Decision to Modify NIE Networks' Electricity Distribution and Transmission Licences

One Year Extension to the RP6 Price Control

Decision Paper

29 March 2023

About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.

Our vision

To ensure value and sustainability in energy and water.

Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.

Abstract

We are publishing our decision on licence modifications to enable a one year extension of the RP6 price control final determination into the 2024/25 year. These licence modifications extend the duration of the RP6 price control and set the amount NIE Networks will have to run their business and invest in the electricity network for the 2024/25 year.

These modifications have been made following a consultation on proposed licence modifications. The consultation period ended on 24 February 2023 and this paper represents our decision following consideration of the responses received. The licence modifications outlined in this decision paper will apply on and from 24 May 2023.

Audience

This document is likely to be of interest to the licence holder affected, consumers and consumer groups, other regulated companies in the energy industry, government and other statutory bodies.

Consumer impact

The RP6 price control extension aims to set an efficient revenue cap to enable NIE Networks to deliver quality outputs that customers need. NIE Networks costs are material and a controllable element of electricity tariffs. RP6 investment decisions are expected to underpin improvements in service delivery for consumers.

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1. Introduction

Purpose of this document

1.1 Our principal objective in carrying out the duties associated with our electricity functions is to protect the interests of consumers of electricity supplied by authorised suppliers, wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the generation, transmission, distribution or supply of electricity, as set out more fully in the Energy (Northern Ireland) Order 2003 (***the Energy Order***)[1].

1.2 The Utility Regulator (***UR***) must carry out those functions in the manner which it considers is best calculated to further the principal objective, having regard in particular to:

a) the need to secure that all reasonable demands in Northern Ireland or Ireland for electricity are met; and

b) the need to secure that licence holders are able to finance the activities which are the subject of obligations imposed by or under Part II of the Electricity (Northern Ireland) Order 1992[2] (***the Electricity Order***) or the Energy Order.

1.3 UR must also carry out its functions consistently with a number of other duties which are set out in full at Article 12 of the Energy Order.

1.4 In line with these duties, this document sets out our decision to modify various conditions of the "Electricity Distribution Licence"[3] (***the Distribution Licence***) and the "Licence to Participate in Transmission"[4] (***the Transmission Licence***) each held by Northern Ireland Electricity Networks Ltd (***NIE Networks***).

1.5 The licence modifications set out in this decision paper:

a) extend the duration of NIE Networks' current price control (***RP6***) by one year, moving the end date of the RP6 Price Control from 31 March 2024 to 31 March 2025;

[1] https://www.legislation.gov.uk/nisi/2003/419/contents
[2] https://www.legislation.gov.uk/nisi/1992/231/contents
[3] The licence first granted to Northern Ireland Electricity on the 31 March 1992, last amended on the 16 August 2021.
[4] The licence first granted to Northern Ireland Electricity on the 31 March 1992, last amended on the 16 August 2021.

b) introduce allowed values, unit rates and amounts for the RP6 extension year including values, rates and amounts for operational expenditure, capital expenditure and pension deficit repair;

c) extend the definition of various terms to include the year ending 31 March 2025; and

d) modify the Reliability Incentive Model as it applies in respect of the RP6 extension year.

1.6 These modifications allow the maximum regulated revenue to be calculated for the additional year of the RP6 price control period (1 April 2024 to 31 March 2025) for the purpose of setting tariffs for the distribution and transmission networks.

1.7 The licence modifications covered by this decision are summarised in Table 1.1.

1.8 The purpose of this decision is to give effect to these licence modifications.

Type of Licence Modification	Licence	
	Distribution	Transmission
Modifications to extend the RP6 period		
Modify the definition of RP6 to extend the duration of the price control by one year.	Annex 2 paragraph 1.1	Annex 2 paragraph 1.1
Modifications to allowances, rates and amounts for the extension year		
Modify the Distribution Business allowed capex per RAB_D5Y to include a determined amount for the year t = 2025.	Annex 2 paragraph 4.32 Table 3	na
Modify the Distribution Business allowed capex per RAB_DN to include a determined amount for the year t = 2025.	Annex 2 paragraph 4.34 Table 4	na
Modify the Distribution Business allowed capex per RAB_TN to include a determined amount for the year t = 2025.	na	Annex 2 paragraph 4.32 Table 3
Modify the Distribution Business allowed capex per RAB_T5Y to include a determined amount for the year t = 2025.	na	Annex 2 paragraph 4.32 Table 3
Modify the Distribution undereaves allowance unit cost (UAU_2016) to include a determined amount for the year t = 2025.	Annex 2 paragraph 4.35 Table 5	na
Increase the constraint on the determination of additional allowed capex for trials to assess and demonstrate innovative future investment.	Annex 2 paragraph 4.38(c)	Annex 2 paragraph 4.35(e)
Modify the Distribution Business first metering fixed allowance ($FMFA_t$) to include a determined rate for the year t = 2025.	Annex 2 paragraph 4.42 Table 6	na
Modify the Distribution Business second metering fixed allowance ($SMFA_t$) to include a determined rate for the year t = 2025.	Annex 2 paragraph 4.44 Table 7	na
Make provision for the determination of additional metering allowance unit cost for additional Metering category C.	Annex 2 paragraph 4.46 Annex 2, add paragraphs 4.46A, 4.46B and 4.46C	na
Modify the aggregate amount metering category C 'Meter Replacement for theft' to take account of decisions to date under Annex 2 paragraph 4.50 of the distribution licence and the additional year of RP6.	Annex 2 paragraph 4.48(a)	na
Modify the real price effects & productivity factors ($RPEPF_t$) to include a determined rate for the year t = 2025.	Annex 2 paragraph 4.52 Table 9	na
Modify the Distribution Business allowed opex amount (AO_t) to include a determined rate for the year t = 2025.	Annex 2 paragraph 6.13 Table 10	Annex 2 paragraph 6.13 Table 4
Modify the pension deficit amount (P_2016_t) to include a determined rate for the year t = 2025.	Annex 2 paragraph 7.1 Table 11	Annex 2 paragraph 7.1 Table 5

Type of Licence Modification	Licence	
	Distribution	Transmission
Modification of dates to apply to the extension year		
Modify the definition of additional allowed capex ($ACDR\_X_t$) to include amounts determined for the year t = 2025.	Annex 2 paragraph 4.38(d)	na
Modify the definition of allowed opex other amount to include amounts determined for the term NES_t for the year t = 2025.	Annex 2 paragraph 6.15	Annex 2 paragraph 6.15
Modify the definition of the correction factor amount (K_t) to include amounts calculated for the year t = 2025	Annex 2 paragraph 11.1(b)	Annex 2 paragraph 11.1(b)
Modify the time when the charge restriction conditions cease to apply to the 1 October 2025.	Annex 2 paragraph 15.2	Annex 2 paragraph 15.2

Note: na – not applicable to the relevant licence

Table 1.1: Overview of licence modifications

Background and approach to the licence modifications

1.9 We consulted in March 2022 on our draft approach for the price control that will replace the current one (***RP7***). Within the RP7 draft approach document[5], we explained that the current RP6 price control for NIE Networks covers the period 1 October 2017 to 31 March 2024. We stated that our intention was that the RP7 price control would cover the period 1 April 2024 to 31 March 2030. Within the approach document we set out key milestones for the RP7 price control.

1.10 In its response to the draft approach document NIE Networks explained why it considered the timelines outlined in our approach document to be challenging. It proposed that the RP7 business plan submission date should be delayed by five months to 31 March 2023 (from October 2022). This would allow for a more significant period of engagement with the Utility Regulator, and other stakeholders, during 2022, which NIE Networks believed would lead to a better and more informed RP7 Business Plan submission.

1.11 In our final approach document[6] for RP7 we explained that in setting revised key milestones for the RP7 we intended to take account of the response by NIE Networks, that we accepted in principle the argument in favour of delaying the date for the Business Plan submission, and that we

[5] RP7 approach document | Utility Regulator (uregni.gov.uk)
[6] https://www.uregni.gov.uk/news-centre/final-approach-nie-networks-next-price-control-published

consequently intended to consult on licence modifications for a one year extension to the current RP6 price control so as to facilitate that delay.

1.12 In the interest of transparency and in line with best practice regulation, we consider it important to give NIE Networks appropriate notice of any licence modifications we intend to make and to offer adequate opportunities for engagement on such proposals. We provided NIE Networks with details of the licence modifications, including advance sight of the proposed changes to its licences, while preparing the consultation on these licence modifications.

1.13 On 25 January 2023 we launched a consultation[7] on the proposed licence modifications necessary to extend the RP6 price control by one year. The closing date for responses was 24 February 2023.

1.14 In preparing this decision paper we have considered the responses received from NIE Networks and other stakeholders on the proposed licence modifications and considered whether any amendment to the proposals made in our consultation paper was merited.

1.15 Having considered the responses to the consultation, UR considers that the licence modifications now set out in this document are those which are best calculated to comply with our statutory duties. Those modifications are substantially the same as those on which we consulted. However, having taken full account of the responses received, they differ from the original proposals in a number of respects, which are described and explained in this document.

