



**Formal complaint from [REDACTED] to the Utility
Regulator against NIE Networks with respect of an exemption from
the Electricity (Standards of Performance) Regulations (Northern
Ireland) 1993**

Determination

19th April 2018

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Formal complaint from [REDACTED] to the Utility Regulator against NIE Networks with respect to an exemption from the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993

Determination

1 Section One - Introduction

- 1.1 The Northern Ireland Authority for Utility Regulation (the **Authority**) received on 24 January 2018, by way of a letter, a formal complaint from [REDACTED] (the **Complaint**) regarding a dispute between NIE Networks and her.
- 1.2 The dispute between [REDACTED] and NIE Networks (together, the **Parties**) relates to NIE Networks considering itself as being exempt from having to make payments under Article 14 of the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993 for the period from 2 to 4 January 2018 at [REDACTED]
- 1.3 The dispute falls to be determined by the Authority under Article 42A of the Electricity (Northern Ireland) Order 1992 (the **Electricity Order**).
- 1.4 The Utility Regulator has considered this dispute in accordance with its Policy on the Resolution of Complaints, Disputes and Appeals and Guide for Applicants dated June 2013 (the **Procedure**).
- 1.5 The Utility Regulator CEO has appointed Tanya Hedley (Director of Compliance and Network Operations) and Caspar Swales (Manager in Finance & Network Assets) jointly to determine the dispute on its behalf (together, the **Decision-Makers**). We do so as delegates of the Utility Regulator and on its behalf.

- 1.6 This document is our determination in relation to the Dispute. It reflects our current thinking as at 19th April 2018.
- 1.7 The Parties were afforded the opportunity to comment, by way of written submissions on a draft of this determination dated 4th April 2018. Neither party made submissions in relation to the document.
- 1.8 In writing this determination, we have had the benefit of being able to consider the following materials relevant to the background to the Complaint -
- (i) A Report from the Investigating Team (the Investigation Report) prepared for us by a skilled staff member of the Authority.
 - (ii) One volume of documents (the Bundle) which contained all the papers submitted by the Parties

Contained at Annex 1 are the documents referred to at 1.9(ii) above.

- 1.9 This document is structured as follows:
- (i) the Parties (at Section 2),
 - (ii) the factual background to the dispute (at Section 3),
 - (iii) the relevant licence conditions & statutory regulations (at Section 4),
 - (iv) Submission from NIE regarding the restoration of supply at [REDACTED]
 - (v) Additional information submitted by NIE at the request of the Authority (at Section 6).
 - (vi) Our determination in relation to the issue (at Section 7).

2 Section Two – The Parties

[REDACTED]

2.1 [REDACTED] is a private individual who resides at [REDACTED]
[REDACTED]

NIE Networks Limited

2.2 NIE Networks is a subsidiary of ESBNI Limited which is a member of the ESB group of companies. It is the owner of the electricity transmission system in Northern Ireland, and the owner and operator of the electricity distribution system in Northern Ireland.

2.3 NIE Networks is licensed separately in relation to both activities.

2.4 It is licensed to undertake these activities and accordingly holds an electricity transmission licence and an electricity distribution licence granted or taken under Article 10(1)(b) and 10(1)(bb) of the Electricity Order respectively.

2.5 NIE Networks' distribution licence (also known as the successor distribution licence) is the relevant licence for the purposes of this dispute (the Licence).

3 Section Three - Factual Background

3.1 The following summary of the factual background is derived from the Investigation Report.

3.2 This dispute relates to NIE Networks considering itself as being exempt from having to make payments under Article 14 of the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993 for the period from 2 to 4 January 2018 at [REDACTED]

3.3 The key events and milestones in this case are detailed below:

Date	Event
Jun-13	Policy on the Resolution of Complaints, Disputes and Appeals and Guide for Applicants http://www.uregni.gov.uk/uploads/publications/Appeals_Complaints_and_Disputes_Policy_-_June_13.pdf
2016	LV network patrolled and all poles recorded as being in good condition
02/01/2018	Met Office public weather advisor issues email indicating potential weather issues
02/01/2018	NIE Networks escalated in line with its emergency action plan
02/01/2018	First HV fault attributed to severe weather conditions occurred at 18:19hrs
02/01/2018	NIE Networks aware customer off supply at 20:10hrs
02/01/2018	[REDACTED] contacts NIE Networks at 20:10hrs
02/01/2018	[REDACTED] contacts NIE Networks at 20:34hrs
02/01/2018	At its peak at 21:40hrs NIE Networks confirms that approximately 17,300 customers off supply
04/01/2018	Supply restored at 01:30hrs to [REDACTED]

10/01/2018	██████████ compensation claim submitted to NIE Networks
15/01/2018	NIE Networks' letter to ██████████ re Guaranteed Service Standards (GSS) payment
23/01/2018	Email from Consumer Council for Northern Ireland (CCNI) to ██████████ re GSS
24/01/2018	██████████ appeals decision by NIE Networks to exempt itself from making a payment under GSS
26/01/2018	Utility Regulator acknowledges receipt of formal complaint
08/02/2018	Utility Regulator formally accepts complaint as being properly made
08/02/2018	Utility Regulator issues information request to NIE Networks
20/02/2018	NIE Networks provides response to information request
14/03/18	Utility Regulator extends complaint timetable
14/03/18	Utility Regulator issues request for further information from NIE Networks
22/03/18	NIE Networks issues response to request for further information

4 Section Four - Relevant Licence Conditions & statutory regulations

The Licence requirements

4.1 NIE Networks is the owner and operator of the electricity distribution system in Northern Ireland.

4.2 NIE Networks is licensed in relation to this activity under Article 10(1)bb of the Electricity Order

4.3 The licence (the Licence) can be found at the following link:

<https://www.uregni.gov.uk/sites/uregni/files/media-files/NIE%20Distribution%20Licence%20effective%2022%20January%202018.pdf>

4.4 NIE Networks is required by Condition 34 of the Licence to conduct the Distribution Business in the manner which it reasonably considers to be best calculated to achieve any standards of overall performance that may be determined by the Authority pursuant to Article 43A of the Electricity Order.

