replacement projects carry similar risks with respect to uncertainty of final cost due to the complexity of the works. We also noted that, while there was a case for determining allowances at a later date under the uncertainty mechanisms where the scope and/or cost are not well defined, this should not be viewed as the norm. We noted that it is for the company to plan development work on this type of project to ensure that, where possible, ex-

ante allowances can be included in the Price Control determination rather than delayed to a later date.

### **UR decision for RP7 – Large scale capex asset replacement projects**

- 4.168 We are content to continue the approach established in RP6 for large asset maintenance projects identified in the RP7 determination.
- 4.169 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on low-rated cut outs.

### **Implementation – Large scale capex asset replacement**

- 4.170 We expect the company to set out its long-term plans for large scale asset replacement projects and how it will complete the work necessary in RP7 to provide robust project estimates which can be included as ex-ante allowances in future price control determinations.

## **Transmission protection philosophy**

### **NIE Networks proposals – Transmission protection philosophy**

- 4.171 NIE Networks noted that the RP6 price control provides for UR to amend the price control to include an allowance in the event SONI proposes any change to the transmission protection philosophy, and this results in additional works that have not been otherwise funded for in the price control.
- 4.172 NIE Networks proposed that this mechanism is retained during RP7.

### **UR consideration – Transmission protection philosophy**

- 4.173 In RP6, we clarified that investment in response to any change to the transmission protection philosophy by SONI would fall within the scope of the D5 mechanism.
- 4.174 We recognise the potential financial impact on NIE Networks in the event that SONI changes the transmission network protection philosophy. We recognise that the company is not in control of these decisions and is obliged to implement them. As a result, we have maintained the current arrangements for RP7

### **UR decision for RP7 – Transmission protection philosophy**

- 4.175 Investment because of changes in transmission protection philosophy will continue to be included in the scope of the D5 mechanism in RP7.

- 4.176 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on transmission protection philosophy.

## **Severe Weather**

### **NIE Networks proposals – Severe weather**

- 4.177 NIE Networks has explained that while the fault and emergency category of expenditure covers normal day to day faults, and those faults that result from periods of severe weather places the predominantly overhead network under exceptional strain and can result in widespread damage affecting large numbers of customers.
- 4.178 NIE Networks has noted that, in Northern Ireland, the threshold for a severe weather event is defined as 13 times the average daily HV fault rate calculated over the previous 10 years, and that this currently stands at 74 HV faults in a 24-hour period.
- 4.179 NIE Networks noted that, these events are relatively rare but nonetheless a separate funding arrangement is required to deal with the consequences of such events that cannot realistically be planned for.
- 4.180 NIE Networks has highlighted that they have further reservations with ex-ante allowances, primarily centred on the risk that severe weather events are uncertain and unpredictable in nature. They also stated that due to climate change, events are predicted to occur more frequently such that ex-ante funding is likely to be inadequate.
- 4.181 NIE Networks also noted that Ofgem have for RIIO-ED2 implemented a pass-through funding mechanism “to allow for the recovery of efficient costs directly incurred as a result of a storm event that meets severe weather thresholds”. They argue that this change in approach (previously Ofgem had similarly established an ex-ante allowance) was also predicated on the difficulties of setting an allowance for such unpredictable events outside of the control of the DNOs.
- 4.182 NIE Networks has proposed that costs attributed to qualifying severe weather events in RP7 are treated as pass through costs, rather than an ex-ante allowance.

### **UR consideration – Severe weather**

- 4.183 At draft determination we were not minded to adopt a cost pass through. Principally we had the same concerns with a pass-through mechanism for



severe weather costs as that set out by the CC at RP5 i.e. a pass-through would remove any incentive to restrain costs in this area.

- 4.184 We also noted that the different definitions of a severe weather event may also impact the approach taken to allowances for severe weather. Specifically, the much higher level of severity in defining a severe weather event in GB means that they experience these costs much more infrequently than NIE Networks.
- 4.185 As NIE Networks has noted, the definition in Northern Ireland is 13 times the average daily HV fault rate over the previous 10 years, whereas in GB it is 42 times its mean daily HV fault rate within a 24-hour period. As a result, notwithstanding the Ofgem decision, GB DNOs remain exposed to an element of the costs covered in ex-ante allowances for NIE Networks.

#### **NIE Networks response to the draft determination**

- 4.186 At the draft determination, we consulted on proposals for maintain the use of an ex-ante allowance for costs of severe weather events.
- 4.187 In its response to our draft determination of the design of the price control in respect of severe weather, NIE Networks raised a number of concerns about our proposed approach:
- a) It set out a different presentation of the CC's decision on RP5 to use an ex-ante allowance for severe weather events, but did not dispute that this was the approach determined by the CC for RP5.
  - b) The company suggested that an ex-ante allowance would undermine its incentive to respond quickly and comprehensively to severe weather events if it thought it was at risk of exceeding the ex-ante allowance. This equally true in the past. We note that the company has wide ranging obligations to maintain the highest quality of consumer service within a wide range of ex-ante allowances and the 50/50 cost risk sharing mechanism. Our decisions on these matters are made on the balance of wider regulatory risks and are not a reason for the company not to respond restore service to consumers in extreme events.
  - c) The company referenced that we were considering aligning the definitions of extreme events with GB for the purpose of GSS payments. For the purpose of this price control, it is necessary to use the current definition of severe weather events to maintain the integrity of our ex-ante allowance. We will consider the need for an alignment of future definitions and reporting as part of our RIGs requirements for RP7.

- d) The company highlighted how costs of severe weather events had increased in RP6 over RP7. It asked that, if we did not decide to provide a reopener mechanism for severe weather, we amend our ex-ante allowance to reflect the latest available information, including the costs of Storm Isha in January 2024. We have taken account of this latest information in our final determination.

### **UR decision for RP7 – Severe weather**

4.188 For severe weather, we have decided to continue with the approach in RP6, and provide an ex-ante allowance over the RP7 period. Our reasons can be summarised as follows:

- Concerns with a pass-through remain the same as that set out by the CC at RP5.
- Reference to Ofgem not considering cost pass-through as an adverse risk is flawed as this treatment only applies to 1-in-20 year events in GB. A cost pass-through does not apply to most of the applicable GSS weather events in GB.
- Whilst it is possible that the frequency of events may rise, we would note that average costs for the six-year period (2013 to 2018) have fallen from £0.83m/a to £0.78m/a in the most recent six-year period (2019 to 2024). This suggests an upward trend is not inevitable.
- NIE Networks do not seem to have factored into account the increased resilience of the network from the additional network investment which would be expected to mitigate the impact of climate change events somewhat.
- Adoption of a cost pass-through would in no way remove uncertainty for consumers. It would in fact place all the risk on the consumer and as CCNI note, would remove all incentive on NIE Networks to be cost efficient in managing these events.

