Submission to the Northern Ireland Electricity Networks LTD Transmission and Distribution 7th Price Control (RP7)

Utility Regulator

March 2024

1.0 Introduction

1.1 Unite the union welcomes this opportunity to submit a response to the draft determination of the Utility Regulator regarding the Northern Ireland Electricity Networks Ltd Transmission and Distribution 7th Price Control (RP7) process.

1.2 We welcome the objectives set out in the strategy. The objective of growing and diversifying the renewables base, to ensure the provision of robust and well-planned infrastructure, the development of low carbon technologies (LCTs) and the roll-out of real-time consumption monitoring to better manage supply.

1.3 We also note and welcome that the Utility Regulator is required to 'promote the efficient use of electricity on the part of persons authorised by licenses… to supply, distribute or participate in the transmission of electricity', to 'secure a diverse, viable and environmentally sustainable long-term energy supply' and to 'secure the establishment and maintenance of machinery for promoting the health and safety of persons employed in the generation, transmission, distribution or supply of electricity'. It is not always apparent that policy regarding energy supply in Northern Ireland has succeeded in this regard.

1.4 Unite would welcome the evident collaborative approach that has been adopted by the Utility Regulator in developing the draft report on RP7 recommendations. The query process of engagement with NIEN in following up on their comprehensive submission would help to identify fully the rationale and need for additional OPEX and CAPEX in the period.

A lack of ambition for a Just Transition

2.1 The overarching vision in which RP7 is set is constrained by the overall lack of ambition expressed in the Executive's commitment for Northern Ireland's transition to a zero-carbon economy by only 2050. This is acutely disappointing and belies the mounting evidence that urgent action is needed to deliver a sustainable economy long before that date is required. Indeed, there is not only an environmental cost associated with failing to

take up opportunities, the lack of infrastructure to facilitate a wider transition to a low-carbon society is impacting economic growth and opportunities in the green economy.

2.2 While there has been inconsistency in its ambition for a carbon neutral economy, the Utility Regulator should pay heed to the Northern Ireland Executive's recognition of a climate emergency in 2020 and its commitment in 2022 to reduce the region's carbon footprint by 48% by 2030.

2.3 Achieving this latter objective will mean it is essential that we see much more investment in improving electricity infrastructure to facilitate the integration of low carbon generation. Applying undue restrictions to proposals by Northern Ireland Electricity Networks for investment and improvement to the transmission and distribution system (a major source of energy loss) is therefore a retrograde approach and risks failure to meet the region's wider climate action goals.

2.4 The draft determination for RP7 itself is based on assumptions which can only be described as unambitious. The goals being set for the provision of electrical infrastructure – the most significant potential constraint to a transition to a low-carbon economy – appear likely to underestimate demand and potentially impact the ability of society to choose to go green.

2.5 There does not appear to have been any assessment of the risks arising if anticipated demand for a transition to a low-carbon economy is greater than forecast. The constraints on capital expenditure imposed by RP7 will mean that the infrastructure needed to accommodate the low carbon economy will not in place. Investments to increase capacity for distribution and transmission require longer-term lead-in times and preparation – an underestimation of demand will not be amenable to correction by short-term higher investment later in the day.

Draft Determination considerations

3.1 Overall, Unite the union welcomes the fact that the draft determination for the period of RP7 has agreed to allow the expenditure proposed by NIEN in its business plan to a substantive extent. It is unfortunate that full scale

of investment proposed by NI Electricity Networks has not been authorised; in particular, the proposed OPEX sought.

3.2 In the draft determination, it is stated that 'whilst, on occasion, we have determined a lower figure [of investment] than NIE Networks requested, we are not proposing that the company delivers less, or that this will affect the journey to net zero'. There is no explanation or justification for this statement. It is difficult to understand where restrictions on either CAPEX or OPEX will not either result in corner-cutting in delivery or in delays or even a failure to bring forward necessary investment in updating and improving infrastructure, systems or in facilitating the transition to a low-carbon economy.

3.3 The uncertainty expressed by the Regulator in the draft determination regarding anticipatory investments and on uptake of low carbon technologies/renewables generating capacity is not justified and represents a failure of ambition to facilitate the scale of change needed to deliver a just transition for our society and economy. The draft report expresses uncertainty over the target of 300,000 EVs by 2031 – when the reality is that every car in the 2040s will be powered by electric. Rather than doubting the possibility of such change, it is essential to facilitate the frontloading of investment in infrastructure and network necessary to facilitate that transition.