1.16 When making these licence modifications, UR must, under Article 14(8) – (10) of the Electricity Order:

a) publish the decision and the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by the making of the modifications;

b) state the effect of the modifications;

c) state how it has taken account of any representations duly made to the consultation; and

d) state the reason for any differences between the modifications and those set out in the original consultation notice.

[7] https://www.uregni.gov.uk/consultations/consultation-and-notice-proposed-licence-modifications-reflect-rp6-price-control

1.17 Separate decisions under Article 14(8) – (10) of the Electricity Order are being issued in respect of the modifications to the Distribution Licence and the Transmission Licence. These are included in this document as Annex A and Annex B respectively.

1.18 There is significant commonality between the reasons for, and effects of, the licence modifications across both licences – both for broad themes within each licence and between the two licences. Therefore, in this decision paper, we have first itemised the modifications to each of the licences and we have then set out the reasons and effects in respect of the modifications separately grouped by the following themes:

a) extending the duration of the RP6 Price Control;

b) introducing allowed values, unit rates and amounts for the RP6 extension year; and

c) amending the definition of various terms to include the year t=2025.

1.19 We have dealt separately with changes to the Reliability Incentive Model, which applies only to the Distribution Licence.

1.20 Each of these sections sets out how we have taken account of any representations duly made in response to the consultation and states the reasons for differences between the modifications and those set out in the notice of the proposed modifications issued under Article 14(2) of the Electricity Order for the purposes of the consultation.

1.21 Chapter 6 below (Next Steps) sets out the next steps and associated timelines for the remainder of the licence modification process. In particular, that:

a) These licence modifications will come into effect 56 days after publication of this document, in line with the requirements of Article 14(10) of the Electricity Order (i.e. on 24 May 2023).

b) The intervening period provides an opportunity for NIE Networks, any other licence holder materially affected by the decision, a qualifying body or association representing one of those licence holders, and/or the Consumer Council for Northern Ireland to appeal the decision on the licence modifications to the Competition and Markets Authority (***CMA***).

c) An application to the CMA for permission to appeal must be made before the end of 20 working days from the date of the decision to modify the licences (29 March 2023). Such an appeal to the CMA brought under Article 14B of the Electricity Order would follow the procedure set out in Schedule 5A of the Electricity Order.

Document structure

1.22 This decision paper is structured in a number of chapters as follows:

- *Chapter 1: Introduction* provides an overview of the purpose and structure of this decision document and includes an overview of the licence modifications.
- *Chapter 2: Modifications to the Distribution Licence* details the modifications to the NIE Networks Distribution Licence which will extend the RP6 Price Control by one year, introduce allowed values, unit rates and amounts for the extension year, and amend the definition of various terms to include the RP6 extension year. It includes a summary of the responses to the consultation on licence modifications, our consideration of the consultation responses along with our decision on relevant aspects.
- *Chapter 3: Modifications to the Transmission Licence* details the modifications to the NIE Networks Transmission Licence which will extend the RP6 Price Control by one year, introduce allowed values, unit rates and amounts for the extension year, and amend the definition of various terms to include the RP6 extension year. It includes a summary of the responses to the consultation on licence modifications, our consideration of the consultation responses along with our decision on relevant aspects.
- *Chapter 4: Reasons and Effects of the Licence Modifications* sets out the reasons for and effects of the licence modifications set out in Chapter 2 and Chapter 3, with the reasons and effects grouped by common themes both within and between the Distribution and Transmission licences.
- *Chapter 5: Reliability Incentive* details changes to the Reliability Incentive Model based on customer minutes lost (***CML***) which was implemented for RP6 as well as the associated reasons and effects.
- *Chapter 6: Next Steps* sets out process and timelines for the remainder of the licence modification process.

1.23 This decision document is complemented by 8 annexes:

a) Setting out the statutory decision under Article 14(8) – (10) of the Electricity Order that UR to modify the Distribution Licence (Annex A) and the Transmission Licence (Annex B).

b) Showing the modified licences for the Distribution Licence (Annex C) and the Transmission Licence (Annex D) as new versions of the licences marked-up to show the modifications being made to the previous conditions of each licence.

c) Publishing the responses received to the licence modifications by: Consumer Council for Northern Ireland (CCNI) (Annex E), NIE Networks (Annex F), Renewable Energy Systems Ltd (RES) (Annex G), and RenewableNI (RNI) (Annex H).

2. Modifications to the Distribution Licence

Overview

2.1 The overall purpose of the modifications to the Distribution Licence is to extend the RP6 period by one year to end on 31 March 2025.

2.2 The modifications to the Distribution Licence are set out in this section of the decision paper, grouped under the following themes:

a) Extending the duration of the RP6 Price Control.

b) Introducing allowed values, unit rates and amounts for the RP6 extension year including for operational and capital expenditure and pension deficit repair.

c) Amending the definition of various terms to include the year t=2025.

2.3 In this section, the phrase t=2025 refers to the Regulatory Reporting Year which ends on 31 March 2025 (the RP6 ***extension year***).

2.4 The modified version of the Distribution Licence is included as Annex C.

Consultation responses

2.5 The consultation on licence modifications concluded on the 24 February 2023. We received 4 responses to the consultation from Consumer Council for Northern Ireland (CCNI), NIE Networks, Renewable Energy Systems Ltd (RES), and RenewableNI (RNI). Their respective responses are annexed to this paper as follows:

- CCNI Annex E
- NIE Networks Annex F
- RES Annex G
- RNI Annex H

2.6 Before setting out our consideration of the consultation responses we have provided a summary of the responses below.

Overview of the response received from CCNI (Annex E)

2.7 CCNI expressed concerns about the quality of the consultation document, arguing that the quality of information in the consultation fell short of best practice. It concluded that there was a lack of information which prevented it and other consultees from being able to comment properly on the proposals. In particular, CCNI:

a) Considered the overall merits of extending the RP6 price control and concluded that it was not convinced by the arguments made for the extension. While it recognised that it was not proportionate for UR to undertake the same level of detailed analysis that would be undertaken for a full price control, it noted that this inevitably means that there will be less confidence that the price control parameters for the extension year will have been set at a level that protects consumers.

b) Concluded that UR had not adequately explained the effects of the modifications, in particular by not stating the impact on the prices likely to be paid by consumers.

c) Concluded that it had found it difficult to engage with the substance of the consultation because it thought there was either too little detail or conflicting detail on:

   (i) the approach to capital investment and whether elements of the plan were rolled forward subject to a further frontier shift or allowances had been made for increased investment and cost pressures;

   (ii) the approach to on-going efficiency for the extension year and how this took account of NIE Networks' performance to date;

   (iii) whether or not an on-going efficiency had been applied to the distribution first and second fixed metering allowances in the extension year;

   (iv) UR’s decision not to update the financial parameters which inform the rate of return for the extension year; and

   (v) why UR’s approach on distribution undereaves, innovation trials, meter replacement for theft, the pension deficit or the reliability incentive is appropriate.

d) Questioned the need for UR to set parameters for the extension year more than 12 months before the start of the year, suggesting that there would be an advantage in allowing further time to consider information from the 2022/23 financial year.

2.8 CCNI noted that it 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.

Overview of the response received from NIE Networks

2.9 NIE Networks was broadly supportive of UR's proposal and was content with the proposed changes to the detail of the licence, subject to the comments in respect of certain cost allowances as follows:

a) ***Network Investment Costs – real price increases.*** Whilst welcoming UR's recognition of the need to provide allowances for real price increases in the RP6 extension year, NIE Networks considered the quantum of allowance proposed by UR was insufficient to meet requirements. NIE Networks highlighted further engagement with UR during the consultation period and additional information provided to evidence the need for a higher allowance, in particular with regards to materials costs which it expects to add at least £3m to its cost base in the RP6 extension year.

b) ***Network Investment Costs – civil works costs***. NIE Networks noted that UR has not made allowance for the cost of civil works associated with primary substations which it considered to be an error. It asked that UR make provision for these costs (£1m) within the confirmed network investment allowance for the RP6 extension year.

c) ***Operating Costs***. NIE Networks noted its disappointment with UR's proposal to cut the operating cost distribution allowance by 8% (£4m) for the RP6 extension year from the amount determined in the RP6 final determination for 2023/24. It considered this both unwarranted and counterintuitive, highlighting the addition of 200 staff in the last two years, investment in Apprentice and Graduate schemes and other activities to build capability to meet future challenges including meeting the requirements of the Climate Change Act (Northern Ireland) 2022. It asked that UR reconsiders its proposals in this regard.

Overview of the response received from RES

2.10 RES stated that it had no objection in principle to the extension of RP6 by one year. However, it expressed concern over the potential impact of the extension on network investment projects which were supposed to be commenced and progressed during the RP7 period. On the other hand, it noted that Planned Network Investment Volumes and Allowances would be amended to allow for additional network investment delivery in the RP6 extension year and stated that, if the volumes and allowances were adequate, this would sufficiently mitigate this potential impact.