4.189 Annex D provides full detail on the stakeholder feedback and our views on severe weather expenditure. As a result of these deliberations we have rejected the request for a cost pass-through.

### **Distribution undereaves**

#### **NIE Networks proposals – Distribution undereaves**

4.190 NIE Networks proposed RP7 strategy is a continuation of the RP6 programme of works with the focus on completely replacing all single- PVC

undereaves wiring on the LV network by the end of RP7. 9,500 units will be addressed in RP6 which will leave 25,000 to be addressed in RP7.

- 4.191 NIE Networks estimate they will address 8,000 units as part of the LV OHL refurbishment programme, leaving 17,000 to be addressed under the stand-alone undereaves programme. However, as the exact number remains uncertain, NIE Networks has proposed retaining the undereaves volume driver to allow flexibility to adjust the volume addressed under the undereaves programme.

#### **UR consideration – Distribution undereaves**

- 4.192 A volume-driven allowance for undereaves replacement works was introduced in RP6 due to the uncertainty over the number of single layer/non-effectively insulated undereaves conductors on the network. Asset inspection programmes during RP6 has provided greater certainty on the number remaining to be addressed.
- 4.193 In RP6, the unit rate for distribution undereaves was included under the **Distribution undereaves allowance unit cost (UAU\_2016)** term at Annex 2 Paragraph 4.35 Table 5 of the current Distribution Licence. These unit rates were subject to a cost frontier shift.
- 4.194 The cap for the volume of properties with undereaves services and / or mains replaced was included under the UVt term and was originally capped at 19,500 properties. This was extended to 22,500 properties under the RP6 Extension decision.

#### **UR decision for RP7 – Distribution undereaves**

- 4.195 All undereaves replacement works should be reported under the standalone undereaves programme.
- 4.196 We have deducted £5.014m from NIE Networks proposed ex-ante allowance for LV OHL calculated from the volume of undereaves NIE Networks forecast to address under its LV OHL programme multiplied by its proposed undereaves unit rate.
- 4.197 The ex-ante allowance for all undereaves replacements will be determined through the standalone undereaves volume driver with the volume capped at 25,000 properties.
- 4.198 As with RP6, adjustments to allowed expenditure will be based on actual reported volumes and our determined unit rate, which is detailed in the Undereaves section of our published final determination document Annex P: Assessment of RP7 Network Investment Direct Allowances.

- 4.199 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on distribution undereaves.

### **Implementation – Distribution undereaves**

- 4.200 We have expanded Annex 2, Table 5 of the distribution licence to include additional volume driven categories. As a result, we will create a new licence term VDA DNt for all volume driven allowed capex categories, including undereaves, and removed the UVt term. The undereaves category description in table 5 will detail a cap for 25,000 properties for the RP7 period.

## **Cluster developments**

### **NIE Networks proposals – Cluster developments**

- 4.201 NIE Networks noted that the expenditure forecasts in its RP7 business plan exclude costs associated with future cluster infrastructure potential projects which are uncertain and have not yet been approved by UR.
- 4.202 The purpose of grouped or 'clustered' connections is to reduce the number and length of new overhead lines needed for the connections. The clustering approach facilitates the connection of renewable respecting Northern Ireland's landscape.
- 4.203 Clustering large generators also offers advantages in managing information and control related to that part of the system and could permit single point rather than distributed solutions to other engineering problems arising from high levels of renewable energy penetration.
- 4.204 During RP6, a process of project-by-project approval by UR has operated in respect of clusters. NIE Networks proposed that this mechanism continues during RP7 and NIE Networks will not incur any expenditure in relation to new cluster developments without UR's approval.

### **UR decision for RP7 – Cluster developments**

- 4.205 For RP7 final determination we have maintained the connections cluster charging methodology. This means connecting customers bear the costs of clustered developments through the NIE Networks statement of charges and any unrecovered costs are added to the RAB.
- 4.206 We are currently undertaking a separate consultation on whether distribution demand connections should be permitted to clusters and the basis on which

the cost of any such connections would be recovered<sup>11</sup>. This may result in changes to the cluster methodology section of NIE Networks' Statement of Charges, if the outcome of this has any impact on NIE Networks RAB, we may be a need to amend the RP7 Price Control when this review has concluded. However, until this work is done it is not possible to include a specific re-opener mechanism in RP7.

- 4.207 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on cluster development.

## **Distribution connection charging policy**

### **NIE Networks proposals – Distribution connection policy**

- 4.208 NIE Networks noted that its expenditure forecasts in its RP7 business plan assume no change in relation to the current connections charging policy in Northern Ireland. However, NIE Networks has suggested that this is a major issue for many customers and, following consultation, concluded that many of its customers would wish to see a change in this policy. NIE Networks recognised that this is a government policy consideration, so the timing and nature of any change is uncertain.
- 4.209 NIE Networks noted that the introduction of a revised connections charging policy could have a potentially significant impact on its load and capacity programmes, as well as asset replacement costs. In the event that the policy changes, NIE Networks expected that the RP7 allowances will need to be adjusted to reflect the revised investment cost expectations it expects to engage with UR to agree the appropriate regulatory mechanisms to support this policy initiative.

### **UR consideration – Distribution connection policy**

- 4.210 UR and the Department for the Economy (DfE) are consulting on a review of the connection policy framework in Northern Ireland. This work is currently at 'call for evidence' stage<sup>12</sup>. This will consider what individual connectees will pay for future connections, and what costs will be socialised and recovered from all consumers.
- 4.211 Our final determination for the RP7 Price Control is based how connections costs are addressed in the current connection policy. It does not anticipate

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<sup>11</sup> [Consultation on proposed changes to NIE Networks' cluster methodology in NI within the Statement of Charges | Utility Regulator \(uregni.gov.uk\)](#)

<sup>12</sup> <https://www.uregni.gov.uk/consultations/call-evidence-electricity-connection-policy-framework-review>

future development of connection policy and how connections costs will be funded.

- 4.212 We agree that there may be a need to amend the RP7 Price Control when this review has concluded. However, until this work is done it is not possible to include a specific re-opener mechanism in RP7.

