

From the office of the Chief Executive

Graeme Baird
Northern Ireland Electricity Ltd
PO BOX 2
120 Malone Road
Belfast
BT9 5HT

28 January 2022

Dear Graeme

Re: Request for the Utility Regulator's consent for a proposed licence in relation to certain parts of Land Bank within Kilroot Adjoining Lands

I write in response to your letter dated 7 December 2021¹ requesting the Northern Ireland Authority for Utility Regulation (the **Authority**)'s consent for Northern Ireland Electricity Networks Limited (**NIE Networks**) to lease (by way of a 'licence to occupy') two discrete areas located within currently unlet land bank², each area within that part of the land bank known and referred to as "Kilroot Adjoining Lands", to EP Kilroot Limited (**EPK**) for a temporary period (the **Request Letter**).

The request for consent is sought under and in accordance with paragraph 4 of the direction given by the A, pursuant to the provisions now set out in Condition 23 of NIE Networks' electricity distribution licence, to NIE Networks, dated 21 October 1993 (the **1993 Direction**).

The two discrete areas for which the request is sought are marked out in the plan submitted to the Authority by NIE Networks with the Request Letter (which for ease and completeness is also attached as Appendix One to this letter) and described as (i) the Laydown Compound, and (ii) the Carpark Compound (the **Relevant Areas**).

¹ Addressed to my colleague Roisin McLaughlin.

² As that term is defined in Condition 1 of the electricity distribution licence held by NIE Networks.

Utility Regulator

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We sought clarifications in respect of the Request Letter by our letter of 6 January 2022. Your response of 13 January 2022 addressed our queries and provided a further version of the requisite terms of a licence for the Relevant Areas. We understand that this 13 January 2022 version of the proposed licence (“**the new licence terms**”) is agreed between NIE Networks and EPK.

We understand the 13 January 2022 correspondence to augment the Request Letter so that the request for consent now stands as a request for consent authorising NIE Networks to enter into a licence to occupy with EPK in respect of the same Relevant Areas on the terms set out in the new licence terms.

The Authority has given due consideration to the request (as it now understand it) and gives its consent for NIE Networks to enter into the proposed licence to occupy with EPK in respect of the areas marked out in plan at Appendix One, subject to the conditions set out below.

The conditions of this consent are that the terms of the 'licence to occupy' entered into between NIE Networks and EPK in respect of the Relevant Areas shall (i) include all the terms contained in the new licence terms, and (ii) not include any other terms, unless the Authority has given its consent to such other terms.

The Authority’s reasons for giving the above consent are as follows

1. The Relevant Areas are to be let to EPK for a temporary period from 1 January 2022 (or as soon as possible thereafter) which period shall be for a minimum of 17 months and for a maximum of 24 months. This is a relatively short period which is not considered by the Authority to have a significant adverse effect on any longer term proposals for the Land Bank and/or the Kilroot Adjoining Lands.
2. The uses to which the Relevant Areas are to be put by EPK for the period of the let are for the purposes of facilitating the construction of a new (gas fired) generating station at the Kilroot site (which is situate adjacent to the Land Bank land known as "Kilroot Adjoining Lands"). This is in accordance with the original purpose and reasons for Land Bank and is consistent with the aims of paragraph 2 of the 1993 Direction.

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3. The letting of the Relevant Areas to EPK for the period in question will be beneficial to the interests of Northern Ireland electricity consumers given that NIE Networks –
- a. will be receiving income under and in accordance with the terms of the 'licence to occupy'; and
 - b. will not be incurring costs in 'maintaining' the Relevant Areas for the duration of the licence.

This considerations are consistent with the obligations on NIE Networks in paragraph 3 of the 1993 Direction.

4. NIE Networks has confirmed in writing to the Authority that it did not receive any full and final bids in response to its invitation for same to be made further to the process undertaken by NIE Networks in accordance with the direction given to it by the UR dated 14 January 2011 making available for lease the Kilroot Adjoining Lands.

5. NIE Networks has also confirmed in writing to the Authority that the letting of the Relevant Areas to EPK for a temporary period of no more than 24 months does not have any adverse impact on it preparing the said lands such that they can be marketed for lease on a longer term basis on expiry or termination of the 'licence to occupy' which is to be entered into with EPK pursuant to this consent.

