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By Email Only: John.Heywood@nienetworks.co.uk

Date: 20 June 2023

Our Ref: NET/E/DH/681

Dear John,

Request for Extension of Time to Issue a Connection Offer for Connection Application at Ballyhanedin Wind Farm

Thank you for your letter of the 4 May 2023 (the **4 May Letter**).

The 4 May Letter reflects an application (the **Application**) by NIE Networks Limited (**NIE**) – under Condition 30(7) of its distribution licence (the Licence) – for the consent of the Authority to the (further) extension of the period specified (the **Condition 30(6) period**) under Condition 30(6) of the Licence in respect of the application for connection (the **connection application**) made in respect of Ballyhanedin Wind Farm (**BH WF**) out to 25 July 2023.

The 4 May Letter was preceded by two other letters. These letters were dated 24 March 2023 and 6 April 2023 (the **24 March Letter** and the **6 April Letter** respectively) and each made application for consent under Condition 30(7) viz. the connection application.

The 24 March Letter asked for the Condition 30(6) period to be extended out to 25 April 2023 from 7 April 2023 – being the operable extended Condition 30(6) period (for the connection application) following a previous decision of the Authority dated 9 December 2022 (the **December 2022 Decision**).¹

¹ [Extension to issuing a connection offer – Ballyhanedin Windfarm | Utility Regulator \(uregni.gov.uk\)](#)

The 6 April Letter applied for the Condition 30(6) period to be extended out to 25 July 2023 from 7 April 2023, with no decision having been taken on the application made in the 24 March Letter.

NIE has explained that the 4 May Letter reflects its current Condition 30(7) application in respect of the connection application. So, whilst we have had regard to the March Letter and the April Letter, our primary focus is now on the matters stated in the 4 May Letter. Again, the 4 May Letter (like the April Letter) asks for consent for the Condition 30(6) period to be extended out to 25 July 2023.

1. Condition 30 of the Licence

Condition 30 provides that (barring specified exceptions) NIE 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* from receipt of a valid/completed application for connection to the distribution system.

Condition 30(7) of the Licence provides for NIE to make an application to the Authority² seeking written consent to a “*longer period*” than the 3-month period specified in Condition 30(6)(b) of the Licence. Neither the making of a Condition 30(7) application, nor any (written) consent from the Authority in response thereto to a longer period, negates NIE’s obligation to make a connection offer *as soon as practicable*. That obligation – which is recorded in Article 20 of the Electricity (NI) Order 1992 (the **Electricity Order**) – remains.

2. Background

The background can be found in the introductory section of this decision letter and in the December 2022 Decision. The December 2022 Decision narrates the previous applications and decisions on Condition 30(7) applications made by NIE viz the connection application for BH WF. Again, the December 2022 Decision consented to the extension of the Condition 30(6) period, out to 7 April 2023. The May Letter applies for a further extension out to 25 July 2023.

² In this letter “we”, “UR” “us”, and “the Authority” are used interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

The May Letter was produced following our initial consideration of the April Letter and a follow up online call discussion with NIE on 20 April 2023, it being considered that NIE's application for a (further) Condition 30(6) extension consent could be better clarified.

Receipt of the 4 May Letter resulted in the UR asking NIE to supply the 4 May Letter to the developer of BH WF (RG Developments (**RGD**)). A redacted copy of the 4 May Letter was subsequently provided to RG Developments in early June. RGD has subsequently made direct contact with the UR. This direct contact is set out in section 5 of this letter.

This letter represents our decision on the Application.

3. The Application

Like the previous Condition 30(7) applications made in respect of the connection application for BH WF, the Application deals with the proposal for a Cluster connection (to Feeny Cluster) for BH WF.