Overview of the response received from RNI

2.11 RNI supported the extension of the RP6 period, providing that it enables the development of a stronger RP7 price control which takes account of the provisions necessary for NI to reach its decarbonisation targets. RNI took the opportunity to emphasise a range of other points related to the development of RP7 including:

a) the ability of NIE Networks to recover the costs of undertaking the research and development of innovation projects;

b) the ability of NIE Networks to make ahead of, or in time investments to facilitate renewable connections;

c) the need to recognise that there will always be a degree of uncertainty, due to new technology and other unforeseen factors on the way to net zero;

d) the needs to take account of the Renewable Electricity Support Scheme when decided upon for Northern Ireland; and

e) its support for a move to a more shallow charging method on the basis that NI generators are at a competitive disadvantage with GB.

UR's consideration of consultation feedback

Quality of the consultation and adequacy of information

2.12 We note CCNI's views in relation to the quality and amount of information provided for the purposes of consultation. However, we are satisfied that the information taken as a whole was sufficient to allow CCNI and all other stakeholders to submit informed responses to the consultation. Moreover, there were a number of opportunities for CCNI to raise these concerns during the consultation period if it had chosen, and our consultation paper expressly made the offer that we were willing to engage in 'individual discussions with interested parties', which would certainly have included CCNI as an important consumer representative body.

2.13 We consider CCNI a key stakeholder and are keen to engage with it to ensure that there is no future misunderstanding about its ability to speak to us and seek further explanation or clarification of key issues on which we are consulting. However, we are satisfied in this case that CCNI was in a position to submit a clear, well-reasoned and effective consultation response

– as indeed it did. We welcome the submissions made and, as outlined below, have had full regard to them.

The merits of extending the RP6 price control

2.14 CCNI stated that it was not convinced by the merits of extending the RP6 price control, and could not have confidence that the level of scrutiny applied to the extension year would adequately protect consumers.

2.15 We note CCNI's concerns and have taken them fully into account. However, in our view, all things being considered, it is more important to allow additional time for NIE Networks to complete its RP7 Business Plan submission so as to provide the firmest possible base for the RP7 price control. We considered this issue during the consultation on our Approach to RP7 and at that time noted that we accepted NIE Networks' case in principle, subject to the need to consult on an extension of the RP6 price control. We are still persuaded that it is the correct approach.

2.16 CCNI stated that NIE Networks was still planning to submit its Business Plan to UR on the original timetable. However, the original timetable required NIE Networks to submit its business plan in October 2022 not (as now) March 2023. The extension of the RP6 price control by one year was necessary to provide for the delay of the RP7 price control submission by these several months. This approach facilitated NIE Networks having more time to complete its submission, and take into account of all the issues relating to decarbonisation over the RP7 period. The timetable also allows more time for UR and stakeholder engagement on the development of the final price control determination, in respect of which a step change in requirements has considerably increased the complexity.

The impact on prices paid by consumers

2.17 CCNI expressed its concern that UR had not provided information on the impact of its proposals in relation to prices paid by consumers.

2.18 We estimate that reducing allowed opex by £4m will reduce customer tariffs by circa 1.1% in 2024/25. This estimate is on the basis that half of any out-performance would have been returned to consumers through the cost sharing mechanism of the licence in any event so that, therefore, the actual saving to consumers is £2m.

2.19 We estimate that the additional capital expenditure allowed by our final decision on the licence modifications will increase customer tariffs by circa 0.7%. This is based on the fact that the additional investment is attached to additional outputs and will be spent in full and not subject to a further adjustment through the 50/50 cost risk sharing mechanism.

2.20 We note that the estimates above reflect the likely impact of the licence modifications when measured against the tariffs that would have applied during the extension year if we had made no adjustments to the price control. They are not an assessment against a counter factual of prices that would have applied under the RP7 price control had it been implemented in 2024/25.

2.21 We note that the impact of this decision is small in absolute terms – it amounts to a net reduction in tariffs by 0.4% in the RP6 extension year. In addition, it is small relative to the overall increase in tariffs that is expected over the medium term due to:

a) High levels of inflation in 2022/23 and 2023/24 which will increase charges in nominal terms.

b) The extent of under-recoveries of past revenue due to higher than expected levels of inflation and reducing energy consumption which will be reflected in prices over the short term.

c) The extent of investment and other increases in expenditure proposed by NIE Networks to increase both capacity and capability to deliver net-zero. Some early indications are that the scale of costs proposed could result in an increase in revenues of circa 25% in real terms. While an increase in consumption would reduce the increase in tariff per unit, the expected increase in bill to consumers would be at a similar levels to the increase in revenue.

The overall approach to capital investment and the application of the frontier shift

2.22 CCNI thought that there were potentially conflicting observations on capital expenditure in the consultation. In particular, CCNI suggested that there was a conflict between statements about taking account of NIE Network's plans to increase investment and cost pressures and rolling forward a measure of average capital expenditure, subject to a frontier shift.

2.23 We do not consider there to be a conflict in the different statements on the determination of allowed capital for the RP6 extension year. As noted in the consultation:

a) Capital expenditure in RP6 was broadly in line with allowed capex up to 2021/22, the last year of complete information available to us.

b) We took account of proposals by the company to increase capital investment in the RP6 extension year related to investment to facilitate the uptake of low carbon technologies including network reinforcement already begun in RP6 under the Green Recovery initiative. This ensures that extending RP6 does not delay investment necessary to achieve net-zero over the longer term. We also took account of reductions in capital investment where work was expected to be complete in the original RP6 period. This ensures that there was no double funding.

c) A further on-going efficiency challenge was applied to the allowed capex in the RP6 extension year, continuing the profile of the on-going efficiency challenge set for the RP6 period.

d) A further uplift of £5.64m was included in the consultation to allow for cost pressures over and above inflation.

2.24 In our view, our decision takes account of all issues which affect future costs to arrive at a reasonable allowed capex for the RP6 extension year and there is no conflict between the different aspects of the decision.

Whether the application of the on-going efficiency into the extension year gives adequate weight to NIE Networks out-performance on opex

2.25 CCNI questioned whether decisions to apply an on-going efficiency assumption gave adequate weight to the fact that NIE Networks had out-performed its opex allowance during RP6.

2.26 In the consultation document we noted that opex allowance for the RP6 extension year had been reduced by £4.339m (compared to existing allowances) in view of the out-performance by NIE Networks to date. In our view, this gives adequate weight to out-performance while taking account of the issues raised by NIE Networks in respect of potential additional cost pressures.

The application of on-going efficiency to the distribution first and second fixed metering allowances

2.27 CCNI noted that the allowance proposed for the distribution first and second fixed metering remained constant and noted that it was unable to reconcile this with statements that a cost frontier shift had been applied to these numbers.

2.28 The consultation noted that these allowances are subject to the cost frontier shift for 2024/25 set out in Table 2.6 of the consultation. The reducing factor in Table 2.6 shows a further challenge in respect of frontier shift in the year 2024/25 (t=2025). For the proper functioning of the licence, the distribution first and second fixed metering allowances are stated in pre-efficiency terms (as are unit rates for meters). Therefore, they remain constant over the price control and continue at the same level for the RP6 extension year. Each year's allowance is multiplied by the real price effects & productivity factor in Table 2.6 of the consultation (replacing Table 9 of Annex 2 of the distribution licence) to arrive at a post efficiency allowance, achieving the desired effect of a further increase of the efficiency challenge in 2024/25.

2.29 Other allowed capex, allowed opex and rates in the determination are stated post efficiency and include a further on-going efficiency for 2024/25.

The decision not to update financial parameters

2.30 CCNI noted that it was surprised that UR had not sought to update the financial parameters for the extension year, considering it a relatively simple task to reassess these financial parameters on up to-date financial information.

2.31 We do not consider that updating the cost of finance is a relatively simple task, particularly at a time when there has been, and continues to be, instability in financial markets and material changes in key financial metrics. We will undertake a full review of the financial parameters for RP7. In the meantime, we have concluded that maintaining the existing parameters for the calculation of costs of capital including risk free rates, asset beta debt adjustment mechanism and inflation provides a reasonable outcome for consumers.

The approach to distribution undereaves, innovation trials, meter replacement for theft, the pension deficit or the reliability incentive.

2.32 CCNI concluded that UR did not explain in sufficient detail why the proposed approach to distribution undereaves, innovation trials, meter replacement for theft, the pension deficit or reliability incentive was appropriate.