3.4 The approach taken by the Regulator is to attempt to link investment targets and allowances to uptake of renewables going forward. While this approach belies a lack of forward-planning (with the aim of up-front investment inducing or stimulating change), there is little clarity or assurance that timely and fair mechanisms exist to allow limits on expenditure to be lifted in the face of unforeseen uptake. There is also no consideration of the delay in investment and need for extensive lead-in times.

3.5 There is a substantial difference in the proportion of planned CAPEX which has been agreed under RP7 and the proportion of planned OPEX. This poses a genuine concern that there is 'money for new kit' but not the 'money

to install that kit'. Such an imbalanced approach will only undermine progress towards renewable energy infrastructure.

Distribution Expenditure

4.1 The NIEN business plan proposed distribution CAPEX of £800.8 million in the period of RP7. The proposed average distribution CAPEX per annum was therefore £133.5m – representing a 89% uplift from the average distribution CAPEX in RP6. The distribution IMFT OPEX proposed for RP7 period was £142.3 million over the period or an average of £23.7 million a year – an increase of 35% on the RP6 average which is £17.6 million. Proposed distribution indirect OPEX was £435.7 million – or an average of £72.6 million annually – an increase of 44% above the RP6 average of £50.3 million. It is clear from these figures that NIEN proposals for expenditure allow for a substantial economy of scale in terms of distribution OPEX expenditure by comparison to what is almost doubling of distribution CAPEX investment.

4.2 By comparison the draft determination limits distribution CAPEX for RP7 to £732.4 million, or an average of £122.1 million a year – this would mean a 72% increase to distribution CAPEX over the period. Distribution indirect OPEX is limited to £56.4 million per annum in RP7 compared to an annual average of £50.3 million in RP6 or an increase of only 12%. Again it is hard to reconcile the scale of disproportion between distribution CAPEX and distribution INDIRECTS. Even worse are distribution IMFT costs which have been capped at £102.8 million – which amounts to £17.1 million a year on average which is less than the average distribution IMFT for RP6 which was £17.6 million. It is hard to reconcile how distribution IMFT OPEX will fall if distribution CAPEX increases by 72% - this is expenditure on Inspections, Maintenance, Faults and Tree Cutting. If distribution CAPEX increases substantially it is very hard to see how this would fall?

4.3 Another form of ratio analysis consists of assessing the percentage of proposed investment that has been allowed in the draft determination. Of the £800.8 million of distribution CAPEX proposed a limit of 92% was applied however of the £142.3 million of distribution IMFT INDIREX a limit

of 72% was applied and the ratio for the proposed £435.7 million distribution indirect OPEX was 78%.

IMFT expenditure

5.1 The harsh limits imposed on OPEX on Inspections, Maintenance, Faults and Tree Cutting and on indirect OPEX runs not just contrary to the evidenced case made by NIEN but even by arguments by the UR in its own Annex D.

5.2 The overall reductions occur from a combination of sharp reductions in the uplifts in OPEX requested by NIEN being authorised by the UR and as a result of ongoing efficiency savings in-built in the model.

5.3 If the costs around tree-cutting are considered in detail it provides an overview of what is being proposed. This is work conducted by members of Unite either directly or indirectly employed. It is essential work and inherently difficult.

5.4 NIEN requested an uplift of only £9.7 million on tree cutting costs over the period of RP7. This amounted to an extra £1.6 million a year. The justification for this was increased temperatures and growth rates of trees, a transition to a 2-year cutting cycle instead of 3-year due to identified live zone infringements, additional LV tree cutting in the period and dealing with commercial plantations which were coming to age and placing additional burden on tree-cutting activities.

5.5 The UR rejected the bulk of these increases asserting that it 'is not clear why' new plantations growth is an issue and rejecting both the adoption of a two-year cutting cycle and LV cutting increase. As a result of its deliberations the sought-after increase to tree-cutting was reduced to a bare £0.3 million a year.