NIE states that *"this application is subject to the outcome of events which are outside of NIE Networks' control."*

NIE states that it transpired in March 2023 that another wind farm [X WF] *"is currently in planning and is viable for connection to Feeny Cluster."* NIE further states that:

"With the prospect of [X WF] connecting to Feeny Cluster it has become necessary to determine the following:

- i. *"if a connection for [X WF] to Feeny Cluster will trigger the Timing provision detailed within Section 5 of Appendix 2 of the NIE Networks SoCC so that Ballyhanedin would be entitled to receive a direct connection. In this scenario the impact of Ballyhanedin being removed from Feeny cluster on the other 3 potential connections has to be assessed in accordance with section 5 of Appendix 2 of the SoCC."*
- ii. *"whether a connection to Feeny Cluster remains the preferred means of connection for the 4 wind farms identified as potential connectees, including Ballyhanedin. An assessment must therefore be carried out for each of the 4 wind*

farms in the vicinity of Feeny cluster taking into account all the factors referred to in section 5 of Appendix 2 of the SoCC, together with NIE Networks wider statutory obligations. This assessment has significant consequences for the 4 wind farms under consideration from a connection timing and cost perspective and also from an environmental perspective. The outcome of this assessment may result in Feeny cluster having its status as Designated Cluster Substation Infrastructure being removed pending further engagement with SONI.”

The rationale for requesting the extension sought in the Application thus appears to signal the possibility for offering a direct connection. But a connection to a Cluster is not ruled out.

NIE states that an extension out from 7 April to 25 July would be needed to

“... allow NIE Networks to redesign to connect Ballyhanedin to Killymallaght Main, which would be a 26km 33kV connection . . .NIE Networks since recognising on 16 March 2023 that [X WF] could avail of a connection into Feeny cluster have been working through Section 5 of Appendix 2 of the NIE Networks SOCC. Depending on the outcome of this process NIE Networks will issue Ballyhanedin an offer to Feeny Cluster or a direct connection by 25 July 2023 or as soon as is practicable within this timescale.”

We note also that in an email in response to a query from the Authority about what information had been conveyed to BH WF (on 5 June 2023), NIE stated that it had

“explained to . . .that NIE Networks [were] currently considering if the designation of Feeny cluster would remain and in parallel to this we were carrying out detailed design of direct connections. [We] explained however that additional challenges had presented themselves during the detailed design and therefore NIE Networks would need to wait until the detailed designs were complete in order to see if direct connections were viable – given that each connection is close to design limits. [We] advised that either way we would be in a position to provide an offer by the 25th of July 2023.”

4. Application Impacts

NIE has provided the following information regarding the impacts of granting consent / not granting the consent sought in the Application:-

Granting Consent

- a. *“This extension will allow NIE Networks to work through Section 5 Appendix 2 of the SOCC while also taking into account of Ballyhanedin updated position.*
- b. *This extension would facilitate a fair and transparent network capacity allocation and queueing process for the capacity available for the 90MW at Feeny Cluster.*
- c. *This extension will enable NIE Networks to progress the connection design and production of a connection offer subject to capacity becoming available.”*

Not Granting Consent

- a. *“Stakeholder feedback suggests that for NIE Networks to issue a cluster connection offer without considering other viable connection options may result in a dispute being lodged with the UR.”*
- b. *Ballyhanedin has advised that a connection offer to Feeny Cluster would most likely result in the project becoming unviable and would result in the loss of 24MW of consented renewable capacity not proceeding.”*

5. Consultation on the Application

Condition 30(7)(a) of the Licence provides that NIE must consult with the applicant for connection. That applicant is RGD.

RGD has been consulted on the 4 May Letter/Application. It was also consulted on the March Letter and the April Letter.

In the 24 March 2023 letter, the RGD response is quoted as:

“We are happy to support the requested extension to 25/04/2023.”

As regards the April Letter, RGD expressed support for the extension request, however it also stated that:-

“this now has to be on the basis it is allowing time to formulate a direct connection offer for the reasons outlined above.”

RGD also made comments on the request itself as follows:

“this is the fifth request for an extension to the time required for the provision of a grid offer. This repeated extension of time is now causing considerable business difficulty and uncertainty as it does not allow the necessary and time critical strategic, operational, procurement, financial and logistical planning required.”

