

6. Customers will not pay for assets, which other customers may reasonably expect to benefit from except where standard sizes are appropriate. Where reinforcement is required at transmission levels to meet a customer's demand, the charge will be based on commercially available plant rather than on NIE's standard sizes.
7. Where NIE carries out work and installs assets of greater size and capacity than the practicable minimum scheme required for that connection, the costs in excess of the minimum scheme will normally be borne by NIE. Where the minimum scheme is capable of accommodating additional connection, the costs of the scheme will be apportioned among the relevant parties.
- ...
10. Connection charges will be limited to charges for reinforcement at the voltage level of connection and the level immediately above i.e. a customer requiring a connection at 33,000 volts will contribute to any necessary minimum reinforcement on the 110,000 volt and 33,000 volt systems whereas a customer requiring a low voltage connection will contribute to reinforcement on the 11,000 or 6,600 volt system and low voltage network. Where a developer requires the provision of a distribution infrastructure to meet existing or future demand then the connection charge will include for necessary reinforcement at the voltage level immediately above the distribution infrastructure provided for the development."

#### Further developments in the SEM

- 3.30 On 5 July 2006, the Regulatory Authorities published a Connections and Transmission Use of System for Generation Consultation Paper which considered the appropriate treatment under the SEM of transmission connections (Volume A, Tab 13). This Paper described (at Section II.2.1) the shallow connection policy in the Republic of Ireland, stated (at Section III) that this appeared to fulfil the requirements of the High Level Decision Paper in applying shallow connection charges together with a Transmission Use of System tariff that applies a locational charge on generators, and proposed that this methodology be adopted as the basis of connection and use of system charging for the SEM.

It stated (at Section III.1.1) -

"...[T]he shallow connection policy currently used in ROI is enshrined in the Guiding Principles, with this document describing the circumstances under which assets constructed when a new user is connected to the transmission system are regarded as connection assets and paid for by the user, and when they are regarded as part of the system infrastructure and paid for through

use of system. The Regulatory Authorities have discussed with the transmission companies the applicability of these principles to the all-island system. In these discussions, no aspect of the system in NI or of the all-island system has been identified which would invalidate the principles, although there are areas where it is felt the current Guiding Principles are open to interpretation. Whilst such interpretation may not be a problem when it is being applied consistently by a single organisation, if applied by two separate organisations there would be more scope for inconsistent treatment. Particular areas identified were:

- (i) whether a third line from a new transmission station, to which a user is connecting, is regarded as infrastructure or a connection asset depends on whether the line is required to accommodate the output (or, in the case of a load, the demand) of the user or for wider system reasons. The transmission companies have advised that this criterion is subject to interpretation and recommend that consistent application of the Guiding Principles by the different transmission companies would be ensured by treating lines connecting new transmission stations to the deeper infrastructure always as infrastructure;
- (ii) further clarity of the methodology is required in respect of the allocation between users of the costs of shared of [sic] connection assets.

Nevertheless the Regulatory Authorities propose that common principles, based on the Guiding Principles used by EirGrid, albeit with a number of clarifications, should be adopted for the SEM.”

And, in terms of transitional issues, it stated (at Section III.3.1.1) –

“In moving from deep connection charging to shallow connection charging, there may be assets for which a user has paid as part of a connection charge, and which are not fully depreciated. It would seem inequitable if such assets were to be charged for again as part of use of system charges. Rebates to such users may thus be appropriate under these circumstances.

Furthermore, any user considering a connection ahead of SEM opening would have a very strong incentive to defer such an investment if it had to pay a deep connection charge that were not to be subsequently refunded with the introduction of shallow connection charging.”

A copy of EirGrid’s Guiding Principles is also included in the Bundle (Volume A, Tab 13).

#### Further correspondence

- 3.31 On 11 July 2006, NIE (REDACTED) wrote to the Quinn Group (REDACTED) (Volume B, Tab 44). This letter stated –

"I would refer to the letter that was sent to you recently by [REDACTED] of Ofreg. ([REDACTED] copied the letter to NIE).

In his letter, [REDACTED] explained that connection charging will, in the context of the Single Electricity Market, move from a deep to a shallow connection charging philosophy.