### **UR decision for RP7 – Distribution connection charging policy**

- 4.213 We will consider whether further licence modifications will be necessary to secure the ability of NIE Networks to recover reasonable costs incurred, and finance its functions, once the on-going review of the connection policy framework is complete.
- 4.214 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on distribution connection charging policy.

## **Meter installations / replacement**

### **NIE Networks proposals – Meter installations / replacement**

- 4.215 NIE Networks noted that during RP6 the price control allowances for metering installations and replacements have been based on per unit allowances, and that in their view structuring the allowances in this way mitigates against uncertainty in forecasting the annual volume of activity through the regulatory period. NIE Networks proposed that this mechanism is retained during RP7.
- 4.216 NIE Networks proposed adding three new LCT related meter categories to the existing mechanism. These are more specialised metering configurations, such as multi-rate or multi-element meters, for which NIE Networks predicts increased demand.
- 4.217 NIE Networks also noted that its expenditure forecasts in this plan assume no change in relation to NIE Networks' metering obligations during RP7. In particular, no provision has been made for the potential roll out of smart meters to customers in Northern Ireland, and that this is a government policy consideration.
- 4.218 NIE Networks noted that the introduction of smart metering could have a potentially significant impact on its metering, meter reading, and IT costs. Once DfE decides how smart metering will be implemented, NIE Networks expects that the RP7 market operations allowances would be adjusted

accordingly and that NIE Networks would engage with UR to agree the appropriate regulatory mechanisms to support this policy initiative.

- 4.219 NIE Networks also proposed that UR include a mechanism with the RP7 price control which would provide for a review of metering unit costs within the period of the price control. NIE Networks proposed that this review be on a symmetrical basis and would take account of both increases and reductions in unit costs. This proposal came after the NIE Networks RP7 business plan submission, and reflected NIE Networks view that there are new and additional significant risks in relation to the availability and cost of procuring meters going forward due to the reduced availability of traditional (non-smart) meters and the increasing costs of electronic components used in electricity meters and other supply chain costs increases.

#### **UR consideration – Meter installations / replacements**

- 4.220 We agree with NIE Networks that price control allowances for metering installations and replacements based on per unit allowances mitigates against uncertainty in forecasting the annual volume of activity, through the regulatory period, and therefore are minded to continue with this approach for RP7.
- 4.221 However, we do not agree with the proposal for a review of unit rates during the price control, as this lessens the incentive for NIE Networks to control and reveal lower costs which would benefit consumers in the future. Our approach for our minded to position on metering unit rates can be found in Annex O: Metering.

#### **UR decision for RP7 – Meter installations / replacements**

- 4.222 Our minded to position for metering installations/replacements is to retain the RP6 approach on basing allowances on unit rates. We are also minded to maintain the meter replacement for theft programme for RP7.
- 4.223 We have allowed the three new LCT related meter categories following engagement with NIE Networks and further review of its retail market arrangements with suppliers. Through this process we have become aware that, contrary to our view at the draft determination, the costs of installing the three proposed LCT related metering categories are already fully socialised. The meter types mainly provide time of use and/or type of use tariff capability to facilitate tariff types that are already available, with no requirement of a direct contribution from the customer requesting the new or altered metering arrangement. Therefore, our review of the connection charging methodology, that we referenced for the draft determination, was not of relevance.

4.224 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on meter installations / replacements.

#### **Implementation – Meter installations / replacements**

4.225 We have added the three new LCT related meter categories within Table 8 for **Metering Category C**.

4.226 The new LCT metering categories are to allocate costs whenever a new meter is required, such as at a new installation job or an exchange job at an existing installation. Other works not requiring a new or replacement meter, such as meter repairs or inspections, should be allocated to the appropriate existing category. The types of meters and configurations to be installed and reported under each of the LCT categories are as follows:

- LCT (Basic) - Import/export credit meter configurations and single phase multi rate meters.
- LCT (Higher) - Three phase programmable multi rate import/export meters and multi rate keypad meters.
- LCT (Advanced) - Single phase multi element meters and others that support advanced tariff configurations for large energy users.

4.227 We have removed the Recertification: Commercial: Northern Customer Load Profiles category within Table 8 for **Metering Category C**. The company has stated this programme will not continue into RP7.

4.228 We have updated the remaining categories in Table 8 for **Metering Category C** with new unit rates. Consistent with RP6 these unit rates in Table 8 would be subject to an updated frontier shift.

4.229 We have updated the first metering allowance in Table 6 and the second metering allowance in Table 7 of Annex 2 of the transmission and distribution licences.

4.230 We have updated Section 4 of Annex 2 of the transmission and distribution licences to reflect the volume driven allowance for meter replacement for theft in the RP7 period.



## Smart Metering

### NIE Networks proposals – Smart metering

- 4.231 NIE Networks noted in its RP7 Business Plan submission that a model for smart metering in Northern Ireland has yet to be agreed by stakeholders, including UR, DfE, electricity suppliers, and NIE Networks. The costs and benefits of smart metering will vary depending on the model, and detailed design to be applied, and therefore remain uncertain at the time of our RP7 Business Plan submission.
- 4.232 NIE Networks noted that because of this uncertainty that it agreed with UR's proposal to include a re-opener type mechanism in the RP7 Price Control to determine the additional costs and benefits of smart metering at a future date. This mechanism will allow these costs and benefits to be assessed more accurately when there is greater certainty on the model and the detailed design of the smart metering solution for Northern Ireland.
- 4.233 NIE Networks highlighted that it sees merit in considering a three-phase approach for the project, partly akin to the two stage D5 arrangements for major transmission network projects. In such a three-phase approach, the first stage would provide for appointment of specialist advisors and engagement with stakeholders to determine the high-level model, the second stage would facilitate detailed design, project planning and procurement etc., and the third stage would facilitate implementation of the project.

### UR consideration – Smart metering

- 4.234 Our RP7 final approach document set out our intention to include a re-opener mechanism in the RP7 price control, to address additional costs and savings arising from future decisions on smart metering.
- 4.235 On the 28 June of 2023, DfE announced that it will develop a plan for the implementation of electricity smart meters in Northern Ireland<sup>13</sup>. However, at this stage the model (including the role of NIE Networks) and timing for electricity smart metering for Northern Ireland remains uncertain.
- 4.236 In the draft determination we concluded that we did not have sufficient information to structure an uncertainty mechanism which would cover the wide range of possible options for delivery of smart metering and the impact this could have on the activities which NIE Networks might undertake in the future, including the consequential impacts such as the impact on the IT programme, and market operations.