RGD stated that prior to the Feeny Cluster designation being announced they

“originally undertook an independent grid connection options assessment . . . in which a number of direct connection options were identified....following subsequent discussions with NIE, RGD were led to believe by NIE that none of the options identified in the assessment were technically feasible at that time. One of these options was a direct connection into Killymallaght sub-station.”

RGD then outline that

“Despite the relatively high cost of connecting into the Feeny Cluster and the proposed length of time to connection, (stated as 2030), at the time RGD accepted this position as it had been told there were no direct connection options available and the cluster would be in close proximity to the wind farm and the only viable connection method. Subsequent requests by NIE to extend the timescale for receipt of RGD’s grid offer were therefore supported despite the additional costs, delays and risks they created for RGD.”

RGD expressed concerns about the costs of connection to the cluster:

“In March’23 NIE indicated that a direct connection to Killymallaght . . . was actually available. In addition, RGD was informed that the original indicative costs for the cluster had now increased and the connection timescale may also increase given the number of approvals required ahead of commencement of construction. This cost / time increase now considerably undermines the financial viability of the Ballyhanedin Wind Farm if connected into the cluster.”

RGD continued:

“.....In summary, the current position is that unless Ballyhanedin Wind Farm receives a direct connection offers that allows energisation within the next 3 years, 24MW of

consented green energy that supports the NI Energy Strategy targets, will disappear. Having read the timing provision detailed in Section 5.1 of Appendix 2 NIE Networks' Statement of Connection Charges (SOCC), it does appear NIE are within their rights to grant Ballyhanedin such a direct connection, especially as such a direct connection is now known to be possible. In addition, we understand that current and future demand for the Feeny cluster will justify its development for projects that are further behind in the development journey than Ballyhanedin . . . The SOCC timing provision again suggests this should allow Ballyhanedin to be issued with a direct connection."

We note that it is stated in the Application that

"NIE Networks has consulted both verbally and via written correspondence with the applicant," but included in the application the same correspondence from the applicant incorporated into the fourth application. NIE also state that considering the fact that this is a resubmission and we have already consulted with those affected we don't regard further consultation to be necessary given the responses already received."

Related interaction resulted (as already mentioned) in RGD being supplied with a redacted copy of the 4 May Letter.

In direct communication with the Authority (sent on the 31 May 2023, before RGD received copy of the 4 May Letter) RGD pointed out that the timescale for the provision of a connection offer has been extended 6 times, and stated that *"our recent independent work suggests that there is in fact a direct LCTA connection technically available for BWF that could be delivered within 2-3 years and at a substantially lower cost than if connected into the Feeny Cluster.....the project is now in the position that unless this direct connection is offered to BWF, sadly the project will fail."*

RGD also quoted Paragraph 5.1 of NIE Networks' Statement of Charges, which outlines that a generator should not be delayed by more than 18 months by the implementation of a cluster approach. RGD raised five points:

- *"[BH WF] will be delayed by more than 18 months over an LCTA connection;*
- *[BH WF] is first in the queue and has the right to request a direct connection;*
- *The other wind farm currently designated to the cluster will also not proceed with a cluster connection so it would not be negatively impacted by [BH WF] leaving the cluster;*

- *The cluster was never originally justified as the 56MVA threshold was not reached and so the justification will not be removed if [BH WF] leaves, as it never existed in the first place; and*
- *Even without the above, NIE has the flexibility to offer BWF an LCTA connection and have the discretion to use common sense in exceptional circumstances, of which this is one.”*

RGD also stated that *“[BH WF] needs to be offered the single use direct LCTA connection that we know exists. This will enable it to contribute to achieving Northern Ireland’s essential energy targets. However, as the 25th July 2023 offer date approaches, uncertainty on whether this will comprise the offer remains high.”*

RGD sent in further communication – dated 8 June (the **RGD June Letter**) - following receipted provision of the redacted copy of the 4 May Letter (made available in early June). This letter expressed conditional support for the extension sought in the Application. RGD referred to an *“increased understanding”* of the situation. It stated that it was

“extremely useful to see the information [the redacted 4 May Letter] contains and helps us now frame a more considered response in conjunction with the points already made in our letter to [the UR] dated 30th May 2023.”