I can confirm that NIE will apply the rules that are finally agreed as part of the new SEM arrangements. As [REDACTED] explained, the criteria against which any rebate will be made have still to be agreed. Clearly, if those rules include provision for the refund of connection charges and your connection aligns with the associated criteria that are agreed then a refund will be applied. If any alternative approach is decided upon e.g. a TUOS solution, that would be applied instead.

...I can confirm that NIE would intend to treat the payments which you are making as "recent" in the above context in so far as they have occurred after the announcement of the SEM High Level Design Principles."

- 3.32 On 11 July 2006, the Quinn Group (REDACTED) wrote to Invest NI (REDACTED) (Volume B, Tab 24). This letter stated –

"Power transmission capacity and security of supply remains a critical issue and as you know we intend to proceed with the 110kV upgrade at a cost of £9.0m. As explained at our meeting we would hope to recover a proportion of the total project cost under the deep reinforcement rules of the new Single Electricity Market."

#### The Connection Works Agreement

- 3.33 On 19 July 2006, Quinn Manufacturing and NIE signed a Connection Works Agreement in relation to the disputed connections (the **Agreement**) (Volume B, Tab 17). The Agreement states (at Recitals B-D) –

- "B. The User intends to construct additional wind farm capacity in two distinct tranches of approximately 30MW each at Slieve Rushen Ph 2 WFPS in Gortmullan, Co Fermanagh...
- C. The User has applied for the additional wind farm capacity referred to in Recital B to be connected to the NIE System in accordance with the Generation Connection Agreement. NIE and the Generation Connection Agreement are entered into on the date of this Agreement.

- D. The User owns and operates industrial plant at Gortmullan, Co Fermanagh having a total peak demand of 21MVA. The User has requested an increased supply capacity of 25MVA for the industrial plants. NIE and the User have entered into the Demand Connection Agreement on the date of this Agreement.”

3.34 In addition –

- (i) Clause 4.2 of the Agreement states –

“NIE shall charge the User, and the User shall pay, for the actual costs of the NIE Works up to a maximum charge of £9,724,000 plus the applicable rate of value added taxes, which amount has been calculated on the basis of the estimated cost of the NIE Works to be carried out pursuant to this Agreement plus a 15% contingency. The estimated charges and payment schedule are set out in Schedule 2 and may be varied from time to time by NIE. Above this maximum charge, NIE shall be responsible for the supplementary cost of completing the NIE Works.”

- (ii) Clause 8.5 of the Agreement states –

“A person who is not a party to this Agreement has no right, and is not intended by the User or NIE to have any right, under the Contract (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, but this Clause does not affect any right or remedy of a third party which exists or is available apart from that Act.”

- (iii) Clause 8.12 of the Agreement states –

- 8.12.1 This Agreement together with the Demand Connection Agreement and the Generation Connection Agreement constitutes the whole and only agreement and understanding between the Parties in relation to its subject matter.
- 8.12.2 All previous drafts, agreements, understandings, undertakings, representations, warranties, promises and arrangements of any nature whatsoever between the Parties with any bearing on the subject matter of this Agreement are superseded and extinguished.
- 8.12.3 All rights and liabilities (but for this Clause 8) after the date of this Agreement by reason of any previous agreement, understanding, undertaking, representation, warranty, promise or arrangement between the Parties are cancelled to the extent that they have a bearing on the subject matter of this Agreement, except insofar as any such thing is a term repeated or otherwise reflected in this Agreement.
- 8.12.4 Nothing in this Clause 8 limits or excludes any liability for fraud in relation to any such representation, warranty, undertaking or assurance.”

