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Date: 17 October 2024

Our Ref: NET/E/JF/1044

Dear John,

Application for consent to a longer period for the issuance of a Connection Offer for 1 The Green, Tullynacross, NIE Networks Reference: 24/05285

Thank you for your letter dated 3 October 2024 (the **Letter**) setting out an application (the **Application**) made by NIE Networks Limited (**NIE Networks**) for an extension to the period within which NIE Networks is required to make a connection offer (the **relevant Connection Offer**), concerning a [REDACTED] Diesel Generator at **1 The Green Tullynacross**.

In this letter we shall refer to the person making the application for the relevant Connection Offer as the **Connection Applicant**.

1. The Application

The Letter describes the relevant background¹ to the Application. Reference is made to Condition 30 of NIE Networks' licence authorising participation in the activity of distribution (the **Licence**).²

¹ What follows is a summary of the Application. It is not intended to be a complete rehearsal. All parts of the Application have been considered in making the decision set out in this correspondence. Failure to mention parts of the Application (or related correspondence) should not be taken as representing any failure to have regard to those parts.

² [NIE Distribution Licence](#).

Condition 30 (6) (of the Licence) provides that (barring specified exceptions)³ NIE Networks is obliged to make an offer for connection to the distribution system *as soon as practicable* and (by operation of Condition 30 (6)(b)) *in any event* within 3 months

“after receipt by [NIE Networks] of an application containing all such information in relation to the required connection as [NIE Networks] may reasonably request.”

Condition 30 (6) is to be read alongside and reflects the provision made in Article 20(3) through to Article 20(5) of the Electricity (NI) Order 1992 (the **Electricity Order**).

Condition 30 (7) of the Licence allows NIE Networks to make an application to the Authority⁴ (following requisite consultation) for a consent (in writing) that the period specified in Condition 30 (6)(b) shall be substituted by a longer period and subject to any conditions as specified in the consent.

Significantly, the making – or grant - of a Condition 30(7) type application does not alter NIE Networks’ licence obligation⁵ (under Condition 30(6)(a)) to make a connection offer *as soon as practicable*. The primary obligation (recorded in Condition 30(6)(a) of the Licence and Article 20 the Electricity Order) - to make a connection offer *as soon as practicable* - remains.

The Letter states:

“[the application for the relevant Connection Offer from the Connection Applicant] was deemed compliant on 7 June 2024. The license standard at this time for provision of this Connection Offer was 7 September 2024.”

The Application (made in the Letter) is for consent – under Condition 30(7) - for a longer substituted Condition 30 (6)(b) period out (from **7 September 2024**) to **22 April 2025**.

Clarification was subsequently sought from NIE Networks in respect of what looked like a “late” application for a Condition 30(7) type consent: noting (a) that the Letter (3 October 2024) was received about 4 weeks after the identified expiry (7 September 2024) of the ordinary (Condition 30(6)(b)) licence period for the making of the relevant Connection Offer and (b) the expectation

³ Recorded in Article 21 of the Electricity (NI) Order 1992 (**the Electricity Order**): see Condition 30(6) (d) of the Licence.

⁴ In this correspondence we use the words “us” “we” “our” “UR” “Utility Regulator” and “Authority” interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

⁵ Which aligns with the statutory duties reflected in Articles 19 and 20 of the Electricity Order.

– rehearsed in the Authority’s published extension guidance⁶ – that applications for extension would be sought no less than 2 weeks prior to the expiry of the ordinary licence period.

In answer, NIE Networks referred to the fact that the relevant application for connection had been put “*on hold*” on 21 August 2024 (due, it seems, to concerns (held by NIE Networks) about applicable connection costs explained in an email from NIE Networks to the representative of the Connection Applicant dated 21 August 2024⁷) before being “arguably” released from hold upon a positive meeting with the representative of the Connection Applicant on 3 October 2024.

The (claimed) release from “hold” seems to have motivated a decision (by NIE Networks) to treat the applicable (Condition 30(6)(b)) standard licence period (for the making of a relevant Connection Offer) as one that expired on 7 September 2024 (no allowance then being made for the forty-three days between 21 August 2024 and 3 October 2024).

NIE Networks also clarified that the concerns as to connection costs were addressed in the period before the positive meeting of 3 October 2024 when it was realised that certain enhancement works at Lisburn Main BSP had been or were being progressed.

All told, while the picture is a complicated one, we are not clear that NIE Networks’ proffered analysis of the applicable timeframes is one that aligns with the framework set out in Condition 30 (as read alongside Article 20 of the Electricity Order).