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<sup>13</sup> <https://www.economy-ni.gov.uk/articles/smart-meters-update>

4.237 Having given the issue further consideration based on draft determination responses and some elements in relation to smart meters becoming clearer, we have made provision for allowances for expenditure incurred for the purposes of preparing and planning for the future development and rollout of Smart Meters. This will enable NIE Networks to recover costs necessarily incurred during the start-up and planning phase of a future Smart Meter rollout, subject to conditions set out in the licence.

#### **UR decision – Smart metering**

4.238 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on smart metering.

4.239 Following consideration of developments since the draft determination, we have added provisions for allowances for expenditure incurred for the purposes of preparing and planning for the future development and rollout of Smart Meters, subject to conditions set out in the licence.

#### **Implementation – Smart metering**

4.240 Provision will be made in the proposed licence modifications for the determination of additional allowances for the purposes of preparing and planning for the future development of SMART meters.

Further licence modifications for the purposes of procuring new Smart Meters and rolling out these meters will be considered in the future when the way forward on smart metering has been clarified.

### **I-SEM**

#### **NIE Networks proposals – I-SEM**

4.241 NIE Networks noted that the RP6 Price Control contains a provision (the **ES** term) that serves to allow for amendments to be made to the price control, in the event there are cost implications arising from changes to the wholesale market. NIE Networks proposed that this provision is retained during RP7.

#### **UR consideration – I-SEM**

4.242 The **ES** term was consulted on as part of the consultation and subsequent decision on new IT requirements<sup>14</sup> in March 2021, after the RP6 Price Control. The **ES** term related to the allowed opex for the Enduring Solution

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<sup>14</sup> <https://www.uregni.gov.uk/consultations/consultation-nie-networks-licence-modifications-new-it-requirements>

in respect of any significant changes in the specification of the service that the Licensee is required to provide in relation to the Enduring Solution market opening system.

### **UR proposal for RP7 – I-SEM**

- 4.243 We consider that it is appropriate to retain the **ES** term for the RP7 Price Control, to take account of any significant changes in the specification of the service that NIE Networks is required to provide in relation to the Enduring Solution market opening system, and which are not covered by the Enduring Solution allowances provided for in the RP7 final determination.
- 4.244 We have retained the enduring solution within the licence. However, there may be merit in bringing several re-opener mechanisms under a single licence term to avoid the proliferation of different terms for individual reopeners.
- 4.245 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on I-Sem / Enduring Solution.

## **IT systems**

### **NIE Networks proposals – IT systems**

- 4.246 NIE Networks noted the RP6 price control contains a provision (the **NE** term) that serves to allow for amendments to be made to the price control in the event there are cost implications arising from unexpected IT investments, arising from new energy strategy decisions made by government, and/or any significant changes needed for the purposes of providing the Market Data Service or the Market Registration Service. NIE Networks proposed that this provision is retained during RP7.
- 4.247 NIE Networks also proposed that the RP6 mechanism could be refined to incorporate the delivery of the S/4 HANA project in RP7. NIE Networks explained that to meet vendor support timelines, NIE Networks will incur costs during the RP6 Extension Year, to progress requirements discovery and procurement processes to appoint a system integrator. NIE Networks explained that the provision of an initial allowance to commence this phase will be sought as part of the RP6 extension year assessment, in advance of the draft determination.
- 4.248 NIE Networks then envisaged that as part of the final determination it would seek confirmation of the allowance for a proportion of the submitted project

costs which will enable the procurement and design phases of the project to complete by Q1 2026, and the solution build to commence.

- 4.249 Following this, NIE Networks envisaged that following detailed design phases, project costs will be finalised, and remaining allowances will then be sought during the initial RP7 period for separate implementation phases of the various projects, most likely to happen in Quarter 2 2026, and Quarter 1 2028. NIE Networks considered that this approach to funding the complex S/4 HANA project, which will be delivered over many years, best protects customers, and NIE Networks from windfall gains or windfall losses.

#### **UR consideration – IT systems**

- 4.250 We engaged with NIE Networks on the rationale outlined in the business plan submission.
- 4.251 We agreed with NIE Networks that due to the high level of uncertainty a revised approach should be taken to the assessment of the 99 IT projects submitted, and that it was appropriate that an allowance would be made for a proportion of the requested allowed to enable the procurement and design phases to progress to cover the first two years of the price control period, with a re-opener to occur in 2026.

#### **UR decision for RP7 – IT systems**

- 4.252 UR awarded a final determination<sup>15</sup> for the IT requests associated with the RP6 extension in May 2024 (£5.246m in 15/16 prices).
- 4.253 Our final determination decision for RP7 remains the same as set out in our draft determination proposal. An allowance has been awarded for the first two years of the price control. We accept further allowance will be required within the RP7 period and have included a reopener mechanism to facilitate the potential approval of future costs for the remaining years. The timing and scope of this reopener is further detailed in Annex W (4.17).
- 4.254 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on IT systems.

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<sup>15</sup> <https://www.uregni.gov.uk/files/uregni/documents/2024-05/RP6%20Extension%20Year%20IT%20FD%20letter.pdf>

## **Implementation – IT systems**

- 4.255 We have made provision under the Opex and Capex license terms (for Distribution and Transmission) to facilitate the Phase 2 re-opener and expanded on our approach in Annex W.

## **Injurious affection**

### **NIE Networks proposals – Injurious affection**

- 4.256 During RP5 and RP6, NIE Networks received numerous compensation claims from landowners in respect of the diminution in the value of their property (injurious affection), caused by the existence of NIE Networks equipment located on their lands under, or in the shadow of, compulsory powers. The first four injurious affection test cases were heard by the Lands Tribunal in November 2014, and were subsequently appealed by NIE Networks.
- 4.257 Whilst the appeals were successful in part, the Court of Appeal ruled that NIE Networks was still required to pay compensation to the property owners who had a tower located on their lands in close proximity to their dwelling. This established a precedent for future similar claims during RP6.
- 4.258 Furthermore, in 2021 the Lands Tribunal awarded compensation to a property owner whose dwelling house was traversed only by overhead electric conductors. Whilst NIE Networks decided not to appeal against this decision, it has continued to reject claims for compensation in similar cases, arguing that the 2021 Lands Tribunal decision was one based purely on the specific circumstances of that case. Whilst no further similar claims against NIE Networks has been referred to the Lands Tribunal to date, it may face future claims into RP7 and beyond.
- 4.259 The RP6 price control allows efficient injurious affection costs to be recovered as a pass-through cost. This has allowed NIE Networks to seek recovery of efficiently incurred costs in respect of injurious affection on an annual basis (specifically, costs in defending and minimising the compensation due, and also the cost of compensation itself). NIE Networks proposed that this mechanism is retained during RP7.