5.6 However, this is only half of the story in regard to constraints on tree-cutting expenditure, the average expenditure per annum on tree-cutting in RP6 was £4.0 million. NIEN requested an uplift to £5.8 million a year; but this was constrained to only £4.3 million by the UR (an increase of £0.3 million). What is worst is that broader average efficiencies were applied

meaning that the cap on expenditure for 2029-30 and 2030-31 for tree cutting was only £4.2 million a year.

5.7 There are clear health and safety concerns for such unjustified constraints on the budget for tree-cutting. Similar considerations apply to the budget for extreme weather. NIEN Requested an uplift of expenditure for such events (which the UR admits are much more prevalent in terms of costs) to £0.9 annually from the £0.2 million under RP6 annually. The UR with little justification reduced this to £0.6 million. Again, this appears to be a false economy – meaning less resilience to increasingly likely extreme weather events and also poses the likelihood that corners will be cut on health and safety. Special and adequate provisions need to be built in for extreme weather events.

Benchmarking and Scope considerations

6.1 The overall limits placed on investment in critical electricity distribution infrastructure by the Utility Regulator are partially grounded in arguments based on requiring efficiencies and arguments based on universal factors. Such arguments are generally unlikely to reflect the complexity inherent in provision. An example is the use of ratios and scalars derived from experience of operators in Britain which has a very different operating market, differing geographies and inherited levels of infrastructure. This would tend to support calculations based on a bottom-up approach to calculating likely expenditure – but this requires a very comprehensive oversight of the complexities and contingencies which would otherwise be missed from the calculations. There is always a concern that efficiencies will be achieved on the backs of workers who will be expected to do more with less and in shorter time. This approach is unacceptable and will only contribute to long-term difficulties.

6.2 While the benchmark applied to all providers is that they deliver on the efficiencies of the upper quartile of providers. However, NIEN already achieve this with a relative and consistent overperformance against the upper quartile of GB distribution network operators – up to 25.9% in some delivery models. The company has made the case for this relative success to be factored in fully into the limits to expenditure set. Unfortunately, this

was not adopted by the UR who has instead sought to recalculate the company's efficiencies (which is tantamount to moving the goalposts).

6.3 The risk is that the relatively large overachievement in terms of efficiencies by NIEN may be unsustainable in the long-term and the result will be unavoidable increases to expenditure in the long-run. If the goal is for network operators to achieve the target set of efficiencies at the upper quartile then it is simply wrong to penalise companies who achieve this. The difficulty associated with such an aggressive approach is not just dealing with short-term pressures but potentially in terms of obtaining external investors for what is a relatively small market.

6.4 In their recalculation of the efficiency factor, the UR applied an apparently arbitrary 50% is due to scope differences in provision. There is no explanation of where this figure came from. Moreover, the UR choose to use the substantially lower scalar used by OFGEM to calculate IMFT&I rather than that determined by NIEN and based on the specifics of the situation in Northern Ireland. Again, it is likely that this will both result in an inaccurate limit being applied to indirect OPEX but also impact NIEN's ability to secure finance on the markets.

Risks of reducing OPEX while dramatically increasing CAPEX

7.1 It appears clear that OPEX has been viewed as an area where total expenditure can be limited – resulting in lower operating costs. There are detailed arguments presented in the draft determination to justify this approach but in the main these argue for a bottom-up approach which seeks to avoid expenditure unless evidence suggesting its necessity has been presented. This approach fails to recognise the specificities and contingencies which often contribute to disproportionate operating costs – a situation far less likely regarding capital expenditure (which is based on big ticket purchases or activities).

7.2 There is an obvious concern that restrictions on operating expenditure will undermine or delay delivery on capital expenditure. It is also likely to impact resilience as work to maintain network services is not completed in a timely manner meaning that the likelihood of unforeseen failures will

increase. The limits will also likely impact the workers who deliver operational maintenance and improvements – increasing pressures to do more with less or in shorter times.

7.3 In addition to such concerns for health and safety and workforce well-being – the lack of INDIRECTS allowed will impact the ability of NIEN to bring forward plans for a significant increase to staffing levels to deliver IMFT and indirect activities. At a time when there is a staffing shortage, many companies around the world are retaining staff in expectation of higher demand – it is important that NIEN does not be left short-staffed and forced to delay or postpone plans for investment.