4.5 Article 43A contains provisions that cover 'Overall standards of performance: electricity distributors'.

4.6 The Electricity (Standards of Performance) Regulations (Northern Ireland) 1993 (the Guaranteed Standards Regulations) are made by the Authority under Articles 42 and 64 of the Order.

4.7 When an incident occurs which triggers the right for an individual customer to be paid compensation, NIE Networks should either:

- a) tell the customer that compensation is due, and make the payment, or
- b) satisfy itself that an exemption applies in the case of that customer, and that it does not need to pay the compensation (Guaranteed Standards Regulations 14).

4.8 In the case of supply restoration the customer must make a claim (Guaranteed

Standards Regulations 4(3) (d)) within a period of 1 month from the date upon which the supply was restored to the customer's premises. If no claim is made there is no duty to pay compensation.

5 **Section Five – Submission from NIE regarding the restoration of supply**

- 5.1 NIE Networks provided a written submission in response to the Utility Regulator's request for information on 20 February 2018.

6 Section Six – Any additional evidence submitted by the Parties

- 6.1 On 14 March 2018, the Utility Regulator requested further information from NIE and this was provided on 22 March 2018.

7 Section Seven - Determination in relation to Issue

7.1 On reviewing the evidence provided by the investigative team we conclude the following:

- (i) The supply interruption was due to the effects of the weather and that a 'Severe Weather Event'¹ (SWE) applied to this particular supply interruption. The *commencement threshold* (72 high voltage faults in the 24 hour period following the first high voltage fault attributed to the SWE) was breached by the 84 high voltage faults over the 24 hour period beginning 1819hrs on 2 January 2018, and which affected [REDACTED]
- (ii) The effects of the weather experienced were outside the design standards of the network.
- (iii) NIE Networks have maintained the network applicable to this case in accordance with the appropriate standards.
- (iv) NIE Networks have demonstrated that all reasonable steps had been taken to restore supply as soon as could reasonably have been expected.

¹ (1) Means an event where a minimum, verified, number of incidents affecting the distribution high voltage network linked to severe weather conditions has occurred within a 24 hour period.

(2) Is deemed to begin at the start of a 24-hour period when the number of incidents caused by the severe weather event at distribution high voltage in that period is equal to or greater than the commencement threshold number; and

(3) Is deemed to end at the earlier of:

- the time of restoration of the last customer off supply due to an LV incident linked to the severe weather event, or
- the end of a 48-hour period that commences when the number of customers off supply due to high voltage incidents linked to the severe weather event has fallen to zero.

(4) Where any conflict arises between this definition and the Regulations, the Regulations shall have precedence.

(5) This definition shall come into force on such date as the Authority may direct and shall cease to have effect on such other date as the Authority may direct.

For the purposes of this definition:

a) "commencement threshold number" means 13 times the average daily fault rate experienced by NIE's distribution high voltage network.

b) "distribution high voltage" means 6.6kV, 11kV and 33kV.

c) "incidents" are defined as any occurrence on the NIE distribution system or other connected distributed generation, transmission or distribution system, which:

- Results in an interruption of supply to customer(s) for one minute or longer; or
- Prevents a circuit or item of equipment from carrying normal load current or being able to withstand "through fault current" for one minute or longer.

d) "weather conditions" means the effect of one or more of wind, lightning, rain, snow, ice, flooding, thermal heating and other recognised weather phenomena as the Authority may from time to time deem appropriate for inclusion in this list.

"the Regulations" means the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993, as amended or replaced.

- (v) Restoration was in line with the procedures set out in NIE's Emergency Plan document.

7.2 In concluding the above we have therefore determined that NIE Networks were justified in claiming an exemption from the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993 in the case of [REDACTED] and that no payments are required to be paid under Article 14.

Tanya Hedley and Caspar Swales

Authorised on behalf of the Authority

Annex 1

Bundle (Volume of Documents)

Policy on the Resolution of Complaints, Disputes and Appeals and Guide for Applicants –

[http://www.uregni.gov.uk/uploads/publications/Appeals_Complaints_and_Disputes_Policy -
_June_13.pdf](http://www.uregni.gov.uk/uploads/publications/Appeals_Complaints_and_Disputes_Policy_-_June_13.pdf)

NIE Networks letter to [REDACTED] re GSS payment dated 15/01/2018

Email from CCNI to [REDACTED] re GSS dated 23/01/2018

[REDACTED] appeals decision by NIE Networks to exempt itself from making a payment
GSS dated 24/01/2018

Utility Regulator acknowledges receipt of formal complaint dated 26/01/2018

Utility Regulator formally accepts complaint as being properly made dated 08/02/2018

Utility Regulator information request to NIE Networks dated 08/02/2018

NIE Networks response to information request dated 20/02/2018

Report from investigation team to decision makers

Utility Regulator further information request to NIE Networks dated 14/03/18

NIE Networks response to further information request dated 22/03/18

Draft Determination dated 4/04/18 and sent to parties for comment