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Ref: NET/E/DH/639

## FOR PUBLICATION

Dear Alan,

### **Application for the Authority's<sup>1</sup> consent to extend the Connection Offer timelines regarding the Connection Application for the Feeny Cluster.**

Thank you for your letter dated 6 February 2023 ("the **Letter**").

The Letter refers to an application (the **Third Application**) submitted on 22 December 2022 and 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 (Section S) connection offer to NIE Networks Limited (**NIE Networks**) as the Distribution Network Operator ("**NIE Networks DNO**") for the connection of the Feeny Cluster (substation) to the Northern Ireland Transmission System.

The Third Application – *as originally submitted* - sought consent for a further extension of the C 25(5) period out from 7 January 2023<sup>2</sup> to 7 November 2023.

The Letter describes an "application" that "revises" and "supersedes" the Third Application. We treat the Letter as evidencing an update/modification to the Third Application whereby – for the reasons offered in the Letter – the extension for which consent is sought is now to a period ending 25 January 2023, being the date upon which the Section S connection offer was provided to NIE Networks.

The Letter and the Third Application are considered together. This letter sets out our decision on the Third Application as revised/modified by the Letter. It should be read in conjunction with our published decisions<sup>3</sup> on the two previous applications (the First

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

<sup>2</sup> Being the longer period allowed by the previous 7 November 2022 UR decision on the Second Application.

<sup>3</sup> [2022-08-11 SONI C25 Feeny Cluster - UR Decision.pdf \(uregni.gov.uk\)](#)  
[2022-11-07 SONI C25 Feeny Cluster - UR Decision.pdf \(uregni.gov.uk\)](#)

Application and Second Application) for Condition 25 “extensions” concerning the making of a (Section S) connection offer for the Feeny Cluster.

We start by setting out the relevant terms of Condition 25. We then provide some background before moving on to our assessment of the Third Application (as revised/modified). Our assessment is that we should grant the (further) extension sought by SONI.

### **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.

### **2. Background**

Relevant background is described in our previous decisions on the First Application and the Second Application. We do not repeat that background here. Again, this letter should be read alongside our published decision letters on the First Application and the Second Application. This letter focuses on the Third Application (as revised/modified in/by the Letter).

### **3. The Third Application (as revised/modified by the Letter)**

The Letter confirms that the Third Application is now revised so that:

*“In line with Condition 25 of the Licence, SONI hereby requests that the Authority consents to further extend the time required to issue the Section S Offer to NIE Networks (as DNO) for its Feeny Cluster project from 7 January 2023<sup>4</sup> to 25 January 2023.”*

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The previous decision letters detail how we deal with the issue concerning whether SONI needs to make a Condition 25 application at all. We adopt the same approach here.

<sup>4</sup> As per our (7 November 2022) decision on the Second Application.

The Letter further confirms that:

*“SONI issued the Feeny Cluster TIA Section S Offer to the DNO on 25 January 2023, therefore the proposed extension request will be to request the extension from 7 January 2023 to 25 January 2023.”*

It is noted that the Third Application as originally submitted (and prior to receipt of the Letter) had asked for an extension out to 7 November 2023. The provision of the Section S Offer is thus a material change of circumstances.

SONI states that “impact”<sup>5</sup> of granting this extension would be a *“short delay of circa 2.5 week from 7 January 2023 to 25 January 2023. It will have no further impact as the Feeny Cluster TIA Section S Offer has now been issued on 25 January 2023.”*

SONI’s assessment of not granting the extension is:

*“Given that the Feeny Cluster TIA Section S Offer has now been issued on 25 January 2023, then the impact should the revised extension not be granted is minimal on the DNO and the TO. However, should it not be granted then SONI will need to consider any implications with respect to compliance with Condition 25 (5) of the SONI licence and what actions it may need to take, including actions under Condition 25(6) of the SONI licence.”*

SONI concludes that:

*“[I]n the absence of any alternative mechanism under the SONI Licence to the TNNP process to a SOP connection arrangement, and to ensure that the DNO can progress their associated distribution connection offers in a timely manner, then there is no alternative action. However, as per the outcome of the discussion between SONI and NIE Networks on 13 January 2023, SONI will proceed to investigate the potential of a TNPP and should this be something that is determined should be progressed will follow the TNPP processes and seek the required approvals from the Utility Regulator. SONI would then update and revise Feeny Cluster TIA Section S Offer accordingly, should any such TNPP be approved.”*

It is clear, therefore, that SONI envisages continuing with work in exploration of different connection arrangements for the Feeny Cluster.

