

Daniel Robinson
Northern Ireland Electricity Networks Ltd
Unit 3,
21 Old Channel Road
Belfast
BT3 9DE

Date: 28/07/2021

Our Ref: NET/E/TH/412

Dear Daniel

RE: Application to the Authority¹ by NIE Networks for an extension of the period specified in Condition 30(6)(b) of NIE Networks licence to distribute in relation to the offer of terms for the connection of River Ridge Recycling Limited to the Distribution System
NIE Networks Reference: 20/08182

Thank you for your letter dated 15 July 2021 (**"the Letter"**). The Letter makes an application (**"the Application"**) under Condition 30(7) of NIE Networks' licence to distribute (**"the Licence"**). The Application asks² that the period specified by Condition 30(6)(b) of the Licence for the making of an offer of terms for the connection of River Ridge Recycling Limited (**"River Ridge"**) to the Distribution System be extended to 11 January 2022.

Before describing the Application in more detail we begin by referring to the relevant provisions of Condition 20(6) of the Licence.

Condition 30(6) of the Licence

Condition 30(6) of the Licence provides (so far as relevant) that NIE Networks shall (where it receives a request from any person for a connection to made to the Distribution System (containing all such information in relation to the required connection as NIE Networks may reasonably request)) offer terms for connection

- (a) as soon as practicable, and
- (b) in any event, no later than 3 months (after receipt of the requisite application for a connection).

Condition 30(7) of the Licence

¹ In this letter the words "we", "us" "our" and Authority are used interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

² We treat the application as making this request. See the clarification offered under the section of this letter titled "The Application"

Condition 30(7) of the Licence provides (with emphasis added) that:

The Authority may on the application of: (a) the Licensee, following consultation by [NIE Networks] with the person requesting the connection and such other persons as the Licensee considers may be affected or interested, consent in writing that the period of 3 months specified in paragraph 6(b) shall, subject to such conditions as may be specified, be a longer period (including by reference to a specific date) as specified in the consent.

The Application

The Letter records that on 18 May 2021, NIE Networks received a valid application from River Ridge for a distribution connection of a 4.5MW Biogas generating system into the Garvagh Cluster. It is then stated that (emphasis added):

“The license standard for provision of this Connection Offer is 16th August 2021.”

We would observe that this statement may reflect a misunderstanding of the position in so far as it appears to suggest that NIE Networks considers that it complies with its (“standard”) licence obligations provided it provides a “Connection Offer” within 3 months of receipt of an accepted application for connection. That is not correct.

The obligation under Condition 30(6) of the Licence is not an obligation to offer the requisite terms for connection within 3 months of receipt of an accepted application for connection. Rather, the relevant obligation is one requiring NIE Networks to make a requisite offer of terms for connection “as soon as practicable” and “in any event” within 3 months of receipt of the accepted application for connection. The 3 month period specified in Condition 30(6)(b) is, accordingly, a long stop period.

The primary obligation (which remains even where the Authority grants an application for an extension to the Condition 30(6)(b) specified period pursuant to Condition 30(7) of the Licence) is an obligation to make the requisite offer “as soon as practicable” after receipt of an accepted application for connection.

With that preliminary observation made, we confirm that we understand (and treat) the Application as an application for the extension of the period specified in Condition 30(6)(b) of the Licence in relation to the (accepted) application for a connection made by River Ridge. The Application is assessed on that basis.

We now proceed to set out the submissions advanced in the Letter in support of the Application. Those are as follows:³

³ We have redacted the identity of the entity we call Company A. We have also redacted certain parts of submissions made in the Letter where these relate to the affairs of Company A.

1. *The LCTA connection node for River Ridge is Garvagh Cluster. There is currently 3.25MW of available capacity to offer at Garvagh Cluster. River Ridge is currently second in the queue for this capacity.*
2. *A substantial amount of this capacity was offered to [the company first in the queue "Company A"] on 29th October 2020. In NIE Networks view, this capacity was retraced from [Company A] on 26th February 2021 when [Company A] failed to [meet the requirements] . . . for their offer.*
3. *The [requirements of the terms of the offer to Company A are] currently under dispute . . . [Company A] has submitted a complaint to the Utility Regulator . . . on 26th February 2021 regarding the [requirements of the terms of the requisite connection offer] dated 29th October 2020. Until that complaint is resolved NIE Networks is not able to re-allocate the capacity to the next in the queue.*
4. *The UR has advised NIE Networks . . . that the Final Determination on [the complaint referred by Company A] will be provided by 30th September 2021.*
5. *NIE Networks therefore will require a further extension of the time for making an offer to [River Ridge]*
6. *As capacity may become available for allocation to [River Ridge] depending on the outcome of the complaint made by [Company A] it would not be appropriate to refuse to connect River Ridge at this time for lack of capacity at Garvagh Cluster under Article 21(1) of the 1992 Order.*
7. *NIE Networks will require 2 weeks to process the final determination to determine if capacity is available for [River Ridge] and a further 90 days Design and Quotation period.*

