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

Date: 22 April 2022

Our Ref: NET/E/RML/499

Dear John,

Request for Extension of Time to Issue a Connection Offer for Connection Application at Ballyhanedin Hill Wind Farm, NIE Networks reference 22/00467 (“the Application”)

Thank you for your letter dated 08 April 2022 (**Letter**) setting out the Application.

The Application

The Letter describes the relevant background to the Application.

Reference is made to Condition 30 of NIE’s distribution licence (**the Licence**).¹

Condition 30 (5) 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.

Condition 30 (7) of the Licence allows NIE to make an application to the UR for a consent to an extended Condition 30 (6)(b) period. The making of such an application does not change NIE’s obligation to make a connection offer *as soon as practicable*.

¹ [Microsoft Word - NIE Distribution Licence effective 2 October 2017 \(uregni.gov.uk\)](#)

Nor does the grant (by the UR) of any application made change the position. The primary obligation - recorded in Article 20 of the Electricity (NI) Order 1992 – is to offer a connection offer *as soon as practicable* remains.

The Application records that NIE Networks considers that two Clusters are justified in relation to renewable generation projects with planning permission, or those “going through planning”. Reference is made here to the Licence and Chapter 7 of the NIE Networks Statement of Charges for Connection.²

Ballyhanedin Wind Farm (**B WF**) joined the queue for *Feeny* cluster on 24 January 2022. This is the date from which time runs for the purposes of Condition 30 (5) of the Licence. That means that - without the consent of the UR under Condition 30 (7) – NIE is bound to offer terms as soon as practicable and in any event by 24 April 2022.

NIE Networks submitted a Section S (TIA) application (to SONI) for *Feeny Cluster*: an application deemed valid (by SONI) on 24 December 2021.

Subsequent to discussions between SONI Ltd and NIE Networks - regarding the connection method for Feeny Cluster - NIE Networks submitted a revised application for Feeny Cluster on 10 March 2022. SONI has not yet determined that application valid. SONI has 3 months³ to provide NIE Networks with a Section S offer once NIE’s section S application is valid.

The Application highlights that NIE Networks believes that the Section S application will become valid no later than the 18th of April 2022. The Application states that NIE Networks cannot proceed to design the unique element of the connection (for B WF) until it is in receipt of the Section S offer for Feeny Cluster; as SONI might not be able to provide an offer, or may change the proposed location of the cluster substation.

The Application requests that the UR⁴ consents (pursuant to Condition 30 (7) of the Licence) to the period under Condition 30(6)(b) of the Licence (in respect of B WF application) being extended until **16 October 2022**.

² <https://www.nienetworks.co.uk/statementofcharges>

³ The Application suggests in parts that NIE understands that SONI has 90 days to make a Section S Offer. That is considered to be incorrect. The applicable period is 3 months. Nothing turns on this.

⁴ We use the words “Utility Regulator”, “UR” “we” “us” “our” and “Authority” interchangeably to refer to the Northern Ireland Authority for utility regulation.

This end date of 16 October 2022 is made up by:-

- (i) the 3 month limit SONI has to provide NIE Networks with a Section S offer (once SONI has deemed NIE Network's revised Section S application valid) for the creation of a new cluster at Feeny, and
- (ii) a further period of (no more than) 3 months⁵ out from the expected receipt of the Section S Offer that NIE says it requires for the period of (no longer than) 3 months.

The Application makes the (NIE Networks) case as follows.

Consent to the Application would allow the applicant for connection of B WF to remain in the connection queue for the 90MW at the proposed Feeny Cluster where there is an opportunity for network capacity to become available that would facilitate the connection of this proposed project.

It would also facilitate a fair and transparent network capacity allocation and queuing process for the capacity available for the 90MW at Feeny Cluster. Enabling this application to remain in the queue presents a potential benefit by providing a greater opportunity for the remaining capacity for the 90MW at Feeny Cluster to be fully committed. Further, this extension will enable NIE Networks to progress the connection design and production of a connection offer subject to capacity becoming available.

Consultation associated with the Application

Condition 30(7)(a) of the Licence provides that NIE must consult with the relevant applicant for connection as part of any C 30 (7) application. In this case that is the developer of B WF.

The Application provides evidence of the requisite consultation. We note that the Applicant is supportive of the Application.

Condition 30(7)(a) of the Licence also provides that NIE Networks should consult with "*such other persons as [NIE Networks] considers may be affected or interested*" in the Application.

⁵ The Application refers to 90 days. This is understood to be an error. We understand NIE to mean to refer to 3 months. Nothing turns on this in any event.

We note that NIE Networks has engaged with SONI in determining if there is Transmission Capacity available for B WF. We further note the confirmation of (a) discussions with one other applicant in the queue for Feeny Cluster and (b) the absence of any adverse impact on the other applicant (arising out of the Application viz BW F) given that if a Section S offer is received for Feeny Cluster it will be capable of accommodating both projects.

The Authority's decision

Having considered the matter fully, the UR hereby confirms that it consents to the Application so that the period under Condition 30(6)(b) of the Licence (in respect of the application for connection of B WF) is now extended until **16 October 2022**.

We would take this opportunity to confirm that the period ending 16 October 2022 is a “long stop” date. The obligation under Condition 30 of the Licence is (now) – subject to applicable exceptions - to offer terms of connection for B WF “as soon as practicable” and “in any event no later than” 16 October 2022. The Licence obligation is not (now) simply to offer connection terms by 16 October 2022.

No doubt NIE Networks will be mindful of this obligation. We note that in another recent C 30(7) application NIE explicitly recognised that it was obliged – even where granted a Condition 30(7) “consent” – to offer terms (barring applicable exceptions) “*as quickly as possible*”. We welcome this statement: whilst recognising that the obligation is – technically speaking – an obligation to offer terms as soon as practicable, and in any event within the extended C 30(6)(b) period.

Future Extension Requests

We note that NIE Networks has submitted this extension request application approximately 2 weeks before the expiry of the existing Condition 30(6)(b) period.

Taking into account the complexities of this type of extension request, we respectfully request that if an extension application is known to be required, the extension application is provided at least 4 weeks before the expiry of the relevant Condition 30(6)(b) period.

This decision will be published in the normal way.

Yours sincerely,



Roisin McLaughlin
Head of Network Operations

For and authorised by the Authority