2.33 We note that these items are identified separately in the consultation because they are identified separately in the licence for various reasons, such as being subject to volume drivers, or because they set limits for the price control period which can be drawn down under separate approvals (innovation) or subject to adjustment at the end of the price control period (pensions deficit funding). Other items for allowed capex and allowed opex include a wider range of individual activities than are covered under these specific items. We consider that the reasons for these specific items are adequately explained by the general reasons set out in the consultation. The general reason given for rolling forward unit costs of capital (subject to on-going efficiency, with adjustments for output and an allowance for additional cost pressures) applies equally to specific capex items as it does to the general capex allowances. Further information was provided on the reasons for these specific items. For example:

a) Raising the cap on innovation funding will allow NIE Networks to propose additional funding in the extension year which will inform future investment decisions. This ensures that extending the RP6 price control does not become a barrier to innovation.

b) Increasing the amount of meters which can be replaced for theft allows NIEN to continue this activity into the extension year and reflects the fact that the number of meters affected has proved to be higher than previously envisaged.

c) The historic pension deficit allowance has been extended into the RP6 extension year because NIE Networks has confirmed that a deficit remains and it expects to require further funding into RP7. The price control allows for an adjustment at the start of RP7 if the deficit has been paid down. If a deficit remains, it will reduce the allowances necessary in RP7.

d) We explained our reasons for continuing with the reliability incentive in the consultation. We believe that these mechanisms can ensure that NIE Networks continues to manage the trade-off between costs and reliability. We also set out our reasons for the choice of revised parameters in the consultation which balance the out-performance to date and the potential impact of increasing workloads.

Timing of the decision

2.34 CCNI, questioned the timing of the consultation and the decision on the extension of RP6, making the point that a decision made at a later date would have allowed UR to take account of information from 2022/23. We consider that the timing is necessary to ensure that:

a) Information on allowances is available for the year 2024/25 in advance of decisions on tariffs for the year 2023/24 which begins in October 2023. NIE Networks tariffs for this period take account of allowances for the 2024/25 financial year. While decisions will be made on the basis of estimates where necessary, it is not good practice to do so.

b) NIE Networks can plan, procure and deliver its work effectively over the medium term.

c) UR, NIE Networks and other stakeholders are not working on the RP6 extension in parallel with the draft determination for RP7.

Network Investment Costs – real price increases

2.35 NIE Networks welcomed the fact that UR had recognised the need to provide an allowance for real cost pressures over and above inflation. However, the company thought the amount allowed was insufficient and referenced further engagement on this issue during the consultation period. In particular, the company asked that UR made a further allowance of at least £3m in respect of increased cost of materials.

2.36 Our proposals made an allowance of £5.64m for additional capital cost pressures across a range of activities. Having considered the additional information provided by NIE Networks in response to the consultation, we have increased this allowance to £8.31m. The reasons for this increase are:

a) An adjustment to network refurbishment and reinforcement work of £0.54m to avoid a double counting a forward looking contractual adjustment and on-going efficiencies already captured in our allowances

b) An increase in the allowance for materials of £2.05m following a review of additional information provided by NIE Networks. While the additional information did not provide a comprehensive assessment, it did point to substantial increase in a range of materials. In the absence of a comprehensive assessment of increases in material costs, we based our decision on the analysis of a range of published material indices relevant to the type of work covered by our decision for the RP6 extension year.

c) NIE Networks provided further information on increased costs of excavation and other civil works which allowed us to clarify increased costs in real terms, resulting in an increased allowance of £0.085m.

Network Investment Costs – civil works costs

2.37 NIE Networks noted that UR had not made allowance for the cost of civil works associated with primary substations which it considered to be an error.

2.38 We agree that the initial assessment on which the consultation was based did not include the likely cost of this element of investment. Having considered the allowances included in the RP6 determination and the run rate of expenditure in RP7 to date, we have increased the allowance for this work in the RP6 extension year by £1.0 million in 2015/16 prices.

Operating costs

2.39 NIE Networks noted its disappointment that UR proposed to cut the distribution allowed opex by 8% (£4m) for the RP6 extension year. It highlighted the additional costs it was incurring as it increases staff numbers and capability to deliver net-zero.

2.40 In our section of the consultation outlining the reasons and effects of our proposals we noted that NIE Networks had out performed against its allowed opex to date. Having taken account of this out performance and the potential for increased cost in future years as well as the opportunity for the company to deliver further efficiencies, we consider the reduction in allowed opex to be reasonable. We have not adjusted the decision in this respect.

Impact on investment projects which were supposed to start in the RP7 period

2.41 RES expressed concern over the potential impact of the extension on network investment projects which were supposed to be commenced and progressed during the RP7 period.

2.42 The allowance for planned network investment in the RP6 extension year already makes provision for network investment projects which would have commenced and progressed during the RP7 period, reflecting investment proposals developed by NIE Networks for the RP6 extension year. The existing licence makes provision for the approval of additional allowances for capital investment during the RP6 price control and these provisions continue to apply in the RP6 extension year. Additional allowances have already been approved in RP6 under the ‘Green Recovery’ initiative and LCT (low carbon technology) re-opener in light of the need for increased investment to facilitate net-zero. It is likely that further allowances will be approved under these mechanisms for the RP6 extension year for LV (low voltage network) monitoring and further investment in IT systems to ensure that NIE Networks' plans to increase capability in RP7 are not delayed. We also expect further applications and approvals for allowances to improve the capability and capacity of the transmission network for the extension year under the existing ‘D5’ price control mechanism.

In view of this, we have concluded that the allowances in this decision and the provision in the licence to determine further investment in certain circumstances are sufficient to discharge our principal objective and statutory duties. We have made no further changes to this decision in this regard.

Other points related to the development of RP7

2.43 RES supported the extension of the RP6 period and took the opportunity to emphasise a range of other points related to the development of RP7. We will consider these points as we develop the RP7 price control or through other activities such as the development of proposals for connection charging.

Summary of changes from the consultation

2.44 For the reasons set out in UR's consideration of responses above, the following changes have been made between the modifications in this decision and those set out in the consultation:

a) Allowed capex for 2024/25 has been increased by £1.0m to allow for cost of civil works associated with primary substations omitted from our initial proposals.

b) Allowed capex for 2024/25 has been increased by around £2.7m in respect of cost pressures in excess of inflation, and to take account of further information provided by NIE Networks and an assessment of published material indices for electrical materials.

2.45 As a result of these changes, the amount for t=2025 in Table 2.2 below has increased from £79.801m in the consultation to £83.474m in this decision.

Modifications to extend the RP6 period

RP6 definition

2.46 The definition of the term 'RP6' in paragraph 1.1 of Annex 2 has been changed from:

'means the period commencing on 1 October 2017 and ending on 31 March 2024'

to

'means the period commencing on 1 October 2017 and ending on 31 March 2025'.

Modifications to distribution allowed values, rates and amounts for the RP6 extension year

Allowed capex for 5 year Distribution RAB – AC_D5Y_t

2.47 The existing Table 3 of Annex 2 of the Distribution Licence has been replaced with Table 2.1 below to include a determined value for the RP6 extension year for the Distribution Business allowed capex per RAB_D5Y.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
RAB_D5Y	8.451	11.069	9.016	7.071	6.483	5.941	7.974	7.676

Table 2.1: The Distribution Business allowed capex per RAB_D5Y for each Regulatory Reporting Year t (£ million, 2016 prices)

Allowed capex for Distribution RAB – AC_DN_t

2.48 The existing Table 4 of Annex 2 of the Distribution Licence has been replaced with Table 2.2 below to include a determined value for the RP6 extension year for the Distribution Business allowed capex per RAB_DN.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
RAB_DN	31.772	63.005	62.470	61.940	61.414	60.893	60.379	83.474

Table 2.2: The Distribution Business allowed capex per RAB_DN for each Regulatory Reporting Year t (£ million, 2016 prices)

2.49 The value for t=2025 has been updated from £79.801m in the consultation by the addition of:

a) £1.0m in respect of civils works at primary sub-stations.

b) £2.67m in respect of cost pressures on capital works in excess of inflation.

Distribution undereaves allowance unit cost UAU_2016

2.50 The existing Table 5 of Annex 2 of the Distribution Licence has been replaced with Table 2.3 below to include a determined value for the RP6 extension year the Distribution Business undereaves allowance unit cost for UAU_2016.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
RAB_UAU_2016	411.86	408.36	404.89	401.46	398.05	394.67	391.32	388.00

Table 2.3: The Distribution Business undereaves allowance unit cost for UAU_2016 for each Regulatory Reporting Year t (£, 2016 prices)

Constraint on the value of $ACDR\_X_t$

2.51 Sub-paragraph 4.38(c) of Annex 2 of the Distribution Licence has been replaced with the following to allow further trials to assess and demonstrate innovative future investment in the Distribution System to be undertaken before the end of the RP6 extension year:

the total additional allowance which may be determined for trials undertaken to assess and demonstrate innovative future investment in the Distribution System shall not, taken together with the total additional allowance that may be determined by the Authority pursuant to paragraph 4.35(e) of Annex 2 of the successor transmission licence, exceed £9.536 million in 2015/16 prices;

First metering fixed allowance ($FMFA_t$)

2.52 The existing Table 6 of Annex 2 of the Distribution Licence has been replaced with Table 2.4 below to include a determined value for the RP6 extension year for the Distribution Business first metering fixed allowance.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
First metering fixed allowance (FMFA_2016t)	0.462	0.924	0.924	0.924	0.924	0.924	0.924	0.924