### **UR consideration – Injurious affection**

- 4.260 We agree with the position on injurious affection claims as set out by NIE Networks. We agree that there is a potential for NIE Networks to incur costs in respect of injurious affection claims in the future. These costs are uncertain and no allowance has been made for them in the allowed capex and opex figures we have included in the licence. We have concluded that

existing provisions in the licence which allow efficiently incurred costs to pass through to consumers should be maintained.

### **UR proposal for RP7 – Injurious affection**

- 4.261 We have retained injurious affection within capex and opex terms in the licence. However, there may be merit in bringing several re-opener mechanisms under a single licence term to avoid the proliferation of different terms for individual reopeners.
- 4.262 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on injurious affection.

## **Business rates**

### **NIE Networks proposals – Business rates**

- 4.263 NIE Networks has proposed that the business rates it pays to Land and Property Services (LPS) should be recovered through revenues as a pass-through cost. It has suggested that UR adopts the approach commonly used in GB to allow for pass-through of business rates, subject to the company demonstrating that it has taken appropriate actions to minimise valuations.
- 4.264 NIE Networks considers that business rates are an uncontrollable cost because both elements of the liability calculation i.e. the rateable value (RV) and poundage rates, are set by external bodies and are outside of its control. NIE Networks noted that it can seek to influence the RV by proactively engaging with LPS. However, ultimately the decision on the appropriate level of RV is a matter for LPS.
- 4.265 NIE Networks noted that the poundage rates (regional and local rates) are set by central and local government and are also completely outside of NIE Networks' control. Business rates are therefore a cost over which it has minimal control.

### **UR consideration – Business rates**

- 4.266 In RP6, expenditure on business rates was included as part of ***The qualifying opex expenditure amount – QOEt*** at Annex 2, Paragraph 6.2, of both the current distribution licence and current transmission licence. This is defined in the respective licences as the value of opex incurred by the licensee excluding pass through opex and various other categories of opex which are covered by other mechanisms. As a result, expenditure on business rates are included in the general opex amount which is subject to

the 50/50 cost risk sharing mechanism for opex against the **Allowed opex amount – AOf** defined in Annex 2, Paragraph 6.12 of the distribution licence and transmission licence.

- 4.267 The company’s proposal to move this category of expenditure to a pass-through mechanism reduces risk and reward for the company, and weakens the incentive to challenge and minimise costs, which would provide long term benefits to consumers.
- 4.268 When considering the company’s proposal, we note that:
- a) As NIE Networks has stated in its submission:
    - (i) The rates liability for NIE Networks is set by multiplying the RV of NIE Networks assets by both the regional rate and the district rate, all set by the relevant authority.
    - (ii) The poundage rates (regional and local rates) are set by central and local government and are also completely outside of NIE Networks’ control.
    - (iii) NIE Networks can seek to influence the RV by proactively engaging with LPS. However, ultimately the decision on the appropriate level of RV is a matter for LPS.
  - b) UR has already adopted a pass-through approach for business rates for gas distribution companies, and economic regulators of similar network companies in GB (Ofwat, Ofgem and WICS) already allow rates as a pass-through cost, subject to some level of check on the effectiveness of the company’s challenge of RV.
  - c) NIE Networks actual rates bill has fluctuated significantly upwards and downwards in the RP6 period, with actual bills being impacted by both revaluations both in 2020 and 2023, and the level of non-domestic rate in the pound. It is possible that there will be further non-domestic rates revaluations both in 2026 and 2029.

### **NIE Networks response to the draft determination**

- 4.269 NIE Networks welcomed the proposal to allow rates as a pass-through cost in its draft determination response but suggested clearer definition of the engagement expectations was necessary to prevent an unconditional right for UR to lower the pass-through value.
- 4.270 In its response to our draft determination of the design of the price control in respect of business rates, NIE Networks raised a number of concerns about our proposed approach:

- a) The company suggested that UR should adopt the licence modifications from the Ofgem RII02 special licence conditions.
- b) In doing so provide a clear link to NIE Network's Engagement Expectations.

4.271 Having considered NIE Networks representations, we are content that the test on engagement of reasonable and prudent is appropriate and we have presented our proposed licence modifications accordingly.

4.272 On the balance of the considerations above, we concluded that it is appropriate to amend the current licence mechanisms so that efficiently incurred business rates becomes a pass-through cost subject to some level of check on the effectiveness of the company's challenge of RV.

### **UR proposal for RP7 – Business rates**

4.273 For RP7, we have adjusted the current licence mechanism so that efficiently incurred business rates becomes a pass-through opex subject to a review of the effectiveness of the company's challenge of RV. The costs of managing and challenging Business Rates would continue to form part of **the qualifying opex expenditure amount – QOEt** subject to the 50/50 cost risk sharing mechanism.

### **Implementation – Business rates**

- 4.274 To give effect to our proposals, it would be necessary to:
- a) Add a further term to the **Pass through opex expenditure amount – PTOEt** in Annex 2 of both the distribution licence and transmission licence, developing an appropriate definition to cover business rates.
  - b) Make the Licence term for the pass through of Business Rates subject to a test that NIE Networks has acted reasonably when challenging revaluations and maintaining good records and challenging rates bills. This would include the ability of UR to allow a lower amount than that actually paid if it considers it appropriate, subject to the condition that it explains its reasons for any adjustment and allows NIE Networks to make representations in advance of making a final decision.

## **Corporation tax**

### **NIE Networks proposals – Corporation tax**

4.275 NIE Networks proposed that its allowance for corporation tax should be based on the applicable tax rate in Northern Ireland, as specified from time to time. It noted that any changes to the tax rate are outside its control.



### **UR consideration – Corporation tax**

- 4.276 We agree with the proposal set out by the company.
- 4.277 The calculation of revenues under the licence includes:
- a) an amount in respect of a real rate of return calculated using a vanilla (post tax) weighted average cost of capital (WACC); and,
  - b) a separate amount for tax.
- 4.278 The tax amount is calculated using the corporation tax rate applicable in Northern Ireland in Regulatory Reporting Year, as specified from time to time by HMRC.

