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Ref: NET/E/DH/624

Dear Alan

**Application for Authority's<sup>1</sup> consent to extend the Connection Offer Timelines for Connection Application for Atlantic Hub Property Limited's 275 kV Data Centre Project**

Thank you for your letter of 20 December 2022 ("the **Letter**").

We treat the Letter as an application ("the **Application/SONI's 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 Atlantic Hub Property Limited ("**AHPL**").

We start by setting out the relevant terms of Condition 25 of the Licence. We then move to the Application itself.

**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 26 August 2022, SONI received a Transmission Connection Application from AHPL seeking a connection offer to connect a Data Centre to the Transmission System at 275 kV<sup>2</sup> with a total MIC of 80 MW.

SONI assessed the application and deemed it effective on **5 October 2022**. It follows that, unless SONI has the consent of the Authority for a longer period to apply, Condition 25(5) [when read with Condition 25(7)] obliges SONI to make the requisite connection offer to AHPL, as soon as practicable, and, in any event, by no later than 5 January 2023 (this being the date which is three months from the validation date).

We note that the Application seeks an extension of the Condition 25(7) period out from 3 January 2023 to 3 January 2024. SONI comments in Appendix 1 to the Application that “SONI is not able to issue a Connection Offer within the timescales set out in Condition 25 of its TSO Licence within 3 months (i.e., 90 days).” However, as detailed above, Condition 25 (7) specifies that the requisite period – absent a Condition 25(5) type “extension” – is 3 months. It is not 90 days as SONI appears to presume. Nothing turns on SONI’s error. We treat the Application as an application to extend the specified period out to 3 January 2024.<sup>3</sup>

The Application states that SONI has advised AHPL that there are “*currently no spare bays available at the existing Coolkeeragh 275 kV Substation to accommodate the Data Centre connection. The space for the two remaining bays within the existing compound [is] currently allocated to other connection projects which are either in receipt of a connection offer or for which a connection offer is currently being progressed.*” Coolkeeragh is, the Application states, a site “*affected by the de-rating due to the concrete structures and for which SONI have set out in the Transmission Development Plan for Northern Ireland 2021-2030 plans for redevelopment of the site due to fault level reasons. Based on the current known assumptions, any further connections at the site will be dependent on this 275kV redevelopment being in place.*”

The Application further states that the dependency on this redevelopment (with no spare bays currently available to accommodate the AHPL Data Centre connection) means that a connection offer cannot be issued within the timescale outlined in Condition 25. It is outlined that the project to replace Coolkeeragh 275 kV Substation will be progressed through SONI’s process for developing the grid, including an appraisal of options/initial stakeholder engagement and an environmental assessment of the options, and requesting approval from the Authority for pre-construction costs for the preferred option. The connection offer “*will need to take account of the preliminary preferred option for the replacement Coolkeeragh 275 kV Substation. As such SONI will not be able to issue a connection offer for AHPL Data Centre to connect to the Transmission System at 275 kV until we have received approval from the Utility Regulator for the pre-construction costs the TNPP.*”

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<sup>2</sup> The Application confirms that AHPL has made a separate application for connection at 110KV.

<sup>3</sup> It is right to note that this is the extended period advised to AHPL.

The Application goes on to state that *“to enable SONI to get to the point of submitting TNPP to the Utility Regulator for approval will require a significant amount of time to progress the work required via the established processes. Therefore, SONI is seeking an initial extension of 12 months to the connection offer issue date while we work to establish a preliminary preferred option for the replacement Coolkeeragh 275 kV Substation, albeit SONI will use all reasonable endeavours to expediate the process, where possible.”*

SONI also comments in the Application that *“An assessment of the impacts and risks is not applicable. However, SONI can confirm that the issues outlined in (d) above present technical complexities, and the additional time proposed to study and address these at this point will mean a more efficient end to end connection process than having to subsequently revise the connection offer at a later date.”*

### **3. The SONI Application**

The SONI 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 AHPL for its 275 kV Data Centre project from 3 January 2023 to 3 January 2024.”*

SONI has highlighted in the Application that there are currently no spare bays available at Coolkeeragh 275 kV Substation, and further connections such as the Atlantic Hub Data Centre will be dependent on 275 kV redevelopment being in place. SONI records that the Connection Offer will need to take account of the preliminary preferred option for the replacement/refurbishment of the Coolkeeragh 275 kV Substation, and it is not possible to anticipate or to prejudge if this will result in new bays being constructed, as like for like refurbishment will be one of the options. SONI states that a connection offer cannot be issued until approval has been received from the UR for the advancement of the associated TNPP. To get to this point will require additional assessment and work *“to establish a preliminary preferred option for the replacement Coolkeeragh 275 kV Substation.”*

SONI has also noted in the Application that *“should SONI determine as this work progresses that further time will be required to identify the preliminary preferred option for the replacement Coolkeeragh 275 kV Substation, then SONI will seek a further extension via the normal processes.”*

The Application records the following:

*“SONI is unable to determine the LCTA connection method and complete the relevant processes with the TO under the Transmission Interface Arrangements (“TIA”) within the timescales set out in Condition 25 of the SONI licence.*

*In addition, based on the information currently available, 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 for the transmission system’.*