- 3.35 Quinn Manufacturing (including its permitted successors and assigns) is the 'User' for the purposes of the Agreement. The Agreement employs (at Recital E) the language of 'Connected Party', but this term is not defined (although there are references to Quinn Glass, Quinn Cement and the wind farms at Clause 2.3 of and Schedule 5 to the Agreement, and see also paragraph 3.36 below). 'Party' or 'Parties' is defined in Schedule 1 to the Agreement to mean NIE and/or the User, as the case may be.
- 3.36 The Demand Connection Agreements to which the Agreement refers (at Recital D) are included in the Bundle (Volume B, Tabs 18 and 19). The Connected Party in each case is stated to be Quinn Manufacturing (in relation to cement and glass respectively) and provision is made for Maximum Import Capacities of 13MVA and 12MVA (in relation to cement and glass respectively). The Bundle also includes an email from the Quinn Group (REDACTED) to NIE (REDACTED) dated 21 July 2008 (Volume B, Tab 20) regarding a requested increase in the Maximum Import Capacity under the Demand Connection Agreement for the glass connection.
- 3.37 The Generation Connection Agreement to which the Agreement refers (at Recital C) – and which is in fact dated 28 September 2007 – is included in the Bundle, together with related correspondence (Volume B, Tab 21). Quinn Manufacturing is defined as the Generator for these purposes. A copy of the Snugborough Generator Connection Agreement dated 7 May 2003 is also included (Volume B, Tab 21).

#### Further developments in the SEM

- 3.38 On 28 July 2006, the Quinn Group responded to the Connections and Transmission Use of System for Generation Consultation Paper (Volume B, Tab 25). Its response stated –

"We would strongly support the view that a shallow connection policy, similar to the current system operated by Eirgrid is adopted for connections to the NIE network. The definition of infrastructure re-enforcement [sic] should be determined as lines and assets connecting new transmission stations to the deeper infrastructure.

Shallow connection costs should only apply to the lines and assets necessary to connect the user or generator to the transmission station. Deep re-enforcement [sic] should be paid for by the system operator.

Where investment has already been made in deep connection charges to users under current arrangements, and the investment decision was made after the publication of the High Level Decision Paper on the SEM, these costs should be refunded to the user in full as soon as possible after the date of harmonisation.”

3.39 Construction of the connection upgrade – comprising a single circuit 110kV overhead line and single 110/33kV transformer solution – commenced in August 2006.

3.40 The Regulatory Authorities published a Generation Connection Policy Decision Paper in September 2006 (Volume A, Tab 14). This Paper stated (in the Summary, and at Sections IV.1 and IV.4) –

“The Regulatory Authorities consider that Guiding Principles, regarding the identification of connection costs, for the SEM should be based on the Guiding Principles currently applied in the Republic of Ireland, and agree that detailed clarifications should be the subject of a further consultation. ...

The Regulatory Authorities consider that rebates may be appropriate where generators have paid deep connection charges in respect of assets that are not fully depreciated and which are no longer treated as connection assets under the SEM. The Regulatory Authorities wish to receive more information concerning the instances under which such rebates may be appropriate before deciding as to whether details of the issue would be best resolved by individual determinations or by general consultation.”

3.41 On 5 July 2007, the Authority approved a revised version of the Transmission and Distribution Connection Charging Statement (Volume A, Tab 7). This version made no changes to the key extracts set out in paragraph 3.29 above.

3.42 On 7 December 2007, the SEM Committee published a Draft Connection Charging Statements Consultation Paper (Volume A, Tab 15) inviting views on transmission connection charging policies under the SEM, as expressed in the draft connection charging statements for each of SONI and EirGrid. This Paper stated (at Section III.1) –

“Sub-paragraph 4.1.1 in each statement sets out a definition of connection assets. The definition is: *“those assets which are installed to enable the transfer of the Maximum Export Capacity (MEC) or the Maximum Import Capacity (MIC) of the User(s) located at the Connection Point, to or from, as appropriate, the All-Island Transmission Networks, subject to sub-paragraph 4.2”*.

Sub-paragraph 4.2 provides an important qualification to this definition: *"In deciding which assets are required to enable the transfers referred to in sub-paragraph 4.1.1, power flows other than those to or from the User(s), are disregarded."*

The main implication of this policy will be that a user in Northern Ireland seeking a new or modified connection will no longer have to fund the cost of all deep reinforcements. A user will only have to fund the cost of any new or modified assets required to connect the user to the system and any further costs associated with any new or modified assets required to facilitate their export onto the system where these are needed for thermal capacity reasons solely taking into consideration power flows attributable to the actions of the user, or users, at that connection point.

This is not a new policy in Ireland."

