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

Date: 26 April 2022

Our Ref: NET/E/TH/502

Dear John,

Request for Extension of Time to Issue a Connection Offer for Connection Application at Barr Craig Wind Farm, NIE Networks reference 22/00478 (“the Application”)

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

The Application

The Letter describes the relevant background¹ to the Application.

Reference is made to Condition 30 of NIE’s distribution licence (**the Licence**).²

Condition 30 (5) provides that (barring specified exceptions) NIE Networks 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 allows NIE Networks to make an application to the UR³ for a consent to an extended Condition 30 (6)(b) period. The making of such an

¹ What follows is a summary of the Application. It is not intended to be a complete rehearsal. All parts of the Application have been considered in making the decision set out in this correspondence. Failure to mention parts of the Application should not be taken as representing any failure to have regard to those parts.

² [Microsoft Word - NIE Distribution Licence](#)

application does not change NIE Networks' obligation to make a connection offer as soon as *practicable*. 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 (the **Electricity Order**), is to offer a connection offer as soon as *practicable* remains.

The Application records that NIE Networks considers, having regard to the level of renewable projects either with planning permission or going through planning that two new clusters are justified in line with Chapter 7 of the NIE Networks Statement Charges for Connections.⁴

Barr Craig Wind Farm (**BC WF**) joined the queue for *Feeny Cluster* on 26 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 Networks is bound to offer terms for connection as soon as practicable and in any event by 26 April 2022.

The Application states that NIE Networks submitted a Section S application for *Feeny Cluster*: an application SONI deemed valid on 24 December 2021. Discussions ensued between NIE Networks and SONI regarding the connection method for *Feeny Cluster*.

The Application further states that NIE Networks submitted a *revised Section S application* for *Feeny Cluster* on 10 March 2022; an application not yet deemed valid by SONI. The Application records that NIE Networks anticipates that (SONI) validation of the revised application will occur by 18 April 2022.⁵

NIE Networks indicates in the Application that it cannot proceed to design the unique element of the BC WF connection until it is in receipt of the Section S offer for *Feeny Cluster*, as SONI might not be able to provide an offer, or might change the proposed location of the cluster substation.

³ In this correspondence we use the words “us” “we” “our” “UR” “Utility Regulator” and “Authority” interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

⁴ <https://www.nienetworks.co.uk/statementofcharges>

⁵ NIE Networks has not – to date of this letter – advised further as to (SONI) validation of the revised Section S application. We have sought clarification from NIE Networks as to the reason for the subsequent Section S application: see discussion in subsequent section of this letter under “*Post Application Clarifications*”.

The Application requests that the UR consent (pursuant to Condition 30(7) of the Licence) to the period under Condition 30(6)(b) of the Licence (in respect of BC WF's connection application) being extended from 26 April 2022 to **16 October 2022**.

This end date of 16 October 2022 is made up as follows:

- (i) a period of 90 days⁶ out from 18 April 2022, being the anticipated date by which SONI will have validated the revised Section S application 3 months⁷, which takes one to 16 July 2022, to which is added
- (ii) a period of 3 months⁸ for NIE Networks to complete design and quotation for connection

NIE Networks' rationale for the proposed extension (to the requisite C 30(5) period) is described as follows:

Extension Rationale

1. *To allow the efficient connection and to minimise the environmental impact of a number of renewable projects through the creation of a new cluster at Feeny.*
2. *If an extension was not granted to allow NIE Networks to receive a section S offer from SONI, NIE Networks would then look to connect Barr Craig to Killymallaght Main, which would be 20km versus 11km to Feeny Cluster.*
3. *Removing [BC WF] from Feeny Cluster would result in Feeny Cluster not being justified as the connection potential would drop below 56MW.*
4. *Following discussions with the applicant, it has been agreed that the this application for an extension should progress until such time where NIE Networks knows the outcome of the Section S offer from SONI for Feeny Cluster.*

The Application goes on to record the "impacts" of a decision on the proposed extension to the requisite Condition 30 period as follows

Granting Extension - Impact Assessment

- *This extension would allow the applicant to remain in the connection queue for the 90MW at the proposed Feeny Cluster where there is an opportunity for network*

⁶ We understand that the operable period should be 3 months and not 90 days. Nothing turns on this.

⁷ The application describes the period being calculated as 90 days. We consider that the right period is 3 months and not 90 days. Nothing turns on this.

⁸ The Application describes this period as 90 days. Nothing turns on this.

capacity to become available that would facilitate the connection of this proposed project.

- This extension would 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.*
- This extension will enable NIE Networks to progress the connection design and production of a connection offer subject to capacity becoming available.*

Not Granting Extension- Impact Assessment

- As capacity is not available at Limavady Main BSP due to the transformers currently being fully subscribed, a connection would have to be offered from Killymallaght Main S/S. This would result in a connection route of over 20km and potentially through areas of specific scientific interest.*
- A connection to Killymallaght Main would result in the Feeny Cluster no longer being viable and the others generators attached to Feeny being economically unviable through the requirement of long connections routes.*

Consultation associated with the Application

Condition 30(7)(a) of the Licence provides that NIE Networks must consult with the applicant for connection in respect of which the application under Condition 30(7) is made. In this case that is the applicant for connection of BC WF. The Application provides evidence of the requisite consultation.