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<sup>5</sup> The Third Application (as revised by the Letter) aligns with the expectations set out in our previous 2017 decision on Connections: [Electricity Connections Decision FINAL.pdf \(uregni.gov.uk\)](https://www.uregni.gov.uk/connections/decisions/2017/2017-01-25-connections-decision-final.pdf).

#### **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 NIE Networks DNO and TO] and such other persons as [SONI] considers may be affected or interested.”*

SONI has consulted with what it says it considers the “*affected party*”, namely, NIE Networks in its roles as DNO and TO. The content of the engagement with NIE Networks is described<sup>6</sup> below:

##### **Response from NIE Networks (as DNO and TO)**

In their response NIE Networks commented that

*“ . . . we understand the reasoning behind the need for the 2.5 week extension.”*

NIE Networks also commented on the fact that SONI had advised that it would take a further 10 months to determine if the 275/110/33 kV option is the System Operator Preferred (SOP) option, and there is a possibility it could be determined that this option is not technically viable.

*“Given the lengthy timescales and the news that it may not be technically acceptable, it would be unacceptable for the distribution customers to wait a further 10 months with no certainty of an offer being provided for this option.”*

NIE Networks also commented that:

*“ . . . the high level costs jointly presented to the UR on the 21 of December for the 110/33kV option to Limavady is broadly similar to the 275/110/33kV (SOP) option. In the slides presented to the UR, SONI and NIE Networks had shown the 275kV works including the 275/110kV transformer as system work, which would be funded by the NI customer base with the remaining 110kV and 33kV works being treated as a cluster and charged to the 33kV connecting customers as per the cluster methodology. We met with the 2 customers connecting into Feeny cluster yesterday [2 February 2023] and they have both advised us that the cost of the 110/33kV solution to Limavady is cost prohibitive and will make their projects not viable.”*

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<sup>6</sup> We confirm that we have assessed all information relating to the Third Application (as revised).

In response to the comments made by NIE Networks, SONI responded, on the question of being in a position to issue a Section S offer, that:

*“ . . . it was not the case that it would take a further 10 months to determine if there was a justification or otherwise a ‘System Operator Preferred’ (SOP) option. The decision point on this was estimated to be end April 2023 as part of a Needs and Options Report and the remaining time was in relation to the progression of the TNPP process as was set out in the high level timetable . . . . .As per the discussions on 13 January 2023, to enable SONI to issue a Section S Offer that contained any connection arrangement with a SOP element, it would require any associated TNPP project to have received the relevant approval from the Utility Regulator, otherwise it would be a ‘conditional offer.’ ”*

SONI also provided a related proposed timetable showing actions planned in assessing the viability of alternative connection arrangements for the Cluster, to include the submission of any related TNPP application to the Authority in or around June 2023.

SONI also noted that in relation to the high level costs - jointly presented by SONI and NIE Networks to the Authority on 21 December 2022 - these were subject to further discussion on overall funding mechanisms. The outcome of this meeting was, SONI stated, that:

*“both SONI and NIE Networks are required to follow their respective Licences. The current funding mechanisms under the SONI licence are the TNPP process and TCCMS and as advised on 13 January 2023, it is clear that no other charging mechanism was possible and as such the charges for the LCTA connection arrangement would be applicable under the Section S Offer, irrespective of whether or not the connection arrangement ultimately was based on the LCTA connection arrangement or the SOP connection arrangement. We would also point out that the Section S Offer would be a contractual arrangement between SONI and NIE Networks (as the DNO) and as such how any of the charges under the Section S Offer are passed through to the Distribution projects connecting into the cluster falls under the DNO’s Distribution charging statement (or other mechanisms under the NIE Networks’ Licences).”*

