



Sean Lyons
Finance and Network Assets
The Utility Regulator
Queens House
14 Queen Street
Belfast
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23 February 2023

Re: Consultation Paper on a proposed one-year extension to the NIE Networks RP6 Price Control

Dear Sean

Thank you for the opportunity to respond to your consultation on the proposed one-year extension to NIE Networks' RP6 Price Control.

The Consumer Council

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.

The Consumer Council has specific statutory duties in relation to energy, postal services, transport, and water and sewerage. These include considering consumer complaints and enquiries, carrying out research, and educating and informing consumers.

Our views on the consultation on extending the RP6 control

We set out below our views on:

- the overall merits of extending the RP6 control;
- the Utility Regulator's (UR's) failure to set out the effect of the proposed modifications;
- the process the UR has adopted in coming to its view that the RP6 control should be extended; and
- the timing of the UR's decision.

The overall merits of extending the RP6 control

Extending any price control beyond its original, intended duration can result in risks for customers and for regulated companies.

During a price control process, the UR devotes considerable effort to understanding and evaluating the evidence put forward by regulated companies and by other parties. It is not proportionate to do

this for a price control extension. This inevitably means that there will be less confidence that price control parameters have been set at a level that protects consumers. For this reason, we think the UR should only ever consider extending a price control when there are strong reasons for doing so.

The UR has quoted two reasons for extending the control, both of which were originally cited by NIE Networks in its response to the UR's consultation on the RP7 approach.

NIE Networks argued for a delay in the date for submitting its business plan by five months (from October 2022 to 31 March 2023) due to:

- the scale of the challenges emerging for RP7, including a step-change in investment which NIE Networks will be proposing in its Business Plan; and
- the unprecedented level of uncertainty including in relation to the geopolitical situation (the Russian war in Ukraine etc.), and the uncertain pace and detail of delivery of the Climate Change Act and Energy Strategy in Northern Ireland.

We are not convinced by either of these arguments:

- The likely scale of investment during RP7 has been understood for some time and should have already been factored-into the engagement NIE Networks originally planned for its business plan. We also note that, in Great Britain the electricity distribution network operators were required to submit their business plans in a timely manner despite a similar step-change in investment.
- Whilst we agree that the geopolitical situation and the uncertain pace of climate change actions has increased uncertainty, it is not clear how the proposed extension to RP6 will mitigate these risks, particularly as we understand NIE Networks is still planning to submit its business plan to the UR on the original timescale, at the end of March 2023.

Failure to set out the effect of the proposed modifications

As noted by the consultation document, the UR is required to give notice before making modifications to licence conditions. In large part, the UR has discharged this obligation. However, we are concerned that the UR has not adequately set out the effect of the proposed modifications, as it is required to.

In particular, we note that the consultation document does not provide any explanation of the impact of the proposed modification on the prices paid by consumers. Without this information, it is difficult for any consultee to come to a rounded understanding of the implications of the proposed change.

The process adopted by the UR

More generally, we have found it difficult to engage with the substance of the consultation because the UR has not provided adequate detail to explain the approach it has adopted. For example:

- On capital expenditure, the UR makes a number of potentially conflicting observations. On the one hand, the UR says it has taken account of NIE Network's plans to increase investment and cost pressures. On the other hand, the UR suggests it has simply rolled

forward a measure of average capital expenditure, subject to a frontier shift.

- We understand that the UR has extended the RP6 ongoing efficiency assumption into the extension year. Whilst we appreciate the merits of this simple approach, we are concerned that it may not give adequate weight to fact that NIE Networks has outperformed its operating allowance during RP6. At face value, this might imply the need for a more challenging ongoing efficiency assumption.
- From our reading of the consultation document, the UR is using the same allowance for distribution first and second fixed metering allowances in the extension year as it has in prior years (0.924 and 1.351, respectively). We are unable to reconcile this with the statement by the UR that it has applied a “cost frontier shift” to these numbers. We would have expected a lower figure in 2025.
- We are surprised that the UR had not sought to update financial parameters for the extension year. Regulators typically seek to ensure that financial parameters reflect up-to-date market information. Moreover, we consider it would be a relatively simple task to reassess these financial parameters.
- In our view, the UR does not explain in sufficient detail why its approach on distribution undereaves, innovation trials, meter replacement for theft, the pension deficit or the reliability incentive is appropriate.

In general, the quality of information in the consultation falls short of best practice. The lack of information prevents us and other consultees from being able to comment properly on the proposals.

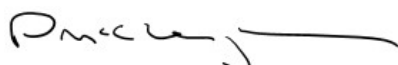
The timing of the UR’s decision

We question the need for the UR to set parameters for the extension year more than 12 months before the start of that year. Over the course of the summer, following the end of the regulatory year on 31 March 2023, NIE Networks will publish its regulatory accounts and performance information for the 2022-23 financial year. We are surprised the UR is not waiting until this information comes available before setting price control parameters. We can see few advantages in setting the regulatory parameters for the extension year early, without access to an additional year of financial and performance data.

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The Consumer Council remains committed to on-going collaboration with UR to continue to meet the needs of present and future consumers and, in particular to ensure the protection of NI consumer interests during the RP6 and RP7 price control processes.

Yours sincerely



Peter McClenaghan
Director of Infrastructure & Sustainability