Table 2.4: The Distribution Business first metering fixed allowance for each Regulatory Reporting Year t (£ million, 2016 prices)

Second metering fixed allowance ($SMFA_t$)

2.53 The existing Table 7 of Annex 2 of the Distribution Licence has been replaced with Table 2.5 below to include a determined value for the RP6 extension year for the Distribution Business second metering fixed allowance.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
Second metering fixed allowance (SMFA_2016t)	0.676	1.351	1.351	1.351	1.351	1.351	1.351	1.351

Table 2.5: The Distribution Business second metering fixed allowance for each Regulatory Reporting Year t (£ million, 2016 prices)

Distribution Business additional metering allowance unit cost for additional Metering category C

2.54 The formula for the Metering volume driven allowance (**MVA_t**) in paragraph 4.46 of Annex 2 of the Distribution Licence has been replaced with the following formula to include each additional Metering Category C determined by the Authority under paragraph 4.46B of Annex 2.

$$MVA_t = \sum_{All\ C} \left(\left(MV\_C_t * MAU_{2016_{C_t}} \right) + \left(AMV_{C_t} * AMAU_{2016_{C_t}} \right) \right) * RPI_t / RPI_{2016}$$

2.55 An additional term **AMV_C_t** used to calculate the Metering volume driven allowance (**MVA_t**) has been defined in paragraph 4.46 of Annex 2 of the Distribution Licence as follows:

AMV_C_t *'means the volume of Metering units installed (whether as a new Metering unit or replacement or adjustment of an existing Metering unit) in respect of Regulatory Reporting Year t, for each additional Metering Category C identified by the Authority in a decision made under paragraph 4.46B of this Annex;'.*

2.56 An additional term **$AMAU\_2016\_C_t$** used to calculate the Metering volume driven allowance (**MVA_t**) has been defined in paragraph 4.46 of Annex 2 of the Distribution Licence as follows:

$AMAU\_2016\_C_t$

'is the additional metering allowance unit cost, in a 2016 price base, in respect of Regulatory Reporting Year t, for each additional Metering Category C, determined by the Authority in a decision made under paragraph 4.46B of this Annex.

2.57 The following text has been added after Table 8 of Annex 2 of the Distribution Licence which will allow additional Distribution Business Metering category C to be added and additional metering allowance unit cost (2016 prices) to be determined for these additional categories:

4.46A Additional metering allowance unit costs for additional Metering category C - $AMAU\_2016\_C_t$

4.46B For the purpose of this Annex, an additional metering allowance unit cost (**$AMAU\_2016\_C_t$**) is any unit rate which the Authority determines, in a published decision, to be appropriate for an additional Metering Category C which is identified in that decision.

4.46C The value of any additional metering allowance unit cost in respect of an additional Metering Category C (**$AMAU\_2016\_C_t$**) shall be that which the Authority considers appropriate in all the circumstances, and for these purposes:

a) no additional metering allowance unit cost may be determined in respect of any outputs or costs that are funded through other provisions of this Annex;

b) an additional metering allowance unit cost may be determined for an additional Metering category C only if the meters are to be installed in Regulatory Reporting Year t=2025 and the additional metering allowance unit cost has been determined by the Authority in a published decision in advance of Regulatory Reporting Year t=2025, or such later time as the Authority may determine in a published decision;

c) the Licensee shall provide such information, including in such manner, format and within such period, as may be required by the Authority (and notified to the Licensee) for the purposes of making its determination;

d) the Authority may follow such procedure as it considers appropriate prior to making its determination, including by providing for any audit, assessment or consultation in respect of any information provided to it or on behalf of the Licensee (whether or not in accordance with a requirement to do so); and;

e) the Authority may make its determination subject to conditions with which the Licensee shall be required to comply as if they were specified in this Annex, including in particular conditions as to any monitoring, audit and reporting in relation to any additional Metering Category C.

Meter Replacement for theft – metering volume driven allowance (MVA_t)

2.58 The figure of 7,700 metering units in paragraph 4.48(a) and paragraph 4.50(b) of Annex 2 of the Distribution Licence has been replaced with a figure of 17,700 metering units. This is because the Utility Regulator previously granted approval to extend the provision within the RP6 price control for the 'meter replacement for theft' programme by a further 10,000 metering units.

Real price effects & productivity factor ($RPEPF_t$)

2.59 The existing Table 9 of Annex 2 of the Distribution Licence has been replaced with Table 2.6 below to include a determined value for the RP6 extension year for the Distribution Business real price effect & productivity factor. The rates in this table are applied to the metering RABs in Tables 6, 7 and 8 of Annex 2.

Year	Real price effect & productivity factor ($RPEPF_t$)
t=2018	0.98309
t=2019	0.97475
t=2020	0.96647
t=2021	0.95826
t=2022	0.95013
t=2023	0.94206
t=2024	0.93406
t=2025	0.92613

Table 2.6: The Distribution Business real price effect & productivity factor for each Regulatory Reporting Year t

Allowed opex amount – AO_2016_t

2.60 The existing Table 10 of Annex 2 of the Distribution Licence has been replaced with Table 2.7 below to include a determined value for the RP6 extension year for the Distribution Business allowed opex amount.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
Allowed Opex Amount (AO_2016t)	29.296	57.903	57.368	56.872	56.377	55.912	55.447	51.109

Table 2.7: The Distribution Business allowed opex amount for each Regulatory Reporting Year t (£ million, 2016 prices)

The pension deficit amount – P_2016_t

2.61 The existing Table 11 of Annex 2 of the Distribution Licence has been replaced with Table 2.8 below to include a determined value for the RP6 extension year for the pension deficit amount – P_2016_t.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
Historic Deficit Repair	6.723	13.467	13.476	13.464	13.478	13.497	13.591	13.591
ERDC Disallowance	(1.756)	(3.595)	(3.597)	(3.594)	(3.597)	(3.603)	(3.627)	(3.627)
Pension deficit amount (P_2016t)	4.967	9.873	9.879	9.870	9.881	9.895	9.963	9.963

Table 2.8: The Distribution Business pension deficit amount for each Regulatory Reporting Year t (£ million, 2016 prices)

Modifications to dates to apply to the RP6 extension year

Additional allowed capex – $ACDR\_X_t$

2.62 The definition of the **$ACDR\_X_t$** term in paragraph 4.38(d) of the Distribution Licence has been changed to include Regulatory Reporting Year t=2025. This is to facilitate an allowance which may be determined in respect of any project to address load growth due to the introduction of low carbon technologies.

Allowed opex other amount – AOO_t

2.63 The **NES_t** term under paragraph 6.15 of Annex 2 of the Distribution Licence has been changed to extend the period where sums can be approved under the **NES_t** term to include the Regulatory Reporting Year t=2025. The **NES_t** term relates to costs related to either of:

- A New Energy Strategy IT solution; or
- any significant changes required to the specification of the information technology systems utilised by the Licensee for the purposes of providing the Market Data Service or the Market Registration Service

The correction factor amount – K_t

2.64 The **correction factor amount – K_t** term under paragraph 11 of Annex 2 of the Distribution Licence has been changed to include Regulatory Reporting Year t=2025.

Duration of the charge restriction conditions

2.65 Paragraph 15.2 of Annex 2 of the Distribution Licence in relation to **Disapplication** has been replaced with:

'The Distribution Charge Restriction Conditions outlined in paragraph 3.2 do not apply to tariff years from 1 October 2025 onwards. In the absence of modifications to those provisions, the Licensee shall not be able to increase (in nominal terms) any of the tariffs or charges contributing to its Regulated Distribution Revenue above the levels applicable on 1 October 2024.'

2.66 Sub-paragraph 15.5(b) of Annex 2 of the Distribution Licence has been replaced with:

'31 March 2025'.

3. Modifications to the Transmission Licence

Overview

3.1 The overall purpose of the modifications to the Transmission Licence is to extend the RP6 period by one year to end on 31 March 2025.

3.2 The modifications to the Transmission Licence are set out in this section of the decision paper, grouped under the following themes:

a) Extending the duration of the RP6 Price Control by one year.

b) Introducing allowed values, unit rates and amounts for the RP6 extension year including for operational expenditure, capital expenditure and pension deficit repair.

c) Amending the definition of various terms to include the year t=2025.

3.3 In this section, the phrase t=2025 refers to the Regulatory Reporting Year which ends on 31 March 2025 (the RP6 ***extension year***).

3.4 The modified version of the Transmission Licence is included as Annex D.

Consultation responses

3.5 Our consultation on licence modifications concluded on 24 February 2023. We received 4 responses to the consultation from Consumer Council for Northern Ireland (CCNI), NIE Networks, Renewable Energy Systems Ltd (RES), and RenewableNI (RNI).

3.6 All consultation responses covered both Distribution and Transmission Licence modifications. An overview of the responses are provided above beginning at paragraph 2.7. UR's consideration of these responses is also set out above, starting at paragraph 2.12. We have amended selected distribution allowances in light of the consultation responses. We have concluded that no adjustments to the Transmission Licence are necessary.