Real Price Effects

8.1 Unite the union is very concerned that the proposed real price effects (RPEs) calculation ignores the requirement for specialist labour. There are currently more skilled job vacancies than skilled employees in the electricity utility sector in the UK and Ireland. Furthermore, most countries across the world are decarbonising and employers in the sector are facing the same challenges competing to fill positions in the labour market.

8.2 For NIE Networks to meet the 2030 renewable targets being set by the Northern Ireland government it needs to be able to grow its skilled workforce by offering competitive salaries. NIE Networks can't do this without the provision for specialist labour within the RPE calculation. Unite the union would strong urge the UR to establish a separate provision for specialist labour within the RPE calculation.

Productivity Target

9.1 Unite the union is very concerned that the productivity target of 1% being proposed by the UR is too stretching for the RP7 period. The productivity target of 1% has been set against a backdrop of the annual Price Control inflation adjustment being reduced from RPI to CPIH during RP7. CPIH is currently tracking 0.7% below RPI.

9.2 Unite the union has a wider policy commitment to defend RPI as the measure of inflation that best reflects the increasing cost of living experienced by working-class people. Over time, the adoption of CPIH will fail to meet the legitimate expectations of NIE Networks workers for their pay to keep up with prices.

9.3 Tied to this is the adoption of a flat productivity target rate that is set against the inflation factor. This productivity target has been in place now for a number of Price Control periods and Unite the union does not believe that such a rate can be set in advance with the expectation that it will be delivered consistently over the long-term.

9.4 Unite believes that a more realistic annual productivity target of 0.5% should be set for the RP7 period. This is being requested to reflect the annual price control inflation adjustment being reduced from RPI to CPIH during RP7. Unite also believes that the productivity target should be discontinued from the end of RP7.

Concluding Remarks

10.1 In proceeding with their deliberations, the Utility Regulator should pay heed to the recognition by the Northern Ireland Executive of a climate emergency in 2020 and a commitment in 2022 to reduce the region's carbon footprint by 48% by 2030. To do this, it will be essential that we see much more investment in improving electricity infrastructure to facilitate the integration of low carbon generation. Applying restrictions to proposals by Northern Ireland Electricity Networks for investments and improvements is therefore a retrograde approach and risks failure to meet the region's wider climate action goals.

10.2 Unite's preferred delivery model for the energy sector which is a natural monopoly is a publicly-owned and fully publicly-accountable model. This model would allow for rapid advancement of investment into renewables capacity at all points in the energy infrastructure and in a way that is accountable to the people, not driven by profit or subject to the intervention of a regulator.

10.3 That said, we do not have such a model. Electricity provision in Northern Ireland is privatised and subject to regulation. It is essential that such regulation show real ambition in terms of targets for investment in electricity infrastructure – both CAPEX, INDIRECTS and OPEX. There cannot be a sense that economies are being sought on INDIRECTS which undermine progress, maintenance and stability of programmes to deliver the improvements required.

10.4 It is also likely that an approach which seeks to impose limits on expenditure which are based from externally established expenditure models will fail to adequately meet the pressures or contingencies on expenditure in the real world. Use of ratios and scalars obtained in GB are not generally applicable in Northern Ireland for a variety of factors, not least our geography, level of historic investment, climate and market. Such an approach is also likely to result in additional and undue pressures on the operator in obtaining external financial investment through bond issuance or the like – Northern Ireland is such a small market that such considerations are not irrelevant.

10.5 Unite the union strongly encourages the UR to provide for specialist labour within the RPE calculation. Furthermore, Unite encourages the UR to apply a more modest annual productivity target of 0.5%. These changes will better allow NIE Networks to grow its highly-skilled workforce to meet the 2030 renewable targets being set by the Northern Ireland government.

10.6 While the approach taken by the UR in producing the draft determination has been progressive – involving extensive engagement with the provider – the models applied appear in many places to be arbitrary, partial and inadequate to sufficiently model likely expenditure pressures. This is particularly the case in regard to INDIRECTS and including IMFT expenditure, and its approach to RPEs and the annual productivity target. It is vital for the workforce, for the long-term sustainability of the provider and for the ability of our electricity network to facilitate a just transition that limits applied to expenditure by the UR are lifted and investment is encouraged.