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Ref: NET/E/RML/570

Dear Alan

**Application for the Authority's<sup>1</sup> consent to extend the Connection Offer Timelines for Connection Application for the EP Kilroot Limited's ST2 Project**

Thank you for your letter of 10 August 2022 ("the **Letter**").

We treat the Letter as an application, made under Condition 25(5) of SONI's Transmission Licence ("the **Licence**"), seeking the Authority's consent for the extension of the time period within which SONI ("the **Licensee**") is required to issue a connection offer to EP Kilroot Limited ("**EPKL**"), in regard to their Steam Turbine project, ("**ST2**"). We shall refer to the application contained in the Letter as "**the second Application**" or "**SONI's second Application**".

Before setting out the background to SONI's second Application, we would make a preliminary reference to the relevant terms of Condition 25 (**C25**) of the Licence.

**1. Condition 25 of the Licence.**

Condition 25(5) provides, as far as relevant, as follows (our underlining added):

*"[SONI] shall offer terms for agreements in accordance with paragraphs 1 and 2 as soon as practicable and (save where the Authority consents to a longer period, which consent may be given on the application of [SONI] following consultation by [SONI] with the person making the application and such other persons as [SONI] considers may be affected or interested) in any event not more than the period specified in paragraph 7 after receipt by [SONI] of an application containing all such information as [SONI] may reasonably require for the purpose of formulating the terms of the offer . . ."*

Condition 25(7) provides that the "period specified" in this case is three months.

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<sup>1</sup> In this letter "we", "UR" "us", and "the Authority" are used interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

## 2. Background

On 4 March 2022, SONI received an application from EPKL, seeking a connection offer from SONI to connect a steam turbine (“**ST2**”) with MEC of 300 MW as part of a Combined Cycle Gas Turbine scheme at Kilroot Power Station, Larne Road, Carrickfergus, County Antrim, BT38 7LX.

SONI deemed the application to be a valid and effective application as of **18 March 2022**. It follows that, unless SONI has the consent of the Authority for a longer period to apply, Condition 25(5) [when read with C 25(7)] obliged SONI to offer the requisite connection offer to EPKL, as soon as practicable and, in any event, by no later than **16 June 2022** (this being the date which is three months from the validation date).

UR received a Condition 25(5) Connection offer extension application dated 27 May 2022, seeking consent to extend the operable Condition 25(5) period out to **24 August 2022** (the **first application**). On 16 June 2022 UR acceded to the first application.

SONI's rationale for and UR's consent to the first application was on the following basis:

1. Receipt of complete technical data regarding the thermal rating of the busbars at Kilroot from NIE Networks;
2. Finalise the connection studies to determine the LCTA connection arrangement;
3. Finalise the Construction Application for issue to NIE Networks; and
4. Carry out Risk Assessment at Kells

On 10 August 2022, SONI submitted the second application seeking consent to extend the operable C 25(5) period out from **24 August 2022 to 24 November 2022**.

## 3. SONI's second application

The second application is summarised as follows in the Letter:

*“...In line with Condition 25 of the TSO Licence, SONI requests that the Authority consents to extend the time required to issue the Connection Offer to EPKL for its ST2 project from **24 August 2022 to 24 November 2022**.*

*The following factors have been identified by SONI in support of the Application:*

- *Extension will allow both SONI and the TO to be in a position to review the Risk Assessment for the connection of ST2 at Kilroot and give it the relevant and proper*

*considerations due to the potential safety implications to allow a connection offer to be issue (sic).*

- *Additional sites on the Kells Substation required to be included with the risk assessment.*
- *Legal review required of the assessment process and the specific Risk Assessment relating to the connection of the ST2 project.*
- *Due to the safety risk, robust governance and approval process is required by SONI to allow the Risk Assessment to be approved.*
- *Further engagement with respect to both the overall Risk Assessment process and the specific Risk Assessment relating to the connection of the ST2 project.”*

Alternative options were considered by SONI within the application:

*“Based on the information currently available to SONI, we would not be able to issue an offer that we could be confident would not be "in breach of any regulations made under Article 32 of the Order or of any other enactment relating to safety or standards applicable in respect of the transmission system. The purpose of this further extension is therefore to continue and complete the necessary assessments and analyses as well as get the required approvals of this in place from both SONI and the TO. Without this verification, we would not be able to issue an offer for connection at this point in time which would meet the requirements set out in our licence and statute.”*

#### **4. Consultation on the second application**

An application by SONI under C 25(5) requires SONI to consult with:

*“ . . . the person making the application [for connection: in this case EPKL] and such other persons as [SONI] considers may be affected or interested.”*

SONI has consulted with EPKL and NIE Networks (in its capacity as the Transmission Owner (“TO”). The views of EPKL and NIE Networks are set out below.