6. In light of the foregoing the Authority considers that a decision to grant the consent now sought is consistent with the Authority's principal objective and duties as set out in Article 12 of the Energy (NI) Order 2003,

The Authority shall, in accordance with Article 52(2)(a) of the Electricity (Northern Ireland) Order 1992 (the **Order**), enter this consent into the register maintained by it pursuant to Article 51(1) of the Order.

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Yours sincerely



John French
Chief Executive

**AUTHORISED FOR AND ON BEHALF OF THE NORTHERN IRELAND AUTHORITY FOR
UTILITY REGULATION**

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Appendix 1 Request Letter and Relevant Areas

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FAO Roisin McLaughlin
Utility Regulator
Queens House
10-14 Queen Street
Belfast
BT1 6ED

7 December 2021

Dear Roisin

REQUEST BY EP KILROOT LIMITED ('EPK') FOR THE GRANT OF A LICENCE FOR A CARPARK AND LAYDOWN COMPOUND AT KILROOT ADJOINING LANDS

I refer to our previous discussions concerning the request by EPK for the grant of a temporary licence over a portion of the Kilroot Adjoining Lands for use as a laydown space to facilitate the construction of their new gas fired generation at Kilroot Power Station. I also refer to the Authority's letter of 17 September 2021 to Mr Ian Luney of EPK in which the Authority confirmed that it seemed that the most appropriate way forward was for NIELB and EPK to work together in an effort to reach a satisfactory resolution to the matter.

By way of background, EPK is constructing a new gas fired power station at Kilroot Power Station. The new power station is planned to commence operation by 1 October 2023 and EPK has requested temporary use of a portion of NIELB's land, by way of licence, from 1 January 2022 to 30 June 2023 (with an option to extend for a further 6 months if required).

Following the Authority's letter to EPK of 17 September 2021, EPK produced a proposed draft licence to NIELB. NIELB considered it economically prudent to review and negotiate this licence further and therefore, to assist NIELB in this regard, it engaged Savills Commercial Property Consultants (Savills) and Cleaver Fulton Rankin solicitors (CFR) to act on its behalf (EPK having agreed to pay the reasonable fees incurred by NIELB in engaging these consultants). The discussions between the EPK and NIELB representatives have now concluded and a final draft of the licence has now been produced (see attached). A summary of the main terms of that licence is as follows:

Licence Fee -	£10,815 (plus VAT) per month. This represents an increase on the initial EPK offer of £4,100 (plus VAT) per month.
Licence Period -	1 January 2022 to 1 June 2023 (with an option for EPK to extend for a further 6 months to 31 December 2023). The option for EPK to extend the Licence period to 30 September 2024, as was originally proposed by EPK, has been reduced.
Licence Area -	A proposed overall area of 432,610 sq. ft, comprising a Car Park Compound (hatched blue on the Licence Plan) and a Laydown Compound (hatched purple on the Licence Plan). The ability of EPK to seek an increase in the size of the compounds during the Licence Period, as was originally proposed by EPK, has now been removed.

NIELB notes its regulatory obligations in managing the land bank lands, in particular Condition 23 of NIE Networks distribution licence which states '*The Licensee shall deal with the land bank and any*

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rights which it may have in relation to the whole or any part of it in accordance with such directions as the Authority shall from time to time issue to it. Such directions may:

- (a) provide that the Licensee shall not dispose of the whole or any part of the land bank except with the prior written consent of the Authority and in accordance with the conditions (if any) of the consent....'
- (c)(i) specify the conditions upon which the Licensee shall deal with any application from any person concerning the unlet land....'

NIELB further notes the framework set out in the 1993 General Direction. In particular, paragraph 3 which states 'NIE shall manage the Land Bank Business in an efficient prudent and economic manner and so far as is consistent with such management and with the aims of paragraph 2, shall endeavour to maximise the profits from the business and minimise the losses occurring therefrom' and paragraph 4 which states that 'NIE shall not make any material change to the assets or liabilities of the Land Bank including any relevant lease (other than as legally required by its terms) without the prior consent of the [UR] and other than in accordance with the conditions (if any) of the consent'.

Finally, NIELB further notes the framework set out in the NIE Land Bank - Governance Procedure dated 20 May 2015, in particular paragraph 2.2.1, which provides that NIE shall consult the UR for direction for any applications received for unlet land.