We note that developer of BC WF (Renewable Energy Systems (**RES Group**)) has concerns over the viability of the newly designed cluster as suitable connection method to BC Windfarm. These concerns are highlighted in further detail in the 'Applicant Concerns' section below.

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. We note that NIE Networks has engaged with SONI in determining if there is Transmission Capacity available for BC WF.

We further note the confirmation of discussions with one other applicant in the queue for *Feeny Cluster*. NIE Networks has engaged with this particular applicant viz. delay and

anticipates making a requisite C 30(7) application. NIE Networks highlights that there is no impact of BC WF on the other applicant, as if a Section S offer is received for *Feeny Cluster* it will be capable of accommodating both projects.

Applicant Concerns

In its email of 8 April 2022 RES Group

- (i) highlights its concerns in relation to the “*typical timescales*” of the steps involved to complete the development of a cluster. RES Group indicates that the “*planning consent for the wind farm would have long expired (expiration date August 2024) well in advance of the newly proposed Cluster Substation being granted planning consent, never mind being connected*”.
- (ii) expresses the view that the circumstances reflect a “*clear case of severe delay to an individual connection being imposed by a cluster which would justify a non-cluster solution in line with NIE Networks licence duty to facilitate competition in the supply and generation of electricity which should override any rule that the removal of generator from cluster should not cause a collapse of cluster*.”
- (iii) states that it had expected (and still expects) BC WF to be connected via either Lisaghmore Main or Killymallaght Main “*as per NIE Networks Design and Analysis Study dated March 2021*”.
- (iv) indicates that it does not accept any delay to the issue of a connection offer based on a connection to a newly designated cluster.
- (v) express the hope that NIE Networks “*can take a reasonable approach to this otherwise renewable energy developers will not see NI as a viable place to invest and will go elsewhere meaning that we fail to meet our 80% target by 2030*”.

NIE Networks responded to these points in its email of 11 April 2022. An excerpt of the 2021 Design and Analysis Study was provided. It was confirmed that *Feeny Cluster* was not designated at the time of the 2021 Design and Analysis Study.

Finally, NIE made certain observations about the potential to address planning issues.

Post Application clarifications

We emailed NIE Networks on 20 April 2022 seeking the following clarification as to the Application:

Barr Craig

- *Can you provide explanation as to why [NIE Networks'] 24 December Section S application to SONI, having initially deemed to have been valid, was later considered not to be valid, i.e. why a revised application was required?*

NIE responded by email of 21 April 2022 as follows:

Barr Craig

The original Feeny Cluster application had a site location area in the vicinity of Feeny Village. The subsequent design suggested by SONI could not be agreed on with NIE Networks (TO) and the original offer was deemed not effective. A new position for the cluster was submitted with the revised submission on the 10/3/22 to potentially remove these design issues.

To answer your question the original application was deemed effective by SONI but subsequently deemed not effective by NIE Networks (TO) and then was re-submitted.

NIE also confirmed that the effective date of application (for connection) for BC WF was 26 January 2022.

The Authority's decision

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

In making this decision the UR has had proper and full regard to the consultation response from RES Group as the developer of BC WF. We do not consider that the matters raised should cause us to refuse the Application.⁹ Overall, and having weighed

⁹ We have regard here to part 4 of the "rationale" for the extension set out in the Application.

all matters set out in the Application (to include the RES Group concerns) and the post Application clarifications, we have evaluated that it is right to grant the Application.

However, whilst we are persuaded that the Application should be granted, we also consider that we should seek to address the concern expressed by RES Group in its consultation response. We do so by making the following observations.

First, 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 exceptions¹⁰, to offer terms of connection for BC 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.

We note that in another recent Condition 30(7) application NIE Networks explicitly recognised that it was obliged, even when in receipt of 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) Condition 30(6)(b) period. It reflects that NIE Networks is cognisant of its obligations.

Second, we confirm that we expect all parties, to include SONI and NIE Networks, to engage with each other to ensure that a suitable connection offer (where available) can be made as soon as practicable. In particular, we expect SONI and NIE Networks to continue to work collaboratively throughout the relevant connection process, and within the provisions of the TIA and their respective Transmission and Distribution Licences. We would exhort NIE and SONI to ensure (so far as is possible) that there is no future requirement for a (further) revised Section S application viz. the designated *Feeny Cluster*.¹¹

¹⁰ Consonant with NIE Networks’ licence obligations and its statutory duties set out in Articles 12 and 19 of the Electricity Order.

¹¹ We note that we have recently allowed an application (dated 11 March 2022) from SONI in respect of the Feeny Cluster so as to extend the Condition 25 period for an offer to NIE Networks (as DNO) to 25 May 2022: [SONI Condition 25 Extension to Connection Offer – Feeny Cluster | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/soni-condition-25-extension-to-connection-offer-feeny-cluster). This application appears not to relate to the revised application made by NIE Networks on 10 March 2022 but to the original Section S application validated 24 December 2021.

Future Extension Requests

We note that NIE Networks has submitted this Condition 30(7) 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, any future extension applications should be provided at least 4 weeks before the expiry of the relevant Condition 30(6)(b) period so as to ensure that any approval granted is provided within the timeframe required.

This decision will be published in the normal way.

Please do return to us should you require any clarification.

Yours sincerely,



Tanya Hedley
Director of Networks