### **UR proposal for RP7 – Corporation tax**

- 4.279 We have maintained the existing provisions of the licence which allows the calculation of the tax amount recovered through revenue to reflect the corporation tax rate applicable at the relevant time.
- 4.280 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on corporation tax.

### **Pension historic deficit repair**

- 4.281 In the RP5 CMA Final Determination, the Competition Commission (CC) decided that with regard to the scheme deficit, in which the current scheme has insufficient assets to cover its liabilities, it was split into 2 areas:
- between an historic deficit (represents the difference between assets and liabilities attributable to pensionable service up to 31 March 2012 and 100% funded by consumers) and;
  - an incremental deficit (represents the difference between assets and liabilities for pensionable service from the 1 April 2012 and 100% funded by shareholders;).
- 4.282 This principle is similar to the one Ofgem has in place for GB DNOs. In RP5 and RP6, decisions involved basing price control allowances on a similar approach to that used by Ofgem, by adopting its Pension Deficit Allocation Methodology (PDAM) framework.
- 4.283 NIE Networks has commented in its submission to the UR that “the current Triennial Valuation agreed between the Trustees and the Company

proposes that the historic deficit will be fully addressed before the start of RP7. Accordingly, the ex-ante allowance we are currently seeking through the RP7 Price Control is zero. However, the deficit can move significantly due to factors outside the control of the Trustees, and it may be required that a deficit can move significantly due to factors outside the control of the Trustees, and it may be required that a deficit will arise in the future that will need to be funded by the Company.”

- 4.284 NIE Networks, in consultation response to the draft determination, has proposed that a re-opener is included during RP7, should any “deficit” contributions, beyond 30 June 2026, which is when the results of the next funding valuation is due, arise. NIE Networks has also expressed concern about the ‘trigger’ thresholds for a re-opener. NIE Networks has proposed allowances for Pensions are reviewed in line with each Triennial Valuation.

#### **UR Consideration - Pension historic deficit repair**

- 4.285 In our ‘NIE Networks RP7 Price Control: Our Approach’ document, we commented that, “For RP7, we have to continued to apply the principles developed for RP6 to pension deficits and ongoing contributions:
- a) costs of the DC pension scheme will be covered by benchmarking.
  - b) we will take account of the current scheme funding, based on the latest actuarial valuation of the scheme, using the Technical Approach method and take into consideration the current treatment by Ofgem on this area, including deficits and the funding implications that will result from this. In particular, we will continue to apply the principle that the “established deficit” which represents the difference between assets and liabilities attributable to pensionable service up to 31 March 2012 will be 100% funded by consumers, subject to an Early Retirement deficit contribution liability factor which reflects historical decisions by NIE Networks on enhancement to pension benefits with no additional funding when the scheme was in surplus.”
- 4.286 NIE Networks has highlighted what they believe are risks associated with the present monitoring framework, which could lead to NIE Networks having to carry excessively large deficits, up to the c.£300 million cited. While we recognise this is a theoretical possibility, we also do not view it as a likely prospect at this stage. NIE Networks has echoed our position on the low likelihood of a deficit of this scale having to be carried, without recourse to a re-opener. We note that the 31 March 2023 funding update reflects that the Scheme funding level may have a small surplus, further reducing the concern about material deficits emerging.

## **UR Proposal for RP7 - Pension historic deficit repair**

- 4.287 We have decided to continue to use the CMA methodology to allocate a deficit cutoff date of 31 March 2012. Under this methodology, the historic pre cutoff fund is designated as being the consumers responsibility and the incremental post 31 March 2012 fund is designated as being shareholders responsibility. This is consistent with the approach used in RP5 and RP6.
- 4.288 The funding thresholds for a re-opener are to be in line with the amounts given in the RP6 Final Determination (75% and 105%). However, we have decided to not otherwise change the thresholds at this time. Even if the threshold was modified in the direction suggested by NIE Networks and the Trustees of the NIEPS (with the downward trigger value increased), it would still be unlikely to be triggered during the RP7 period.
- 4.289 We note that Ofgem's current approach is to allow for a triennial recalibration of pension allowances following each actuarial valuation. Ofgem is currently consulting on whether to review this policy. We will take this into consideration, and are likely to review our own policy in the near future.
- 4.290 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on pension deficit repair.

## **Licence fees**

### **NIE Networks proposals – Licence fees**

- 4.291 NIE Networks has proposed that the licence fees it pays to UR should continue to be recovered through revenues as a pass through of costs incurred. NIE Networks based their forecast annual licence fees costs for RP7 on actual licence fees incurred in 2021-22.

### **UR consideration – Licence fees**

- 4.292 NIE Networks proposal on licence fees reflects the existing price control mechanism for RP6. It reflects common regulatory practice that the amount of Licence fees is determined by UR and largely outside the control of the regulated company. We also take account of the fact that the costs are clearly defined and there is no risk that the cost recovered will not be affected by judgements made on the allocation of costs.
- 4.293 In these circumstances, we consider it appropriate that a pass-through mechanism continues in RP7.

## UR proposal for RP7 – Licence fees

- 4.294 We have continued to use a pass-through mechanism for licence fees in RP7. We have maintained the existing provisions in the licences whereby licence fees are included as pass through opex in the ***Pass through opex expenditure amount – PTOEt*** at Annex 2, of both the distribution licence and transmission licence.
- 4.295 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on licence fees.

## Change of law

### NIE Networks proposals – Change of law

- 4.296 The RP6 price control contains a provision that serves to allow for amendments to be made to the price control in the event of a change of law that triggers a change in required expenditure levels. The purpose of this provision is to ensure the company is left no better or worse off than if the change of law had not occurred.
- 4.297 NIE Networks has proposed that the Change of Law mechanism included in the RP6 distribution and transmission licences is retained during RP7.

### UR consideration – Change of law

- 4.298 A Change of Law provision already exists in the NIE Networks licence. As noted by NIE Networks, it allows amendments to be made to the price control in the event of a change of law that triggers a change in required expenditure levels. We believe that it continues to be a necessary safeguard for RP7.
- 4.299 The current licence does not place any limit on the amount which can be requested or determined in respect of the Change of Law mechanism. This creates a risk (which has not materialised to date) of changes of law which result in small changes of costs triggering this mechanism on a frequent basis. We believe that there is a case for placing a materiality threshold on the amount considered in any decision under this mechanism. This will:
- a) Address the potential asymmetry of applications which might not identify small reductions in costs arising from minor changes in law.
  - b) Reduce the administrative burden on NIE Networks and UR in developing, challenging and completing applications and decision.