NIELB has considered the terms of the proposed licence with EPK and is satisfied that the said licence:

- (a) is for the purposes of facilitating the construction by EPK of new gas fired generation at Kilroot Power Station;
- (b) will generate income in the region of £200k in respect of lands which are currently unlet;
- (c) is limited to a maximum of two years (18 month plus the potential for an additional 6 months), meaning the land will continue to be available for other future generation purposes from 1 January 2024 (at the latest).

Mindful of its regulatory obligations and in consideration of the above, NIELB recommends that the proposed licence with EPK be entered into as soon as possible and we hereby request the consent of the Utility Regulator to do so.

You will note that EPK require the licence to commence on 1 January 2022. This being the case, we would be grateful if you could let us have your response as soon as possible. In the meantime, should you have any further queries arising out of the above, please do not hesitate to contact me.

Yours sincerely



Graeme Baird
NIE Land Bank

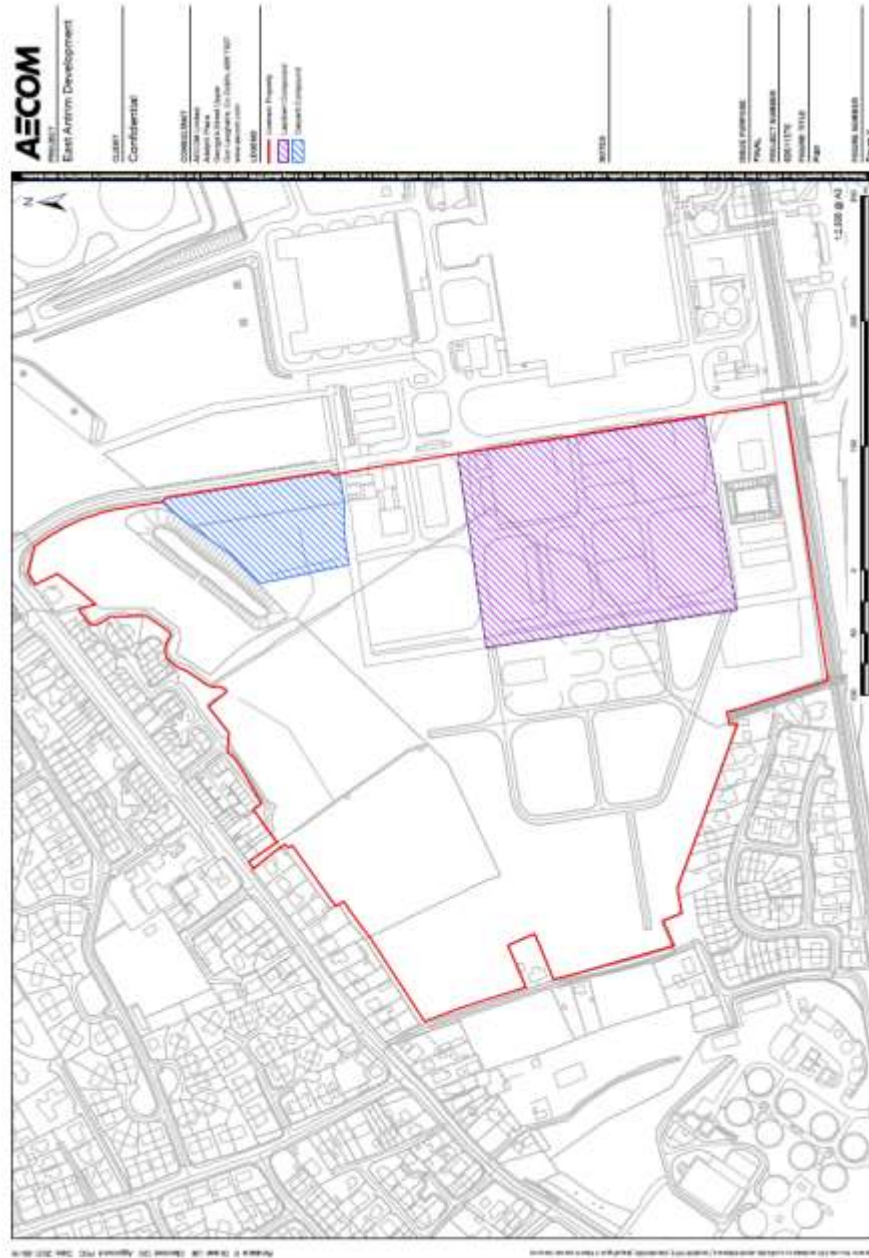
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