#### Discussions commencing in 2007

3.43 On 20 December 2007, the Quinn Group (REDACTED) requested a meeting with NIE (REDACTED and REDACTED) to discuss the treatment of deep reinforcement in the SEM regime (Volume B, Tab 45).

3.44 On 4 January 2008, the Quinn Group responded to the Draft Connection Charging Statements Consultation Paper (Volume B, Tab 26). Its response stated –

"With reference to paragraph III.1 of the paper, we wish to express our objection to the current proposed definition of the connection/system boundary. We believe that the current proposal is a significant departure from the common interpretation of the principles described in the SEM High Level Design Decision Paper (AIP/SEM/42/05) of June 2005.

In our opinion, the proposed approach is at odds with the published principles of shallow connection charging and locational TUoS charges. Specifically, from the point of view of a large industrial consumer of electricity, it appears that the connection charging mechanism could, in practice operate contrary to the high level principles. In this case, the "locational signal" would be derived from the cost of the physical connection works, rather than the ongoing TUoS charges.

Whilst it may be argued that this current approach is the most suitable for connection of large-scale conventional power generation, we believe that it discriminates against the interests of industrial (manufacturing) electricity consumers in particular and also the development of renewable generation (e.g. wind farms). It is our firm belief that the policies implemented under the Single Electricity Market should not discriminate against the strategic objective of investment in manufacturing industry."

3.45 On 9 January 2008, NIE (REDACTED) responded to the Quinn Group's meeting request (Volume B, Tab 46). This email stated –

"Following your request by e-mail to meet with yourselves, on return after the holiday period [REDACTED] called me on the telephone. The following is the summary of the discussion, which I think obviates the need to meet.

NIE is obliged to apply the policy which the Regulators decide and publish. The Regulators however, seek support from us on the detail of policies. As we worked through the connection policy development process, we tried to achieve a 'shallower' interpretation than that applied by EirGrid, not because of your case, but because we believe that transmission users in general may have a clear-English understanding of the term 'shallow' as used and published some two years ago in the market high level principles, and because such policy is less complex in application. EirGrid, however, make the point that users may be encouraged to make perverse arrangements to connect to a lower voltage point on our network and force the utility to carry out unreasonable levels of development at a cost to customers-in-general.

At present, a slight variation of the previous EirGrid principle is to be applied, subject to any change following the recent consultation by the Regulators. In the EirGrid principle, a customer connected to the transmission network, or who could reasonably have been connected to the transmission network, would pay for reinforcement of that network if that capacity of the intact network is inadequate to accommodate the peak flow to or from the customer's installation when acting alone. This would apply to new customers or customers who extend capacity. For more detail, could I refer you to the public consultation published by the Regulators on 7<sup>th</sup> December 2007. In theory, the consultant [sic] ended on 21<sup>st</sup>, however I am sure that NIAUR would still be keen to hear any constructive comment.

In your own case, you are connected to the distribution network, but, on your combined windfarm size, could have been connected to the transmission network, so if more advantageous to you, the transmission rules could be applied. [This arrangement is to ensure that relevant users are not disadvantaged by being connected to the distribution system, for which the rules remain 'deep'.]

Leaving aside any arrangement for clustering (specially agreed with NIAUR), the user would pay for the whole of the upgrade, but any unused portion of the capacity can be used by a later user, subject to a connection payment (which gives rise to a refund). The principle of refunds is outlined in the consultation, but there is a little work still required in that area and in the area of financial bonds.

I hope this helps to inform your thinking."



Post-SEM transmission connection charging

- 3.46 On 14 March 2008, the SEM Committee published a Transmission Connection Charging Statements Decision Paper (Volume A, Tab 16). This Paper stated (at Section II.3.2) –

“The Regulatory Authorities acknowledge that [the] definition [of the connection/system boundary in the draft connection statements] is a modification to earlier proposals, i.e.

*“The transmission companies...recommend that consistent application of the Guiding Principles by the different transmission companies would be ensured by treating lines connecting new transmission stations to the deeper infrastructure always as infrastructure.”*

by potentially requiring the connectee to bear the cost of reinforcements between the substation to which the generator is connecting and the rest of the system.