RGD stated that it was

“grateful to all parties for the effort being undertaken to investigate and prepare a formal grid offer for [BH WF]. It is appreciated the outcome of the offer requires a balance of detailed technical option assessment and regulatory adherence.”

RGD stated that it was not previously aware of a direct connection being investigated as a possibility for BH WF and continued:

“It is also noteworthy to understand the proposed LCTA connection methodology and location being investigated as an alternative to a connection to the Feeny Cluster. This information was previously unknown to ourselves. . . It is welcome to see the recognition that the project would be unviable if any grid offer and associated methodology had an extended energisation timetable beyond the next few years.”

RGD’s new position on the extension request is now to conditionally support it:

“Based on the recent increased understanding of the situation, RG Developments (NI) is happy to support NIEN’s latest extension request for the provision of a grid offer for Ballyhanedin Wind Farm by 25th July 2023 – at the latest. However, this support is predicated on the following basis:

- That such a grid connection offer needs to be cost effective and deliverable in the short term or the project and its renewable energy production will be lost; and*
- That RG Developments are informed at the soonest regarding the proposed connection methodology and energisation timetable. To have to wait until the grid offer issue date of 25th July for this basic information continues the project uncertainty and overall financial risk.”*

We should note that the Application also refers to engagement with SONI.

6. The Authority’s decision

Having considered the matter fully, and taking all relevant matters into account³, the Authority:

- I. Determines to accede to the Application considering it properly founded, and, accordingly
- II. Gives its (written) consent to a longer period – within which NIE is required to make a connection offer to RGD in respect of the application for connection made for the BH WF – out (from 7 April 2023) to **25 July 2023**.

In making the decision, we have had proper and full regard to the consultation responses from RGD as the developer of BH WF. We note the conditional support offered in the RGD June Letter.

³ To include our principal objective and related obligations as set out in Article 12 of the Energy (NI) Order 2003 and (ii) our published guidance on extension applications [Electricity Connections Review Decision Paper | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/electricity-connections-review-decision-paper)

Our decision to grant the extension sought reflects an acceptance of the case made by NIE.

We confirm that the period ending **25 July 2023** is a “long stop” date. The obligation under Condition 30 of the NIE Licence is (now), subject to applicable exceptions,⁴ to offer terms of connection for BH WF “as soon as practicable” and “in any event no later than” 25 July 2023. The licence obligation is not (now) simply to offer connection terms *by* 25 July 2023. NIE will be aware of the complimentary provisions of Article 20 of the Electricity (NI) Order 1992.

This decision will be published on our website and placed in the Public Electricity Register.

Postscript

We make the following observations outside of our decision on the Application.

We note the case made by RGD that it was not made aware of the potential for a direct connection before provision of the redacted copy of the 4 May Letter in early June 2023. We make no finding on that claim, but it is a matter for NIE to reflect upon whether there could have been better communication with RGD.

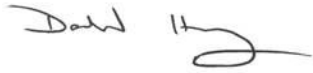
We note that RGD’s support for the extension is conditional on the fact that a grid connection offer needs to be “*cost effective and deliverable in the short term,*” (or the project may be lost), and that RGD should be informed at the earliest possible date of the proposed connection methodology and energisation timetable (RGD has highlighted risks in waiting for this information until 25 July 2023).

We note also that the 4 May Letter indicates (and subsequent communication from NIE seems to confirm) that it is not clear whether a direct connection can be delivered. The responses from RGD indicate that a failure to deliver a direct line connection could impact on the future of the project. It is for NIE to consider the points made by RGD in complying with its legal/regulatory obligations.

Please do return to us should you require any clarification.

⁴ Consonant with NIE’s license obligations and its statutory duties set out in Articles 12 and 19 of the Electricity Order.

Yours sincerely,



Donald Henry
Networks and Energy Futures Director