The views of the respective consultees are quoted as follows:

#### **EPKL**

*“Thank you for updating us on the status of the ST2 connection application. We understand from your email below that SONI wishes to further delay the connection offer in order to have time to conduct further Risk Assessments at several other 275kV substation sites in addition to that which should shortly be complete at Kells substation?*

*Although EP Kilroot appreciate SONI and NIEN’s efforts to provide a robust connection offer we cannot support an extension to the offer timelines, and on this occasion we must object to any further extensions of time.”*

EPKL's objection may be summarised as follows:

- In its opinion excess of time has already be granted by [UR] and that this should have been sufficient for SONI and NIEN to identify and progress all works necessary for providing a complete and robust connection offer.
- This connection application is associated with generation capacity contracted for the 2025/26 capacity year and any further delay to the issuance of the connection offer has the potential to delay the project as a whole and jeopardise achieving Substantial Financial Completion for the Capacity Market Unit.
- Further delays to the project are unnecessarily risking further investment in this project

### **NIE Networks**

*“...we have no issue with the extension as long as we are kept up to date with the outcome of the studies and a re-quote of the construction may be required depending the outcome of the report.”*

### **5. UR engagement with SONI**

A verbal update on matters related to the relevant connection application was provided by SONI in a monthly UR-SONI directors meeting which took place on 24 August 2022. That update indicated that: progress was being made with finalising the risk assessments; it was hoped that the required approvals could be obtained by mid-September provided no further issues were flagged in the review process; and there was accordingly reason to believe that a requisite connection offer could well issue by the end of September.

UR wrote to SONI following the director meeting enquiring whether the update “update” given by SONI had any material bearing on the second application; in particular the period specified in the second application.

SONI's response is summarised as follows:

- The risk assessment specific to the connection of Kilroot ST2 is being finalised and is subject to review and approvals in SONI.
- SONI is progressing a legal review of the risk assessment process to ensure compliance with Health & Safety legislation.
- NIE Networks as Transmission Owner also require the risk assessment process and the risk assessment specific to the connection of Kilroot ST2 to be brought before and approved by the NIE Networks Health and Safety Management Committee.

- SONI is working towards final review of the risk assessment by mid-September (subject to necessary approvals)
- NIE Networks consideration of the risk assessment at their September Health and Safety Management Committee
- Provided no further issues arising from either the construction offer process and the risk assessment process then a best case date for offer is late September
- Complacent of SONI to proceed without the necessary reviews and signoffs.
- Aware of the importance of this project re Security of Supply.
- The second application period requested (out to 24 November) demonstrates a conservative approach that takes into account the administrative burden in making and evaluating C 25 applications

UR has taken account of this SONI response in evaluating the second application.

## **6. Our Decision on SONI's Second Application**

Having considered the matter fully as a request under Condition 25(5) of the Licence 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 a (second) extension of the period – within which SONI is required to make a connection offer to EPKL in respect of the application made to SONI and effective 18 March 2022 –to **24 November 2022**.

## **7. UR's rationale for the decision on SONI's Second Application**

In making this decision, the Authority has had proper and full regard to the consultation responses from EPKL and NIE Networks.

We recognise and pay due regard to EPKL's urgent need for a complete and robust connection offer. We note too that this is the second time that SONI has made an application to extend the C 25(5) period in respect of the making of a relevant offer for connection.

However, we also weigh and have regard to SONI's statements as regards the need to complete the Risk Assessment at Kells. Safety considerations are plainly of significance. Regard is had to the fact that SONI has confirmed that the risk assessments are being finalised and the legal review is progressing.

SONI and NIE Networks must ensure, prior to SONI providing a connection offer, that the planning and safety of the Transmission Network is not jeopardised in their assessment (and progression) of the connection offer process. Their licence<sup>2</sup> and legislative<sup>3</sup> obligations

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<sup>2</sup> See for example Condition 20 of the Licence

<sup>3</sup> Article 32 of the 1992 Electricity (NI) Order 1992r [The Electricity \(Northern Ireland\) Order 1992 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukui/1992/0000/contents/made)

regarding safety of the Transmission Network are of obvious significance. We note that in this case SONI speaks about what is “*primarily a significant safety issue*”.

We note that SONI has now confirmed that an offer could well be made by end September 2022. We note that there remains an element of contingency. It is thus not considered appropriate to decline the second application for this reason (or to substitute a lesser C 25 period). SONI is aware of its (ongoing) primary obligation - under Condition 25(5) – to offer terms for connection “as soon as practicable”.

We have had regard to the fact that potential disputes could arise where due process is not followed/completed by SONI and/or NIE Networks in their risk & legal assessment of this transmission connection. Extension of the applicable Condition 25(5) period facilitates both the TSO and TO in completing their due process in relation to safety considerations affecting this particular connection offer.

We note SONI's awareness regarding the importance of this project to security of supply. SONI need not be reminded of the importance in providing EPKL with a complete and robust connection offer as soon as practicable (where possible). Our expectation would be that SONI would make every reasonable endeavour to streamline/accelerate its processes and reviews to mitigate the risk of any further delays to the delivery of this critical project.

Looking at everything in the round, we consider it appropriate to grant the second application. That decision will substitute a new long stop date – for the making of the relevant connection offer – out to **24 November 2022**.

## **7. EPKL Objection / SONI Timetable**

Noting all the circumstances (to include the fact that this is the second application by SONI for a Condition 25 “consent” and EPKL’s objection) we consider it appropriate to ask that SONI take the following steps:

- Provide a realistic timetable, setting out milestones for completion of the identified assessments, legal reviews and signoffs.
- Provide a monthly progress report on 30 September 2022 and 31 October 2022 giving explanation for any encountered delays or potential delays to the stages set out in the timetable.

The above timetable should be provided by close 16 September 2022 to the UR and EPKL. The monthly progress reports need not be provided should it come to pass that SONI offers terms for connection before end September 2022.

We would again remind SONI that the grant of consent relayed in this letter does not absolve SONI of its C25 obligation to make a connection offer to EPKL *as soon as practicable*. The newly substituted C25 date of **24 November 2022** is a long stop date.

We trust this is satisfactory. If you have any queries, please contact Jody O'Boyle.

Yours sincerely,



**Roisin McLaughlin**  
**Head of Network Operations**