Nevertheless, the earlier policy is open to such modification, subject to consultation. The December 2007 consultation paper proposed the definition, as per the draft connection charging statements, and pointed out that this is consistent with the EirGrid practice over the last number of years, which has been combined with locational TUoS charging.

Furthermore, it is not clear to the Regulatory Authorities how the proposed approach discriminates against the interests of industrial consumers and renewable generation. The Regulatory Authorities consider that, whilst it is possible that reinforcement costs could possibly be proportionately higher for smaller users, the provision of section 4.2, which requires the power flows from other users be ignored, means that such reinforcements are more likely to be needed for large, rather than small, users.”

- 3.47 This Decision Paper also approved SONI’s Transmission Connection Charging Methodology Statement (the **Transmission Connection Charging Statement**), a copy of which is included in the Bundle (Volume A, Tab 10).

- 3.48 Key extracts from the Transmission Connection Charging Statement are as follows –

**“3. Connection Charging Methodology**

3.1 In order to calculate transmission charges, SONI categorises assets as either ‘Connection Assets’ or ‘System Assets’.

3.2 In connecting to the All-Island Transmission Networks a new User may connect to either Connection Assets or to System Assets, and the connection charge payable will vary in each circumstance.

- 3.3 Any person wishing to enter into a Connection Agreement (or to amend an existing Connection Agreement) for connection (or modification of an existing connection) to the All Island Transmission Networks at entry or exit points on the Transmission System will be required to pay for:
- 3.3.1 either the estimated or the outturn cost of new Connection Assets, as defined in section 4;
  - 3.3.2 a proportion of the estimated or outturn cost of any new Connection Assets which are to be shared with others who are connecting simultaneously, if any;
  - 3.3.3 a proportion of the cost of any existing Connection Assets to be shared with other Users who are already connected, if any;
  - 3.3.4 the estimated or outturn cost of decommissioning transmission assets resulting from the new or modified connection, if any; and
  - 3.3.5 certain pass-through costs which will be set out in the offer of connection. For example, any environmental planning costs, any costs incurred in acquiring planning consents, any costs incurred in complying with any conditions of planning consents, any external legal costs, any costs incurred in seeking, obtaining and paying for wayleaves or easements and any costs relating to exceptional land conditions or exceptional civil works.

...

#### **4. Connection Assets**

- 4.1 Connection Assets are:
- 4.1.1 those assets which are installed to enable the transfer of the Maximum Export Capacity (MEC) or the Maximum Import Capacity (MIC) of the User(s) located at the Connection Point, to or from, as appropriate, the All-Island Transmission Networks, subject to sub-paragraph 4.2; and
  - 4.1.2 those assets which are installed as a result of the User's effect on fault current levels on the Transmission System, but does not include any assets installed at any location other than the transmission node to which the User connects.
- 4.2 In deciding which assets are required to enable the transfers referred to in sub-paragraph 4.1.1, power flows other than those to or from the User(s), are disregarded.
- 4.3 Assets which are not Connection Assets are System Assets and the costs of these assets are recovered through use of system charges.

- 4.4 Connection Assets include, as appropriate:
- 4.4.1 the circuit(s), or those parts of the circuit(s), required to connect the User to the existing All-Island Transmission Networks;
  - 4.4.2 in addition to assets required under sub-paragraph 4.4.1, any new circuit(s) or enhanced circuit(s) required pursuant to sub-paragraph 4.1.1;
  - 4.4.3 the circuit bay(s) required by the User;
  - 4.4.4 any upgraded existing protection or communication equipment required as a direct result of the connection but not changes or additions to protection systems at remote substations (including the provision of communication channels); and
  - 4.4.5 metering, telemetry or data processing equipment supplied by SONI.
- 4.5 Figures 1 and 2 illustrate the standard boundary for asset ownership and the standard boundary for Connection Asset – System Asset.
- 5. Least Cost Technically Acceptable Connection Design**
- 5.1 It is likely that SONI will evaluate a number of design options before deciding on the preferred design for a new or modified connection to the All-Island Transmission Networks. In doing so, there may be occasions where the preferred design is not the Least Cost Technically Acceptable (“LCTA”) connection.
- 5.2 Where SONI does not proceed with the LCTA connection, whether new or modified, to accommodate a User, or a group of Users, then that User, or group of Users, will only be required to pay for the estimated cost of the LCTA connection.
- 5.3 Where an Applicant requests a connection offer which is more expensive than the LCTA connection then the Applicant will be required to pay either the estimated or outturn cost of providing both the Connection Assets and additional System Assets, if any, required by the Applicant’s preference.
- 6. Cost Allocation Rules for Shared Assets**
- 6.1 Where a new User connects to the All-Island Transmission Networks by making use of existing Connection Assets which have been funded by an existing User(s) who connected within the preceding ten years the new User will be charged a proportion of the value of the shared Connection Assets, calculated in accordance with sub-paragraph 6.3.