The starting point is that NIE Networks appears to accept that a qualifying (i.e. complete) application for connection was available on 7 June 2024. If that is right, then it is unlikely that the costs concerns expressed (and information sought as to how/whether the Connection Applicant wished to proceed with the application for connection) by NIE Networks (in the email of 21 August 2024) could represent a request for further information required “*in relation to the required connection*” within the meaning of Condition 30(6) (see also Art 20(3) through to Art 20(5) of the Electricity Order) so that the making of the relevant Connection Offer could be postponed until that information was received. The reason for this seems simple: the application was already (it seems) deemed compliant (i.e., complete) on 7 June 2024.

It follows that we are not clear that NIE Networks is correct when it (appears) to contend that the application for connection (deemed compliant on 7 June 2024) could be put “on hold” *for the period between 21 August 2024 and 3 October 2024* so that the applicable licence standard period in Condition 30(6) was thereby (arguably) extended. If NIE Networks was seeking to

⁶ [Electricity Connections Review Decision Paper | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/electricity-connections-review-decision-paper)

⁷ Supplied along with the Letter.

maintain (and it doesn't seem to be) that the 21 August 2024 email represented a request for information *within the meaning of Art 20* then there might be associated issues with compliance *viz.* the requirements of Art 20 (3) of the Electricity Order.

Standing back, we do not consider that we need to resolve any controversy surrounding NIE Networks' approach to the timings set out in Condition 30 (and/or Articles 19 - 20 of the Electricity Order) for the purposes of resolving the Application. We are content – for present purposes - to proceed on the basis set out in the Application and in doing so determine that we are dealing here with a Condition 30(7) type application to extend the (Condition 30(6)(b)) licence period for the making of the relevant Connection offer out to **22 April 2025** from 7 September 2024.

There looks to be no disadvantage to the Connection Applicant in proceeding on that assumed basis. It is also worth emphasising that any positive decision on the Application (on the assumed basis) “cures” any possible licence breach (by NIE Networks) involved in not making a relevant Connection Offer before any newly (substituted) specified Condition 30(6)(b) longer period.

Returning to the Application, it refers to two connection policy changes which came into effect on 7 November 2023 (the “Go-Live” date) affecting: (i) the facility for connection offers (for export) for small scale generation (which in some areas had been closed since 2016) and (ii) the ‘over-install’ limits for single technology and hybrid co-located sites. These connection policy change decisions can be found here⁹ and here.⁹

As recorded in the Application, the connection policy changes triggered an unusually high volume of connection applications to be made to NIE Networks on the “Go-Live” date of 7 November 2023. The volume of applications received is identified as almost 500 small scale applications since November 2023. The Application records that NIE Networks has assessed all these applications for compliance; validated the information received; and conducted high level studies to determine the BSP each applicant would connect to *“to allow conversations regarding transmission capacity to start with SONI.”*

NIE Networks states that *“this work has taken considerably more resource and time to complete than it would take during normal application levels”* and cites this as a reason for requesting more time to facilitate related liaison with SONI and (if capacity is available) to carry out detailed design and costing work to produce a relevant Connection Offer.

⁹ [NI Over Install Decision Paper For Final Review \(nienetworks.co.uk\)](#).

The Application goes on to accept that the application (for the relevant Connection Offer) was made after the Go Live date of 7 November 2023 but describes the “*knock on effect of the influx*” as the reason for the Application, with NIE Networks asserting that the grant of the Application will allow it “*sufficient time for the development of the connection.*”

The Application further records that:

“Over the past month our team has grown [sic] in size, which will help manage the workload. NIE Networks are already seeing the benefits of these changes which is improving workload management and an important step in getting back to the 90-day¹⁰ licence standard for export applications.”

The Application also states that NIE Networks will issue the relevant Connection Offer before 22 April 2025 should it be in a position to do so but acknowledges that a further C30(7) type application might be required “*if other complex issues arise during NIE Networks’ or SONI’s analysis.*”

Reflecting the points above, NIE Networks explains the rationale for seeking the consent sought in the Application as follows:

“Given the influx of applications it will allow

- 1. SONI to determine if transmission capacity is available taking into account of the interactivity of other applicants in the queue ahead of them*
- 2. NIE Networks time to accurately design and cost connections taking account of the impact of others in the queue ahead of them.”*

NIE Networks also states that granting the consent sought would enable “*SONI and NIE Networks to determine if capacity is available, complete connection design and production of a connection offer subject to capacity becoming available,*” while not granting the extension “*would result in NIE Networks not being able to meet its licence standard.*”

2. Consultation associated with the Application

Condition 30(7)(a) of the Licence provides that NIE Networks must consult with the Connection Applicant when making an Application (for extension) under Condition 30(7).