"The extension rationale outlines how this application is subject to the outcome of an event which is outside of NIE Networks' control. NIE Networks have been advised that the final determination will be published by 30th September 2021. NIE Networks will need 2 weeks to process this determination to determine if capacity is available for [River Ridge], and then a further 90 days Connection Design and Quotation period."

"Granting Extension - Impact Assessment"

- *This extension would allow the applicant to remain in the connection queue for the 90MW at Garvagh Cluster where there is an opportunity for network 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 Garvagh 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 Garvagh 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 network capacity is not currently available for this applicant within the 90MW at Garvagh Cluster NIE Networks would be required refuse to connect [River Ridge] under Article 21(1) of the 1992 Order on the basis that the issuing of a complaint by [Company A] has effectively reserved remaining capacity at Garvagh cluster for [Company A] until such time as the complaint is resolved.”*

Consultation associated with the Application

It is confirmed in the Letter that NIE Networks has (in conformity with the obligation set out in Condition 30(7) of the Licence) consulted with River Ridge⁴ in connection with the Application. Appendix 1 and Appendix 2 to the Letter sets out a relevant written exchange. River Ridge has confirmed that the “*capacity available at present does not meet their requirements*” and due to “*circumstances that are outside of NIE Networks control*”, it is “*prepared to wait*”.

The Letter also records that NIE Networks has (i) engaged with SONI (as the TSO) in relation to transmission capacity, and (ii) determined that there are no other applicants for connection behind River Ridge in the queue. In light of this NIE Networks has confirmed that it does not consider it appropriate to consult with any other parties in connection the Application.

Decision on the Application

Having considered the matter fully and taken all relevant matters into account, the Authority

- (i) determines to accede to the Application considering it properly founded and, accordingly
- (ii) gives its consent to the extension of the period specified in Condition 30(6)(b) (for the River Ridge connection application) out to **11 January 2022**.

In making this decision, the Authority weighs the “impacts” of granting and not granting the Application as set out in the Letter.⁵ We judge that the balance here is clearly in favour of

⁴ The exchange is with the nominated representative of River Ridge

⁵ As quoted under the “Application” part of this letter under “impact assessments”.

granting the Application. We (further) note that River Ridge has stated that it is “prepared to wait” and raises no objection to the Application.

In making our decision we have regard to the fact that NIE Networks has stated that it “requires” until 11 January 2022 to make a requisite offer of terms to River Ridge (on the assumption that a decision on the complaint referred by Company A is made and disclosed to NIE Networks on 30 September 2021 (as per the current schedule)).

We would repeat here (as mentioned above) that the primary obligation of NIE Networks is to make an offer of connection “as soon as practicable”. Should NIE Networks be advised of the determination on the (Company A) complaint on 30 September 2021 then NIE Networks is obliged to turn around any offer of terms⁶ to River Ridge as soon as practicable thereafter. The new Condition 30(6)(b) date/period is 11 January 2022. However (as explained above) that new date is a long stop date (for the making of an offer of terms to connect).

In the Letter NIE Networks states that:

Should the clarity regarding the status of the remaining capacity within the 90MW at Garvagh Cluster be realised earlier than the 30th September 2021, NIE Networks would progress a connection offer for this application at an earlier date.

This is a welcome clarification. It accords with the (primary) obligation under Condition 30(6)(a) of the Licence to offer terms for connection as “soon as practicable.”

Should NIE be advised that the time for the making of the relevant determination on the complaint of Company A has been pushed out *beyond 30 September 2021* then NIE Networks should consider (timeously) whether it is necessary/appropriate to make any further application - pursuant to Condition 30(7) of the Licence - in connection with the River Ridge application for connection; noting the primary Condition 30(6) obligation (remains) to offer requisite terms (for connection) to River Ridge as “soon as practicable”.

I trust this is satisfactory.

Yours sincerely,



Tanya Hedley
Director of Networks

⁶ Dependent on the outcome of the Company A complaint