Modifications to extend the RP6 period

RP6 definition

3.7 The definition of the term 'RP6' in paragraph 1.1 of Annex 2 of the Transmission Licence has been changed from:

'means the period commencing on 1 October 2017 and ending on 31 March 2024'

to

'means the period commencing on 1 October 2017 and ending on 31 March 2025'.

Modifications to transmission allowed values, rates and amounts for the RP6 extension year

Allowed capex – AC_X_t

3.8 The existing Table 3 of Annex 2 of the Transmission Licence has been replaced with Table 3.1 below to include a determined value for the RP6 extension year for the Transmission Owner Business allowed capex per RAB_TN and RAB_T5Y.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
RAB_TN	4.720	9.359	9.280	9.201	9.123	9.045	8.969	7.149
RAB_T5Y	0.490	0.728	0.970	0.794	0.597	0.599	0.605	0.693

Table 3.1: The Transmission Owner Business allowed capex per RAB_X for each Regulatory Reporting Year t (£ million, 2016 prices)

Constraint on the value of $ACTR\_X_t$

3.9 Sub-paragraph 4.35(e) of Annex 2 of the Transmission Licence has been replaced with the following to allow further trials to assess and demonstrate innovative future investment in the Transmission System to be undertaken before the end of the RP6 extension year:

the total additional allowance which may be determined for trials undertaken to assess and demonstrate innovative future investment in the transmission system shall not, taken together with the total additional allowance that may be determined by the Authority pursuant to paragraph 4.38(c) of Annex 2 in the successor distribution licence, exceed £9.536 million in 2015/16 prices.

Allowed opex amount – AO_2016_t

3.10 The existing Table 4 of Annex 2 of the Transmission Licence has been replaced with Table 3.2 below to include a determined value for the RP6 extension year for the Transmission Business allowed opex amount.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
Allowed Opex Amount (AO_2016_t)	4.022	7.976	7.897	7.819	7.765	7.685	7.599	7.532

Table 3.2: The Transmission Business allowed opex amount for each Regulatory Reporting Year t (£ million, 2016 prices)

The pension deficit amount – P_2016_t

3.11 The existing Table 5 of Annex 2 of the Transmission Licence has been replaced with Table 3.3 below to include a determined value for the RP6 extension year for the Transmission Business pension deficit amount.

Term	Value							
	t=2018	t=2019	t=2020	t=2021	t=2022	t=2023	t=2024	t=2025
Historic Deficit Repair	2.081	4.142	4.133	4.145	4.131	4.112	4.018	4.018
ERDC Disallowance	(0.544)	(1.105)	(1.103)	(1.106)	(1.103)	(1.097)	(1.073)	(1.073)
Pension deficit amount (P_2016t)	1.538	3.036	3.030	3.039	3.029	3.014	2.946	2.946

Table 3.3: The Transmission Business pension deficit amount for each Regulatory Reporting Year t (£ million, 2016 prices)

Modifications to dates to apply to the RP6 extension year

Allowed opex other amount – AOO_t

3.12 The **NES_t** term under paragraph 6.15 of Annex 2 of the Transmission Licence has been changed to extend the period where sums can be approved under the **NES_t** term to include the Regulatory Reporting Year t=2025. The **NES_t** term relates to costs related to any New Energy Strategy IT solution.

The correction factor amount – K_t

3.13 The **correction factor amount – K_t** term in paragraph 11 of Annex 2 of the Transmission Licence has been changed to include Regulatory Reporting

Year t=2025 to allow the correction factor to operate in the RP6 extension year.

Duration of the charge restriction conditions

3.14 Paragraph 15.2 of Annex 2 of the Transmission Licence in relation to **Disapplication** has been changed by replacing the opening sentence with:

‘The Transmission Charge Restriction Conditions outlined in paragraph 3.2 do not apply to tariff years from 1 October 2025 onwards. In the absence of modifications to those provisions, the licensee shall not be able to increase (in nominal terms) any of the tariffs or charges contributing to its Regulated Transmission Revenue above the levels applicable on 1 October 2024.’

3.15 Sub-paragraph 15.5(b) of Annex 2 of the Transmission Licence has been replaced with:

‘31 March 2025’.

4. Reasons and Effects

Introduction

4.1 Before making modifications to a licence under Article 14 of the Electricity Order, UR must:

a) publish the decision and the modifications in such manner as it considers appropriate for the purpose of bringing them to the attention of persons likely to be affected by the making of the modifications;

b) state the effect of the modifications;

c) state how it has taken account of any representations duly made; and

d) state the reason for any differences between the modifications and those set out in the notice by virtue of paragraph (2)(b) of the Electricity Order.

4.2 There is significant commonality between the reasons for and effects of the licence modifications in Chapters 2 and 3 of this decision paper, both for broad themes within each licence and between the two licences. In this section we have then set out the reasons and effects of the modifications grouped by the following themes:

a) extending the duration of the RP6 Price Control.

b) introducing allowed values, unit rates and amounts for the RP6 extension year.

c) amending the definition of various terms to include the year t=2025.

4.3 The differences between these modifications and those set out in the consultation, which apply only in respect of the Distribution Licence, are summarised at paragraph 2.44 above.

Modifications to extend the RP6 period

Modifications to extend the RP6 period

4.4 Modifications to extend the RP6 period are summarised in Table 4.1 below.

Type of Licence Modification	Licence	
	Distribution	Transmission
Modifications to extend the RP6 period		
Modify the definition of RP6 to extend the duration of the price control by one year.	Annex 2 paragraph 1.1	Annex 2 paragraph 1.1

Table 4.1: Modifications to extend the RP6 period

Reasons for extending the RP6 period

4.5 We consulted on our draft approach for the RP7 price control in March 2022. Within the RP7 draft approach document[8], we explained that the current RP6 price control for NIE Networks covers the period 1 October 2017 to 31 March 2024 and our intention was that the RP7 price control would cover the period 1 April 2024 to 31 March 2030. Within the approach document we set out key milestones for the RP7 price control.

4.6 In its response to the draft approach document NIE Networks outlined reasons for considering the timelines outlined in our approach document to be challenging in terms of the scale of work to be undertaken, as well as the backdrop of unprecedented levels of uncertainty affecting related issues. These issues included:

a) the scale of the challenges emerging for RP7, including a step-change in investment which NIE Networks will be proposing in its Business Plan, driven by:

(i) the requirements of the Climate Change Act (Northern Ireland) 2022 and the Energy Strategy, including increased renewables, decarbonisation of heat and transport, and a more flexible, resilient and integrated energy system;

(ii) increased investment to maintain network resilience, performance and risk indicators; and

(iii) the scale of the transmission investment programme identified by the System Operator for Northern Ireland (SONI); and

b) the unprecedented level of uncertainty including in relation to the geopolitical situation (the Russian war in Ukraine etc.), an associated focus on energy security, inflationary pressures and supply chain challenges, energy price crisis, and the uncertain pace and detail of delivery of the Climate Change Act and Energy Strategy in Northern Ireland.

[8] RP7 approach document | Utility Regulator (uregni.gov.uk)

4.7 NIE Networks response proposed that the RP7 Business Plan submission date be delayed by five months to 31 March 2023 (from October 2022). This would allow for a more significant period of engagement with the Utility Regulator, and other stakeholders, during 2022, which NIE Networks believed would lead to a better and more informed RP7 Business Plan submission.

4.8 We agree with the need to extend the RP6 period to allow for further engagement and development of plans and determinations for the subsequent RP7 period. In our final approach document[9] for RP7 we explained that in setting revised key milestones for the RP7 we intended to take account of the response by NIE Networks, and consequently intended to consult on licence modifications for a one year extension to the current RP6 price control. The licence modifications on which we are now deciding are necessary to enable a one-year extension to the current RP6 price control and therefore to facilitate the additional time for NIE Networks and UR to develop the RP7 price control.

Effects of extending the RP6 period

4.9 The effect of the modifications is to extend the RP6 period by one year and to make the necessary adjustments to the control consequent on its extension. When these modifications come into effect, the RP6 period which currently ends on the 31 March 2024 will end on the 31 March 2025.

Modifications to allowances, rates and amounts for the RP6 extension year

4.10 Annex 2 of the Distribution Licence and the Transmission Licence set out how the Maximum Regulated Revenue will be calculated for the purpose of calculating tariffs. These calculations are based on determined allowances, rates and amounts for each year of the RP6 period.

4.11 A consequence of extending the RP6 period is a need to determine the allowances, rates and amounts for the RP6 extension year necessary to allow Maximum Regulated Revenue to be calculated for the RP6 extension year.

4.12 Modifications to introduce necessary allowances, rates and amounts for the RP6 extension are summarised in Table 4.2 below.