- 4.300 Therefore, we plan to introduce a materiality threshold on the Change of Law mechanism of £125,000 for any one event. To avoid further complexity, this threshold will be maintained in nominal terms for the duration of the RP7 price control.
- 4.301 We note that the definition of Provision of Law includes *any regulation made by the Council or the Commission of the European Union or any decision taken by the Commission*. We will consider how this might need to change in light of the latest legal framework following the UK's exit from the European Union (EU).

#### **NIE Networks response to the draft determination**

- 4.302 In its response to our draft determination, NIE Networks agreed with the need to maintain the change of law mechanism. However the company raised concerns about the introduction of a materiality threshold on these decisions for the first time.
- 4.303 We continue to be of the view that a materiality threshold is appropriate to address the potential asymmetry of a change of law mechanism. Therefore, we have maintained the threshold of £125,000 for change of law decisions in the proposed licence modifications for RP7.

#### **UR proposal for RP7 – Change of law**

- 4.304 UR have maintained the existing licence pass through mechanism for Change of Law in RP7 with the addition of a materiality threshold and with changes to the definition of Provision of Law to reflect the legal framework following the UK's exit from the EU.

#### **Implementation – Change of law**

- 4.305 To give effect to our proposals, it will be necessary to retain the mechanism in the existing licences with the following amendments and additions:
- a) In the definition of Provision of Law, point (b), *any regulation made by the Council or the Commission of the European Union or any decision taken by the Commission*, will be amended to reflect the legal framework following the UK's exit from the EU.
  - b) Add a materiality threshold such that changes of law which change expenditure by less than, or equal to, £125,000 will not be considered.

## Price Indexation

### NIE Networks proposals – Price indexation

- 4.306 In its RP7 business plan submission NIE Networks noted that its price controls have used the Retail Prices Index (RPI) to adjust allowances for general wide inflation/deflation. It noted UR's intention to index the RP7 price control to the Consumer Prices Index including housing costs (CPIH).

### UR consideration – Price indexation

- 4.307 We set out our intention to use Consumer Prices Index including housing costs (CPIH) as the measure of general inflation in RP7 when we published our Approach to RP7 and explained the reasons for making this change.
- 4.308 We also note that other regulatory authorities have already moved to CPIH as the general measure of inflation for price controls. Our recent GD23 price control for gas distribution networks also changed the general measure of inflation from RPI to CPIH as the general measure of inflation.

### UR proposal for RP7 – Price indexation

- 4.309 We have decided to adopt CPIH as the general measure of inflation in RP7.
- 4.310 In its response to our draft determination of the design of the price control, NIE Networks welcomed that the UR has accepted the great majority of the company's proposed uncertainty mechanisms for RP7, it did not provide any further comment on our decision on price indexation.

### Implementation – Price indexation

- 4.311 In the determination of the amounts, values and other key decisions underpinning this final determination we have:
- a) calculated real rates of return on capital on a CPIH stripped basis;
  - b) calculated the frontier shift on a CPIH basis; and
  - c) ensured that the opening Regulatory Asset Base for RP7 continues to take account of RPI through the RP6 period;
- 4.312 The RP7 Licence Modification Consultation Paper considers the adoption of CPIH as the general measure of inflation in RP7 in greater detail including amendment of RPI to CPIH in both text and formulae.
- 4.313 We have also amended the Rate of Return Adjustment Mechanism for RP7 to adjust for inflation using CPIH. This will:
- a) correct for forecasting risk in the calculation of the (real) return amount

recovered through revenue; and,

- b) ensure that the calculation of this amount is consistent with the inflation of the Regulatory Asset Base using actual CPIH.

4.314 Further information on the changes proposed to the Rate of Return Adjustment Mechanism are set out in Chapter 13 of the final determination.

## **Real price effects**

### **NIE Networks proposals – Real price effects (RPEs)**

- 4.315 NIE Networks proposed that UR follows the approach used by Ofgem to determine RPE allowances in its RIIO-2 price controls.
- 4.316 NIE Networks noted that in RIIO-2, Ofgem continues to set an ex-ante allowance for RPEs based on differences between forecast movements in input price indices and forecast inflation. This ex-ante RPE allowance is then adjusted ex-post using actual differences between the chosen input price indices and inflation. In their view this method ensures there is no windfall gain or loss to the network company, and vice-versa for customers, arising simply from deviations in forecast versus outturn movements in price indices.
- 4.317 NIE Networks considers that this approach will help mitigate risks associated with the current (and expected future) supply chain uncertainties and pricing volatility.

### **UR consideration – Real price effects (RPEs)**

- 4.318 A ‘true-up’ device is a reasonable suggestion. However, at the draft determination we did not adopt such a mechanism. It was our expectation that such an approach has various flaws. For instance:
- Given that the indices are a proxy for electricity industry costs, any adjustment will not be perfect.
  - The mechanism would add significant complication to the annual tariff process.
  - In contrast to the NIE Networks view, we would expect a significant regulatory burden.
  - Not being national statistics, it is possible that some of the indices may become defunct.
- 4.319 There is risk to both NIE Networks and consumers in setting ex-ante allowances for RPEs. However, at the draft determination, we felt that there

was sufficient protection within the regulatory framework to mitigate these risks.

### **UR proposal for RP7 – RPE true-up mechanism**

- 4.320 Various responses were received on this issue. The direction of travel in terms of regulatory precedent and the change in forecasts between draft and final determination also highlighted some of the issues with setting RPEs on an ex-ante basis.
- 4.321 As a result, we are of the view that there is merit in considering an RPE re-opener mechanism via a separate consultation. However, the UR has not implemented a true-up mechanism for RPEs before and this could have implications for other price controls. Neither was a true-up consulted upon in the draft determination. Consequently, we propose to undertake a separate consultation on what form this mechanism should take.
- 4.322 Various issues will need to be consider in this consultation. For instance, the mechanism will need to cover timings, scope of application, materiality thresholds, specialist labour etc. This is expected to be undertaken in the early stages of RP7. Full discussion on this can be accessed in Annex C.

### **Implementation – RPE true-up mechanism**

- 4.323 There is no RPE mechanism included in the RP7 licence modifications. However, we have committed to undertaking a separate consultation to implement some form of RPE true-up for RP7. We have provided a broad statement of principles for such a mechanism in Annex C.