¹⁰ We note an error here in that the licence period under Condition 30(6)(b) is 3 months not 90 days.

The Application provides evidence of written and verbal consultation on the Application with the representative of the Connection Applicant.

The representative of the Connection Applicant provided a consultation response, by email, dated 7 October 2024 stating: “Please proceed with the application on the basis of your email below.” This was a follow up to the positive meeting of 3 October 2024.

It is clear therefore that the Connection Applicant is supportive of the Application (on the assumed basis).

So far as affected parties’ consultation is concerned, the Application says this:

“Affected Parties Consultation

In line with the process outlined in NIE Networks’ ‘Distribution Generation Application and Offer Process Statement’ NIE Networks are engaging with SONI in determining if there is Transmission Capacity available for this applicant.

As highlighted earlier NIE Networks still need to determine along side SONI how each applicants affects others in the queue ahead of the. NIE Networks therefore have not been able to consult with individual applicants about the impacts of those ahead of them in the queue as it may not be a true reflection. For that reason, NIE Networks does not consider it appropriate to engage with any further parties in consultation at this stage of the process. When NIE Networks becomes aware of which applicants affect others we will assess if individual extensions have had a detrimental impact on them and whether we need to consult with them at that stage.”

3. The Authority’s decision

In making our decision on the Application we have regard to:

- (a) our published decision document on extension applications¹¹
- (b) our principal objective (and related statutory objectives) under Article 12 of the Energy (NI) Order 2003
- (c) the contents of the Application
- (d) the consultation with the Connection Applicant
- (e) clarifications sought and received from NIE Networks in the period following receipt of the Letter.

¹¹ [Electricity Connections Review Decision Paper | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/electricity-connections-review-decision-paper)

Having considered the matter fully, the Authority hereby confirms that it provides the consent sought in the Application. It follows that the period under Condition 30(6)(b) of the Licence (in respect of the application for connection made by the Connection Applicant for the [REDACTED] Diesel Generator at **1 The Green Tullynacross**) is now extended until **22 April 2025**. We consider the Application justified for the reasons set out in the Letter (as further clarified in the correspondence between NIE Networks in the period following receipt of the Letter).

The Authority notes that the same reasoning is used in this Application (which is around 11 months after the Go Live date of the Over Install and Zero Export changes) as has been relied upon for previous applications for consent to “extensions” received in 2024. This is something the Authority raised in a recent Decision Letter concerning another application.¹² The Authority has previously communicated concern over the changes being used as a core rationale for extension applications to NIE Networks and would re-iterate this concern after receiving this application.

In July 2024 NIE Networks said it intended to, in future extension applications, to reflect as much detail as possible to customers, both in writing and verbally, about why an extension application is being made. NIE Networks also raised the prospect that it may include different reasoning in support of any forthcoming “extension” applications. However, this is not reflected in the Application. The Authority would request that NIE Networks reflects on these observations.

We do recognise that NIE Networks has stated in the Application that it has expanded the team responsible for connection requests, in response to the increased pressures brought about by the November 2023 changes. NIE Networks has expressed optimism this will allow a return to the pre-November 2023 level of connection applications turnaround, which would be a positive development. The Authority will communicate further with NIE Networks for an update about whether this is the case over the coming months.

We welcome the commitment of NIE Networks to work with SONI in progressing the relevant connection applications to include that of the Connection Applicant.

NIE Networks is asked to reflect on our general observations as to the claim that the application for the Connection Offer was put “on hold”. Those observations might assist NIE Networks in meeting its obligations under Condition 30(6) of the Licence and the related expectations set out in our published guidance on extensions.¹³

¹² [2024.10.08 NIE C30 Holywood Road Redacted_0.pdf \(uregni.gov.uk\)](#).

¹³ To include the expectation that applications for “extension” consent will be made no less than two weeks prior to the expiry of any relevant licence period.

We would take this opportunity to confirm that the (extended consented to) period ending 22 April 2025 is a “long stop” date. The obligation under Condition 30 of the Licence is (now), subject to applicable exceptions,¹⁴ to make a relevant Connection Offer to the Connection Applicant for the [REDACTED] Diesel Generator at **1 The Green Tullynacross** “as soon as practicable” and “in any event no later than” 22 April 2025. The Licence obligation is not (now) simply to offer connection terms by 22 April 2025.

This decision will be published and placed on the Register in the normal way.

Please do return to us should you require any clarification.

Yours sincerely,



Jillian Ferris

Head of Networks
Duly authorised by the Authority

¹⁴ Consonant with NIE Networks’ licence obligations and its statutory duties set out in Articles 12 and 19 of the Electricity Order.