[9] https://www.uregni.gov.uk/news-centre/final-approach-nie-networks-next-price-control-published

4.13 In assessing the quantum of allowances, rates and amounts for the RP6 extension year, we:

a) Noted NIE Networks' financial performance against allowances in RP6 to 31 March 2022, the last full year available to us, as reported in our final RP7 approach document[10]. Capital expenditure was broadly in line with the RP6 determination. The company had out-performed its cumulative OPEX allowance by 8.3% to 2021/22.

b) Took account of proposals by the company to vary, and generally increase, direct network investment delivery in the RP6 extension year. The company anticipates that further increases in investment will be required in the RP7 period to facilitate the uptake of low carbon technologies (LCT). This trend in investment has already been reflected in our decisions on additional investment in the current RP6 period up to 31 March 2024 under the Green Recovery programme. We have also taken account of reductions in strands of direct investment where work was expected to be completed in the original RP6 period. Annex P of the RP6 final determination (Planned Network Investment Volumes and Allowances) [11] provided detailed levels of networks investment and planned outputs. As part of this decision, we have updated the Planned Network Investment Volumes and Allowances for the extended RP6 period to include the volume of work and allowances for the RP6 extension year.

c) Considered and made allowance for the cost pressures in excess of inflation identified by NIE Networks for direct network investment.

4.14 Our assessment of allowances, rates and amounts does not capture decisions already made on additional capital or opex allowances under the licences. For example: additional investment in the transmission network under the ‘D5’ programme; investment already determined under the Green Recovery programme; or determinations of additional Opex in respect for the Apprenticeship Levy, Injurious Affection. These decisions continue to stand in their own right.

4.15 Nor does our assessment anticipate future decisions on additional capital and opex allowances which may be made under the licence for the extended RP6 period. For example:

a) Further decisions on additional investment under the D5 programme.

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[10] [2022-07-06 RP7 final Approach Document final.pdf (uregni.gov.uk)]
[11] [Annex P - Planned Network Investment Volumes and Allowances.pdf (uregni.gov.uk)]

b) Further decisions on additional allowances in respect of the Apprenticeship Levy or Injurious Affection as appropriate.

c) Additional work which the company envisages in the RP6 extension year such as further investment in network monitoring, investment to facilitate reverse power flow and additional investment in IT systems required to support long term network monitoring and management and DNO to DSO transition.

Further decisions on additional allowed capital and additional allowed opex will continue to be made under the relevant terms of the licence as appropriate to the extent that they have not been allowed for in this decision or previous decisions.

4.16 When assessing allowances for the RP6 period we first assessed costs on the basis of efficient cost at the time. We then applied a frontier shift to the allowances to reflect both the difference between our notional inflation index (RPI) and inflation of network opex and investment (real price effects) and on-going productivity improvements. When extending allowances for the RP6 extension year, we have applied a continuing on-going efficiency as set out in Table 2.6 above.

4.17 We will continue to review issues such as the need for future investment, unit costs, productivity and cost pressures as we make our decisions for the RP7 Price Control period. These future decisions will not be constrained by our decisions on the need for future investment, unit costs, productivity and cost pressures undertaken for the RP6 extension year and will reflect the best information available to us at the time they are made.

Type of Licence Modification	Licence	
	Distribution	Transmission
Modifications to allowances, rates and amounts for the extension year		
Modify the Distribution Business allowed capex per RAB_D5Y to include a determined amount for the year t = 2025.	Annex 2 paragraph 4.32 Table 3	na
Modify the Distribution Business allowed capex per RAB_DN to include a determined amount for the year t = 2025.	Annex 2 paragraph 4.34 Table 4	na
Modify the Distribution Business allowed capex per RAB_TN to include a determined amount for the year t = 2025.	na	Annex 2 paragraph 4.32 Table 3
Modify the Distribution Business allowed capex per RAB_T5Y to include a determined amount for the year t = 2025.	na	Annex 2 paragraph 4.32 Table 3
Modify the Distribution undereaves allowance unit cost (UAU_2016) to include a determined amount for the year t = 2025.	Annex 2 paragraph 4.35 Table 5	na
Increase the constraint on the determination of additional allowed capex for trials to assess and demonstrate innovative future investment.	Annex 2 paragraph 4.38(c)	Annex 2 paragraph 4.35(e)
Modify the Distribution Business first metering fixed allowance ($FMFA_t$) to include a determined rate for the year t = 2025.	Annex 2 paragraph 4.42 Table 6	na
Modify the Distribution Business second metering fixed allowance ($SMFA_t$) to include a determined rate for the year t = 2025.	Annex 2 paragraph 4.44 Table 7	na
Make provision for the determination of additional metering allowance unit cost for additional Metering category C.	Annex 2 paragraph 4.46 Annex 2, add paragraphs 4.46A, 4.46B and 4.46C	na
Modify the aggregate amount metering category C 'Meter Replacement for theft' to take account of decisions to date under Annex 2 paragraph 4.50 of the distribution licence and the additional year of RP6.	Annex 2 paragraph 4.48(a)	na
Modify the real price effects & productivity factors ($RPEPF_t$) to include a determined rate for the year t = 2025.	Annex 2 paragraph 4.52 Table 9	na
Modify the Distribution Business allowed opex amount (AO_t) to include a determined rate for the year t = 2025.	Annex 2 paragraph 6.13 Table 10	Annex 2 paragraph 6.13 Table 4
Modify the pension deficit amount (P_2016_t) to include a determined rate for the year t = 2025.	Annex 2 paragraph 7.1 Table 11	Annex 2 paragraph 7.1 Table 5

Note: na – not applicable to the relevant licence

Table 4.2: Modifications to allowances, rates and amounts for the RP6 extension year

Reasons

4.18 The overarching reason for modifying the Determined Values is that they are required by both the Transmission and Distribution licence formulae in order to set the Maximum Regulated Transmission Revenue, the Regulatory Asset Base, the Return Amount, the Opex Amount, the pension deficit amount and the Tax Amount for the RP6 extension year which will drive the tariffs set by NIE Networks to operate their businesses.

4.19 The detailed substantiation for the various allowances rates and amounts for the current RP6 period are contained in the RP6 final determination. The determined values for the RP6 extension year are first based on a roll forward of the determined amounts for RP6 subject to reasoned adjustments. In this section we provide an explanation of the reasoned adjustments made to arrive at the values for the RP6 extension year.

4.20 The **Distribution and Transmission allowed capex per RAB_D5Y and RAB_T5Y** has been assessed on the basis of the average of the determined values for the six full years of RP6 subject to a frontier shift for 2024/25 set out in Table 2.6.

4.21 The **Distribution and Transmission allowed capex per RAB_DN and RAB_TN** include direct network investment, closely associated indirect (CAI) costs, and capitalised work on inspection, maintenance and faults (IMF). The allowance for CAI and IMF have been assessed on the rate for the RP6 period, subject to a frontier shift for 2024/25 set out in Table 2.6. The assessment of direct network investment is first based on the specific assessment in Annex P of £56.35m for distribution investment and £4.7m for transmission investment based on RP6 rates, subject to a further uplift of £8.31m to allow for additional cost pressures over inflation.

4.22 The **Distribution undereaves allowance unit cost (UAU_2016)** has been extended at the RP6 determined rates. These unit rates are subject to the cost frontier shift for 2024/25 set out in Table 2.6.

4.23 The constraint on the determination of additional allowed capex in the Distribution Licence and the Transmission Licence for **trials to assess and demonstrate innovative future** investment has been increased to allow NIE Networks to propose additional work of this type for the RP6 extension year. This will allow the company to continue to undertake trials which will inform future investment decisions.

4.24 The **Distribution Business first and second metering fixed allowances ($FMFA_t$ and $SMFA_t$)** have been extended at the RP6 determined rates. These unit rates are subject to the cost frontier shift for 2024/25 set out in Table 2.6. Provision has been made to determine **additional allowance**

unit cost for one or more additional Metering Categories C to allow rates for new categories of meters necessary to facilitate LCT connections to be introduced in the year t=2025 where these are demonstrably different from meter categories already covered by the licences. An additional factor for **real price effects & productivity factors ($RPEPF_t$)** has been introduced for year t=2025 to apply to the various metering rates in the RP6 extension year. This additional factor continues to reflect on-going productivity improvements.

4.25 The amount of metering category C '**Meter Replacement for theft**' has been increased from 7700 to 17700. This reflects the fact that the opportunity identified has been higher than originally envisaged and that it remains in the interest of all consumers to ensure that meters are replaced in these circumstances.

4.26 The **Distribution and Transmission allowed opex amounts (AO_t)** have first been extended on the basis of the RP6 allowance subject to the cost frontier shift for 2024/25 set out in Table 2.6. We have not rolled forward the distribution opex allowance in full as we note that NIE Networks has out-performed its cumulative OPEX allowance by 8.3% to 2021/22 and will retain half of this out-performance. In view of the out-performance to date, we have reduced the opex distribution allowance for the extension year by £4.339m to £51.109m versus a rolled forward amount of £55.447m. We consider that this approach incentivises NIE Networks to continue to push for efficiencies in how it maintains and operates the network.