## 5. Other Price Control Design issues

### Evaluative Performance Framework

- 5.1 We have proposed an Evaluative Performance Framework as part of the NIE Networks RP7 Price Control. Annex V identifies the principles for the EPF, and provides guidance on how the assessment of NIE Networks performance will operate, timelines, incentive/penalty methodology, and the nature of the EPF Panel.
- 5.2 The framework will aim to incentivise NIE Networks to take advantage of new opportunities, proactively progress initiatives in areas that will bring the greatest benefit to Northern Ireland customers, and ensure we continually adapt to the emerging energy landscape. A key element of the EPF is to bring additional skills, insights, and knowledge to UR's review of NIE Networks' performance.
- 5.3 In order to implement an Evaluative Performance Framework for NIE Networks we consider a new licence term will be required in Annex 2 of the Distribution licence for the Evaluative Performance incentive within the calculation of revenue.

### Reliability Incentive

- 5.4 NIE Networks business plan proposed various changes to the reliability incentive framework. This included changes to the methodology for setting targets, revenue exposure, definition of customer interruptions and removal of the planned customer minutes lost (CML) from the incentive.
- 5.5 We have considered the issues raised and have adopted the following changes from RP6.
- Move to the Ofgem methodology of setting unplanned CML targets based on fixed percentage year-on-year reductions.
  - Propose a starting point using a 4-year average (and latest data) with 2% year-on-year reductions and adjustments for funded improvements.
  - Amend the risk/reward exposure for unplanned and planned CML to £2.5m (2021-22 prices) per annum.
  - Adjust the proportional revenue allocation to an 80:20 split (£2.0m / £0.5m) between unplanned and planned CMLs respectively.

- Update the value of lost load (VOLL) based on the latest available willingness-to-pay (WTP) research.
- Retain the planned CML metric in the reliability incentive but reduce the reward / penalty associated with it.
- Retain planned CML targets but move to a rolling 3-year average with a 2-year lag to set objectives (as per Ofgem). However, given the large capital programme increase, this mechanism has been tailored to allow some deterioration before a penalty would be incurred.
- Amendment of the unplanned customer interruption definition from one minute to three minutes, as per GB approach.

5.6 Annex M provides full details behind the changes and their rationale. Whilst these changes do not require licence modifications, they do necessitate a revised reliability incentive model. This is published alongside the final determination and sets out the methodology for target setting as well as calculation the reward/penalty based on actual performance.

### **Rate of Return Adjustment**

- 5.7 The draft determination provided for three of the components in the cost of capital calculation – the risk-free rate, the cost of new debt, and the nominal-real inflation conversion within the allowed cost of debt – to be subject to ex post adjustment.
- 5.8 NIE Networks objected to the inflation adjustment mechanism, principally on the grounds that it represented a departure from Ofgem’s approach to setting allowed returns. However, in July 2024 Ofgem announced that there will be a fundamental change to its treatment of inflation starting from April 2026. There are aspects of Ofgem’s new approach that are different to the approach that UR proposed in the RP7 draft determination, but the effect of Ofgem’s new methodology and UR’s inflation adjustment mechanism are not dissimilar in that Ofgem and UR are both seeking to ensure that nominal debt costs are remunerated in full and that networks do not bear forecasting risk in respect of inflation.
- 5.9 This convergence of methodology means that NIE Networks main objection to the draft determination proposals falls away. However, we do note the Ofgem approach would bring revenues forward in an NPV neutral way and NIE Networks continue to argue against being treated differently.
- 5.10 We have engaged with NIE Networks on the final determination approach and made some changes to the method of true up for the RRAM. Risk free rate and the cost of new debt will be trued up via 'in period' adjustments

feeding directly into tariff reviews. Inflation will be and 'end of period' adjustment resulting in an adjustment to the regulated asset base.

- 5.11 Full detail on the methodology and calculations can be found in Annex H and I of this final determination.

### **RP6 carry over issues**

- 5.12 During RP6 there was several Opex type activities that were not allocated during the RP6 period due to no term in the RP6 licence. The UR had given comfort to NIE Networks that these Opex costs would be considered in the opening RAB of RP7. These include costs for LV monitors for the RP6 extension year, costs associated with the Use of Shared Asset Charge (UoSAC) – Agivey cluster O&M charge, and allowances for implementing the Contestability into connections. We have decided to put these on a 5 year RAB.
- 5.13 In its RP6 extension year submission, NIE Networks requested an allowance for the installation of LV monitors. Part of the requested funding was to cover the communications costs which was classified as Opex. At that time we allowed the Capex element of the submission but could not allow the Opex element at the time without a licence modification. We have decided to allow these costs to be added to a five year RAB and therefore are allowing the incurred costs of £612,058.85 (24/25 prices).
- 5.14 Following a dispute between Brockaghboy Windfarm Limited and SONI, we changed NIE Networks' licence to enable them to request additional Capex money associated with a Use of Shared Asset Charge (UOSAC) , they also requested additional monies associated with an Opex cost, this was an outstanding amount of £62,213.78 (2024/25 prices). We are therefore allowing an opening 5 year RAB adjustment in order to remunerate NIE Networks for these incurred costs.
- 5.15 Comfort was given to NIE Networks that Contestability Opex costs would be covered at the start of RP7. NIE have submitted costs, this amounted to £267,315.70 (2024/25 Prices), We are also allowing an RP7 opening 5 year RAB adjustment in order to remunerate NIE Networks for these incurred costs.

### **General Updates**

- 5.16 We recognise that some general updates, such as date references relevant to a new price control period, will be required to the NIE Networks distribution and transmission licence. We have detailed these in our

consultation on licence modifications in parallel with the RP7 final determination.

## 6. Next Steps

- 6.1 This annex to the RP7 Final Determination sets out the key elements of the mechanisms which allow the RP7 Price Control to be implemented and amended.
- 6.2 In practice, we give effect to the design of the price control through licence modifications. We have published a consultation on licence modifications for RP7 in parallel with the RP7 Final Determination. We plan to make final decisions on these licence modifications at the end of January 2025 as set out in the timetable included in Chapter 1 of the main final determination document. These licence modifications will be the defining document for the final design of the price control design for RP7 and will take precedence to this document.
- 6.3 For the longer term, this document will serve as a reference, setting out the history and development of the design of the electricity networks price control and providing a summary of the thinking which underpinned that design.