*The purpose of this extension is therefore to undertake the necessary assessments and analyses. 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. The Application Consultation**

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

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

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

The views of the respective consultees are quoted as follows:

##### **AHPL**

AHPL stated in its response – emailed on 22 December 2022 (timed at 15.20) - that “*we are happy to agree to an extension as you suggest and since we understand the challenges you are facing.*”

AHPL did however comment on the length of the extension requested:

*“However, we would ask you to consider a shorter time extension and given the urgency of this project.*

*Perhaps of the order of six months with three months to produce a TNPP and three months for UR approval.*

*This would see an extension to July 2023.”*

We note that the SONI consultation on the Application was by way of email timed at 17.22 on Friday, 16 December 2022. There then followed a SONI reminder on 22 December at 12.16.

##### **NIE Networks**

NIE Networks stated that it had consulted internally with Network Development, who normally issue the connection offer for demand related construction offers, *“and they have no objection to the below connection request.”* (Email to SONI on 19 December 2022).

### **SONI response to the consultation response from AHPL.**

SONI responded to the AHPL response to the SONI consultation on the Application by its email to AHPL of 22 December at 16.18 as follows:

*“Many thanks for the response.*

*At this stage, we believe that we believe that we will require 12 months, however, SONI will of-course, where possible, seek to issue the Connection Offer ahead of any future deadline that may be agreed by the Utility Regulator and, where possible, would be obligated to do so”.*

## **5. Our Decision on the SONI Application**

It is right that we make some procedural observations before recording our decision on the Application.

Firstly, Appendix 1 to the Application was presented in such a way that it reflected a purported application for a derogation. An application under Condition 25(5) is **not** an application for a derogation. However, we have decided that this error is not such as should cause us to reject the Application on this occasion. However, SONI is asked to review its internal processes in this regard so that this error is not repeated. Our general expectations regarding extension applications are set out in our published 31 May 2017 decision paper on connections (the **Decision Paper**).<sup>4</sup>

Secondly, the Application was submitted before the consultation response was available from AHPL. The Decision Paper makes clear that there is an expected process for extension applications. It is not clear that the Application meets those expectations so far as consultation with the connection applicant is concerned. We do not consider that this should cause us not to deal with the Application. However, we should be grateful if SONI would look again at the Decision Paper and adapt its processes accordingly.<sup>5</sup>

Thirdly, the Application was submitted on 20 December 2022 which is only 16 days out from the expiry of the un-extended Condition 25(7) period (5 January 2023). Accordingly, that submission was, technically, within the 2-week period set out in the Decision Paper. However, it takes no account of normal closures associated with the festive period. In that way it is not in accord with the spirit of the expectations outlined in the Decision Paper.

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<sup>4</sup> [Electricity Connections Review Decision Paper | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/electricity-connections-review-decision-paper)

<sup>5</sup> We note that the Decision Paper includes an expectation that the licensee (in this case SONI) shall *publicly* consult on the extension application. We are presently minded not to insist on this part of the published expectations. We intend to write separately on this to both NIE Networks and SONI.



Furthermore, the Application was, as noted, not originally accompanied by the consultation response from AHPL. That was only made available on 22 December 2022. This is not how we would expect these matters to be processed by SONI. SONI is asked to review its processes in this regard.

All that said, we now return to our decision on the Application. We are prepared, on this occasion, to forgive the procedural failings in the Application. We look past those failures and examine the merits of the Application. We judge the Application against our principal objective and general duties set out in Article 12 of the Energy (NI) Order 2003. Doing all this, our decision is to:

- (i) accede to the Application considering it properly founded; and accordingly
- (ii) give consent to the extension of the period – within which SONI is required<sup>6</sup> to make a connection offer to AHPL in respect of the relevant (275 KV) application made to SONI and effective 5 October 2022 – to 3 January 2024.

In making this decision, we have had proper and full regard to the consultation responses from AHPL and NIE Networks. We have also given due consideration to the SONI response to the AHPL consultation response.

We recognise that there is work to be done by SONI in (a) configuring a TNPP for submission to the Authority for approval, and (b) achieving greater clarity to the question of whether bay capacity for the AHPL Data Centre connection will exist. SONI has confirmed that this effort will underpin the making of any connection offer to AHPL. We appreciate the challenges that SONI is facing in this case.

We expect that SONI will progress with the further investigations and studies highlighted within the Application so as to ensure that a requisite connection offer can be made as soon as practicable. We would remind SONI that the grant of consent relayed in this letter does not absolve SONI of its Condition 25 obligation to make a connection offer to AHPL *as soon as practicable*.<sup>7</sup> The newly substituted Condition 25 date - (3 January 2024) - is a long stop date.

This letter shall be published and placed on the Electricity Register.

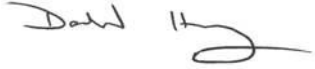
We trust this is satisfactory. If you have any queries, please contact Jody O'Boyle.

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<sup>6</sup> Where the applicable Condition 25 offer exceptions are not demonstrated.

<sup>7</sup> Again, where the applicable Condition 25 offer exceptions are not demonstrated.

Yours sincerely,



**Donald Henry**  
**Networks and Energy Futures Director**