SONI further commented that

*. . . “although it is a commercial decision for them to make, it is disappointing to hear that 2 customers that were designated by NIE Networks to connect into the Feeny Cluster have advised that the LCTA connection arrangement is cost prohibitive and will make their projects not viable. In the context of the NI Energy Strategy, this would also be a disappointing outcome, however, as the NI Energy Strategy develops perhaps there will be other alternative/new mechanisms brought forward by policy makers that would allow a different approach to be taken in these scenarios.”*

## 5. Our Decision

In making this decision, the Authority has had proper and full regard to the consultation interactions between SONI and (i) NIE Networks (DNO) and (ii) NIE (TO). We have also had due regard to our principal objective and general statutory responsibilities (as set out in Article 12 of the Energy (NI) Order 2003) and our published 2017 Connections Decision).<sup>7</sup>

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

- (i) Determines to accede to the Third Application (as revised/modified in the Letter) considering it properly founded; and, accordingly
- (ii) gives its consent to the extension of the period – within which SONI was required to make a connection offer to NIE Networks (DNO) in respect of the application made by NIE Networks (DNO) to SONI and effective 7 January 2023 – to **25 January 2023**.

## 6. Reasons for our Decision

Overall, we are persuaded by the rationale offered by SONI in support of the Third Application (as revised/modified by the Letter).

We consider it an important consideration that SONI has now made a Section S connection Offer to NIE Networks (DNO) for connection of the Feeny Cluster. The circumstances of this case are therefore unusual.

The Letter confirms the difficulties that NIE Networks and SONI have encountered in moving the connection process forward. Matters have not been simple. There has been a meeting with the Authority on 21 December 2022. That was followed by a further discussion between SONI and NIE Networks on 13 January 2023. That further meeting appears to have resulted in the provision of the Section S Offer on 25 January 2023. It follows that SONI has considered itself able to produce a Section S Offer much earlier than was originally envisaged when it first submitted its Third Application.

We do not consider that the interactions between NIE Networks and SONI on the Third Application (as revised in the Letter) should cause us not to grant the extension now sought by SONI. However, we will make some brief observations on those interactions in the next section.

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<sup>7</sup> [Electricity Connections Decision FINAL.pdf \(uregni.gov.uk\)](#).



## **Observation on the engagement between NIE Networks and SONI**

We note that the engagement between SONI and NIE Networks in relation to the Third Application (as revised/modified by the Letter) reveals a certain uneasiness on NIE Networks' part as to the potential revision of the Section S Offer and the "timings" that might be involved. We are aware that NIE Networks has previously had occasion to apply for and be granted<sup>8</sup> extensions relating to Condition 30 of the NIE licence to participate in distribution. It is not clear whether the decision recorded in this letter will cause NIE to make a further application for "extension".<sup>9</sup>

We wish to clarify that the decision made in this letter is restricted to the Third Application (as revised or modified). No decision or position is indicated as to the contents of the Section S Offer dated 25 January 2023.

We also confirm that we will aim to expedite any related TNPP application from SONI (in relation to connection arrangements for the SONI Cluster) within the timeframes set out in the published arrangements<sup>10</sup> noting the contents of the timetable/programme provided by SONI to NIE Networks.

We note with disappointment that two of the connection applicants (to NIE DNO) for connection into the Feeny Cluster have advised that the January 2023 Section S Offer arrangements would be cost prohibitive. Our hope would be that continued engagement (within the scope of the applicable regulatory framework) would result in successful outcomes for all involved. The Authority stands ready to engage further should it be considered that this might help.

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

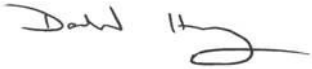
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<sup>8</sup> [2022.12.09 Ballyhanedin WF Approval Letter for NIE.pdf \(uregni.gov.uk\)](#)  
[2022.12.09 Barr Craig WF Approval Letter for NIE.pdf \(uregni.gov.uk\)](#)

<sup>9</sup> We note here that NIE Networks is under a statutory obligation to make connection offers to the applicant for (distribution) connection as soon as practicable. Condition 25(5) of the SONI (TSO) Licence sets out a similar licence obligation.

<sup>10</sup> [Decisions and guidance to implement CMA Order on TNPPs & Dt Mechanism | Utility Regulator \(uregni.gov.uk\)](#)

Yours sincerely,



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