4.27 NIE Networks has confirmed that, based on its most recent pension revaluation, further contributions must be made against the historic pension deficit and that these are expected to continue into RP7. **The pension deficit amounts (P_2016_t)** for the Distribution Business and Transmission Business are required to bring the RP6 Final Determination allowances into the RP6 extension year to support these on-going payments. The respective amounts relate to our determination on amounts to be paid to reduce the current NIE Networks pension scheme deficit balance. The principles we applied and allowances set are consistent with Chapter 8 of our Final Determination for RP6. This includes an adjustment in relation to the ERDC disallowance.

4.28 In the RP6 final determination we noted that, in respect of pension deficit repair allowances: *The RP6 allowances for 2022-2024 will be reviewed for RP7 upon consideration of the outcome of the triennial reviews at 2017 and 2020 (also 2023, if available). At RP7 we will make an informed decision as to whether these deficit recovery payments are required or should be adjusted. We note that, should the pension scheme be in surplus at RP7, we will make a negative adjustment to allowances granted for 2022/24. Any* *adjustment will be in NPV neutral terms.* This review and any adjustments will now take account of allowances for 2024/25.

Effects

4.29 The effect of the changes detailed above is to introduce the allowances, unit rates and amounts for the RP6 extension year which allow the calculation of the Maximum Regulated Revenue for the purpose of calculating tariffs in the RP6 extension year and thus secure that the licence holder is able to finance its activities during the RP6 extension year while also protecting consumers.

4.30 We have estimated that, compared with the position if we had not made any adjustments in respect of the extension year, the additional capital investment allowed in 2024/25 will increase customer tariffs by 0.7% and the reduction in opex will reduce customer tariffs by 1.1% when (in each case) compared to 2023/24. In other words, the net effect on customer tariffs of the modifications made in respect of the extension year will be, on a like-for-like basis, a small reduction of 0.4%.

4.31 However, in practice, this small tariff change will be masked by increases in tariffs due to inflation and reduced consumption which will have effect during 2024/25. Further investment carried out by NIE Networks in pursuit of net zero will also continue to increase cost to consumers. In absolute terms the effect on consumers of the modifications we are making is therefore very small, and in relative terms even smaller.

Modification of dates to apply to the RP6 extension year

4.32 Modifications of dates to apply to the RP6 extension year are summarised in Table 4.3 below.

Type of Licence Modification	Licence	
	Distribution	Transmission
Modify the definition of additional allowed capex ($ACDR\_X_t$) to include amounts determined for the year t = 2025.	Annex 2 paragraph 4.38(d)	na
Modify the definition of allowed opex other amount to include amounts determined for the term NES_t for the year t = 2025.	Annex 2 paragraph 6.15	Annex 2 paragraph 6.15
Modify the definition of the correction factor amount (K_t) to include amounts calculated for the year t = 2025	Annex 2 paragraph 11.1(b)	Annex 2 paragraph 11.1(b)
Modify the time when the charge restriction conditions cease to apply to the 1 October 2025.	Annex 2 paragraph 15.2	Annex 2 paragraph 15.2

Note: na – not applicable to the relevant licence

Table 4.3: Modification of dates to apply to the RP6 extension year

__Reasons for modifying dates to apply to the RP6 extension year__

4.33 The relevant sections of the licence itemised above are only effective up to and including year t=2024 (year ending the 31 March 2024). Unless these sections of the licence are amended to include year t=2025, they will not have effect in the RP6 extension year. This would prevent the determination of additional allowed capex amounts and the proper determination of the Maximum Regulated Distribution Revenue and the Maximum Regulated Transmission Revenue for the purpose of calculating tariffs.

__Effect of modifying dates to apply to the RP6 extension year__

4.34 The effect of the modifications is to allow the relevant clauses of the licence to have effect in the RP6 extension year (t=2025). This allows the licence holder to calculate the Maximum Regulated Distribution Revenue and the Maximum Regulated Transmission Revenue for the purpose of calculating tariffs in the RP6 extension year and thus secure that the licence holder is able to finance its activities during the RP6 extension year.

Return amount and associated financial parameters for the RP6 extension year

4.35 In the current licence, the calculation of Maximum Regulated Revenue, used to calculate tariffs, makes provision for a return on capital (the Return Amount) and tax (the Tax Amount).

4.36 The Return Amount and the Tax Amount secure the ability of the licensee to finance their activities, in particular to provide a return on investment as measured by the Regulatory Asset Base. The Return Amount is calculated on a vanilla (post tax) basis while the Tax Amount makes provision for the tax costs incurred by the Licensee.

4.37 The rate of return for RP6 is adjusted through a Rate of Return Adjustment Mechanism to reflect a benchmark cost of debt at the time the licensee raises finance. We will not change these mechanisms or any associated financial parameters for the RP6 extension year.

5. Reliability Incentive

Overview

5.1 The Maximum Regulated Distribution Revenue, as defined at paragraph 3.4 of Annex 2 of the Distribution Licence, includes revenue from a reliability incentive (term RI_t). This is defined as '*the allowed amount (if any) in Regulatory Reporting Year t, being the amount the Authority determines in a published decision to be appropriate for the Licensee to recover in respect of the reliability incentive in that Regulatory Reporting Year t, as calculated by the Authority under and in accordance with the Reliability Incentive Model*'.

5.2 Detailed information on the current Reliability Incentive Model was published as Annex M of the RP6 final determination.[12] The model sets targets for unplanned and planned customer minutes lost (CML) and provides a symmetrical incentive for performance against target, subject to a cap and collar where an estimated 1.5% of annual distribution revenue is exposed to the incentive.

5.3 The company has made significant improvements in performance in RP6 as measured by both planned and unplanned CML. It has consistently out-performed the 'collar' for each measure.

5.4 We will continue the Reliability Incentive for the RP6 extension year. As the existing model only includes targets and a cap and collar up to 2023/24, we will extend the Reliability Incentive Model to allow a value to be calculated for the year 2024/25.

5.5 We will not make any changes to the structure or the key parameters of the model other than to amend the central target for Unplanned CML.

5.6 We will revise the Unplanned CML target for the RP6 extension year to 48 CML which represent a reduction of circa 6 CML from the 2023/24 target to recognise the out-performance achieved by the company to date.

5.7 We will not change the existing RP6 Planned CML target as we recognise the increasing profile of planned work on the network over the period to March 2024, which will further ramp up in the RP6 extension year taking account of Green Recovery and LCT related investments which could result in an increase in planned CML compared with performance in RP6 to date.

[12] Annex M - Reliability Incentive.pdf (uregni.gov.uk)

Reasons

5.8 A Reliability Incentive focusing on CML was introduced in RP6 with the objective of improving network reliability and service to customers. Furthermore, focusing on reliability can help balance other regulatory objectives, most notably low prices for consumers. While we expect NIE Networks to be efficient and ensure prices are no higher than necessary, regulatory mechanisms such as benchmarking may perversely encourage NIE Networks to reduce reliability, which would be at the detriment of customers. Therefore, by maintaining a reliability incentive for the RP6 extension year, we can ensure that NIE Networks continue to appropriately manage the trade-off between costs and reliability.

Effects

5.9 The effect of the licence modification is to maintain a partially recalibrated incentive for NIE Networks taking account of performance to date in RP6 to improve the reliability of its distribution system for electricity consumers in a cost effective way. It will also enable UR to assess the impact of the incentive on NIE Networks performance and inform its suitability for subsequent price controls.

5.10 For avoidance of doubt, neither penalties nor rewards incurred through the reliability incentive during the RP6 extension year will be subject to the 50:50 incentive mechanism.

6. Next Steps

6.1 This paper set out the Utility Regulator's decision on modifications to the NIE Networks' Distribution Licence and Transmission Licence to extend the RP6 price control by one year to include the year 2024/25 year. The licence modifications outlined in this decision paper will apply with effect from 24 May 2023.

6.2 The next steps and associated timelines for the remainder of the licence modification process are outlined in Table 6.1.

Next steps	Date
Decision on licence modifications pursuant to the RP6 final determination and other regulatory decisions	29 March 2023
Effective date of licence modification decision	24 May 2023

Table 6.1: Next steps

6.3 The effective date of the licence modifications is 56 days after the publication of the licence modification decision, in line with the requirements of Article 14(10) of the Electricity Order. This period provides an opportunity for NIE Networks, any other licence holder materially affected by the decision, a qualifying body or association representing one of those licence holders, and/or the Consumer Council for Northern Ireland to appeal the decision on the licence modifications to the Competition and Markets Authority (CMA).

6.4 An application to the CMA for permission to appeal must be made within 20 working days from the 29 March 2023.

6.5 If an appeal was brought to the CMA, the CMA would in a first step decide whether to give permission for the appeal to proceed or not. If permission were granted, the CMA would have a period of 6 months in which to determine the appeal. This could be extended to 7 months if required.

6.6 In the event of an appeal to the CMA, the CMA may decide to suspend this decision or part of this decision for the duration of the appeal

6.7 This document is available in other accessible formats, such as large print, Braille, audio cassette and a variety of relevant minority languages if required. Please contact Sean Lyons on either 028 9031 6341 or email: Electricity_Networks_Responses@uregni.gov.uk with cc to sean.lyons@uregni.gov.uk to request this.