- 6.2 If the existing User(s) connected within the preceding ten years then the User(s) will be entitled to receive a partial rebate of the original connection charge from SONI, calculated in accordance with sub-paragraph 6.3.
- 6.3 The charge to the new User and the rebate to the existing User will be derived using:
- 6.3.1 the historic cost of the assets, including any decommissioning costs;
  - 6.3.2 the current cost accounting valuation of the assets, using RPI;
  - 6.3.3 any advanced contributions towards O&M charges in respect of the Connection Assets; and
  - 6.3.4 the per MW share of the utilisation of the shared assets.
- 6.4 In addition to the charges for use of the shared Connection Assets the new User will be required to make a payment to SONI in respect of reasonable administrative expenses.”

#### Post-SEM distribution connection charging

- 3.49 In June 2008, NIE submitted a copy of its Statement of Charges for Connection to the Northern Ireland Distribution System to the Authority for approval (Volume A, Tab 8) (the **Distribution Connection Charging Statement**). (The Distribution Connection Charging Statement was subsequently approved by the Authority on 23 January 2009.)
- 3.50 Key extracts from the Distribution Connection Charging Statement are as follows –

#### **“4. Over 1MW Customers and Authorised Generators**

- 4.1 Any customer in this category wishing to connect, or to modify an existing connection, to the Distribution System will be required to pay for:
- 4.1.1 the estimated cost of installing new and/or modified Connection Assets;
  - 4.1.2 a proportion of the estimated cost of installing any new Connection Assets which are to be shared with others who are connecting simultaneously, if any (refer to sub-paragraph 6.8.3 for further guidance);
  - 4.1.3 the estimated cost of decommissioning Distribution System assets resulting from the new or modified connection, if any; and
  - 4.1.4 certain pass-through costs incurred by NIE in undertaking the connection works as set out in the offer of connection. For example, any costs incurred in acquiring planning consents, any costs incurred in complying with any

conditions of planning consents, any external legal costs, any costs incurred in seeking, obtaining and paying for wayleaves or easements and any costs relating to exceptional land conditions or exceptional civil works.

...

## 8. Definitions

'Connection Assets' means:

1. those assets required to connect the customer's assets to the Distribution System, including, as appropriate, civil works, electrical lines, electrical plant, meters, telemetry and data processing equipment;
2. those assets required to reinforce the Distribution System which are at the connection voltage level and one voltage level above; and
3. in the case of a customer connecting at 33kV, those assets required to reinforce the Transmission System at 110kV which are installed to enable the transfer of the customer's Maximum Export Capacity or Maximum Import Capacity, disregarding electricity flows caused by any other customer."

3.51 Also, the Distribution Connection Charging Statement provides -

### "6.7 LCTA Principle

- 6.7.1 NIE will normally offer a customer the Least Cost Technically Acceptable ("LCTA") connection.
- 6.7.2 Where a customer requests a connection design which is more expensive than the LCTA connection then, if that option is acceptable to NIE, the customer will be required to pay in full the estimated cost of providing the additional Connection Assets necessary to meet the customer's requirements, in addition to the connection charge levied under Section 4 or 5, as appropriate.
- 6.7.3 There may be occasions where NIE decides for its own reasons that the preferred design is not the LCTA connection. In that event, the customer, or group of customers, will only be required to pay for the estimated cost of the LCTA connection.

### 6.8 Sharing Connection Assets

- 6.8.1 Where a new customer is connected to the Distribution System by making use of existing Connection Assets which were funded by an existing domestic customer(s) who connected within the preceding five years, the new customer will be charged a proportion of the value of the shared Connection Assets, calculated in accordance with the Electricity (Connection Charges) Regulations (Northern Ireland) 1992.
- 6.8.2 If the existing domestic customer(s) was connected within the preceding five years than that customer(s) will be entitled to receive a partial rebate of the original connection charge from NIE, less a payment to NIE in respect of reasonable administrative expenses.”

The connection and the request for a rebate

- 3.52 The new 110kV overhead line and 110/33kV transformer were commissioned in August 2008.
- 3.53 Details of the constituent cost elements of the connection works, amounting to £9,724,000, are included in the Bundle (Volume C, Tab 58). As at 16 February 2009, Quinn Building Products had paid a total of £8,837,000 to NIE in respect of these works (Volume C, Tab 69), and expenditure has not yet been completed.
- 3.54 The Quinn Group (REDACTED) wrote to NIE (REDACTED) requesting a full rebate of the costs of the project on 7 August 2008 (Volume B, Tab 47). This letter stated –

“With reference to Section III.3.1.1 of SEM Consultation Paper AIP/SEM/72/06, July 2006 (Generation Connections and Transmission Use of System for Generation) and Section IV.4 of Decision Paper AIP/SEM/114/06, September 2006 (Generation Connection Policy), along with earlier related documents, we would now like to make a formal application for a refund of the project related costs.

Further to our recent discussion on the subject, you will note that although NIE’s project work was documented by a single ‘Connection Works Agreement’; this arrangement was arrived at purely by reason of expediency at the time of connection. As you are aware the connection is in respect of a number of separate and independent business entities.

Given the significant costs already incurred on the project by the Quinn Group, I would be grateful for the early release of the relevant rebate. I would therefore appreciate it if you could outline any further application process, which might be necessary at this time.”

- 3.55 On 28 August 2008, NIE (REDACTED) responded to the Quinn Group's request (Volume B, Tab 48). This letter concluded as follows –

"In examining the rules both before and after the creation of the new SEM, and in taking account of the definitions of Connection Assets and System Assets, I cannot find any case to recommend a rebate either on the grounds that the development was required for load growth or under the need for a connection to your wind farms. I therefore believe that no rebate can be paid unless and until a further network user applies for use of any unused capacity on the 110kV circuit."

- 3.56 The Quinn Group (REDACTED) responded to this letter on 4 September 2008, providing further argument in support of its claim for a full rebate of costs, and requesting that NIE reconsider its position (Volume B, Tab 49).

- 3.57 On 11 September 2008, a meeting took place between the Quinn Group and NIE, facilitated by the Authority.

- 3.58 The Quinn Group (REDACTED) wrote again to NIE (REDACTED) on 6 October 2008 (Volume B, Tab 50). This letter stated –

"Please note that the points raised in my letter to you dated 4<sup>th</sup> September 2008 have not been adequately addressed to date and I hereby request a full response to my letter. In particular, I look forward to receiving a response on the points made in the fourth and fifth paragraphs of my letter concerning the contents of the letters to the Quinn Group from NIAUR dated 13<sup>th</sup> June 2006 and from NIE dated 11<sup>th</sup> July 2006.

As you will be aware, the Quinn Group has to date paid £8,200,000 in respect of the works and we are seeking to recover this and interest charges, which are accruing on these monies at the rate of approximately £48,000 per month. In light of this, a timely response to the points made in my letter to you dated 4<sup>th</sup> September 2008 would be appreciated."

### The Complaint

- 3.59 The Quinn Group's request for a rebate was formally refused by NIE (REDACTED) on 23 October 2008 (Volume B, Tab 51).
- 3.60 The Complaint is dated 15 December 2008 (Volume C, Tab 53) and was received by the Authority on 17 December 2008. The Authority has been instructed that it should regard the Complaint as being made by Quinn Building Products (Volume C, Tab 78).

- 3.61 Copies of all correspondence between the Authority and the Parties since receipt of the Complaint are included in the Bundle (Volume C, Tabs 54 – 88 and Volume D Tabs 89 – 101).