

Mr Ronan McKeown
Northern Ireland Electricity Networks Ltd
120 Malone Road
Belfast
BT9 5HT

Date: 26/10/2020

Our Ref: NET/E/TH/281

Dear Ronan

RE: Decision on “Construction Approval” for Agivey Cluster

We¹ write in respect of the application by NIE Networks (**NIE**) set out in your submission dated 15 October 2020 (the **NIE Application**).

How we treat the NIE Application

We treat the NIE Application as an application that the *Designated² Generation Cluster Infrastructure* at Agivey (the **Agivey GCI**) stand as “approved” within (i) the terms of para 4.21 of Annex 2 to the NIE licence authorising distribution (the **Licence**) and (ii) the provisions of NIE’s statement of charges for connection (the **NIE SOCC**)³. As shorthand, we refer to the NIE Application as an application for “*construction approval*”.

The NIE Application details costs elements⁴ totalling out at a CAPEX⁵ amount of £12.95 million.⁶ The capacity subscribed to by the relevant generators is 86.4MW (out of a total Cluster capacity of 90MW).

Our decision

We hereby grant the “construction approval” sought on the basis of the advised CAPEX amount and generator “subscription”. The Agivey GCI is, accordingly, to now stand as *Approved Generation Cluster Infrastructure*.⁷

¹ In this correspondence, the terms “we”, “us” “our” “the UR” and the “Authority” are used interchangeably and refer to the Northern Ireland Authority for Utility Regulation.

² Pre-construction approval to proceed with the Agivey Cluster was previously granted in December 2016 and subsequently modified in the amount of £1.2m. The terms of the NIE SOCC provide that the grant of pre-construction approval for a particular cluster project renders that cluster a *Designated Generation Cluster Infrastructure*.

³ The current NIE SOCC may be found here: <https://www.nienetworks.co.uk/documents/connections/socc-july-2020-update-submitted-to-ur-changes-acce.aspx>

⁴ These costs elements include various provisions and allowances.

⁵ The NIE Application makes it clear that there are also costs implications for O&M charges associated with the Agivey GCI.

⁶ These “costs” include the pre-construction costs in the amount of £1.2 million.

⁷ Within the meaning of the NIE SOCC and the provisions of para 4.21 of the Annex to the Licence.

Reasons for our decision

We are satisfied that the NIE Application is in accord with the applicable regulatory arrangements pertaining to clustering. Those arrangements are to be found in (i) the terms of our decision paper on clustering published in 2011⁸ and (ii) the reflective provisions of the approved NIE SOCC.⁹ We assess¹⁰ that the NIE Application sets out a proper (and, indeed, strong) justification for the Agivey GCI having due regard to the provisions of Appendix 2 to the NIE SOCC¹¹. The “need” for the Agivey GCI is clearly demonstrated in the NIE Application. We further note that:-

(a) The connecting generators have demonstrated a significant commitment to the Agivey GCI through established financial outlays.

(b) NIE has advised that it will seek appropriate security instruments from the connecting generators (in line with the NIE SOCC) and will aim to remain “cash positive” throughout construction of the Agivey GCI.

(c) The unsubscribed capacity at the Agivey GCI (namely, 3.6MW) is very low, meaning that the connecting generators should (per the terms of the NIE SOCC) be liable to contribute upwards of 96% of the costs of the Agivey Cluster until such times as the capacity of the Agivey GCI becomes fully utilised/subscribed.¹²

Looking at all matters in the round, it is our assessment that the costs implications for the NI consumer base¹³ involved in granting construction approval for the Agivey GCI may not be characterised as at all prohibitive. A proper case for construction approval has been established by the NIE Application.

Furthermore, we consider that our decision is consistent with our statutory responsibilities as set out in Article 12 of the Energy (NI) Order 2003.¹⁴

⁸ Which can be found here: <http://www.uregni.gov.uk/news-centre/decision-paper-published-charges-clustering-ni-distribution-system>

⁹ See, in particular, the provisions of Appendix 2 to the NIE SOCC. The arrangements are underpinned by operational principles agreed between the UR and NIE.

¹⁰ Having carefully considered the risks associated with the Agivey GCI as set out in the NIE Application (to include certain risks associated with planning conditions).

¹¹ Appendix 2 to the NIE SOCC calls for certain justificatory criteria to be demonstrated. These include environmental and economic considerations.

¹² When (and if) subscription reaches full capacity, the generators will have paid for (and be paying) the full costs associated with the Agivey GCI (to include the full amount of applicable O&M levies).

¹³ The provisions of the CC_X_i term of para 4.21 of the Annex to the Licence permits NIE to recover those costs associated with establishing the (approved) Cluster (not demonstrated to be wasteful or inefficient) not recovered from the connecting generators.

¹⁴ We consider that the decision to grant construction approval is in accord with the applicable regulatory framework for clustering. That framework is consistent with the responsibilities set out in Article 12 of the Energy (NI) Order 2003.

Implementation of our decision

We understand that NIE shall now (following our grant of “*construction approval*” for the Agivey GCI) update/revise the Terms offered (for connection) to the relevant generators. Our expectation is that those updated Terms will call for contributions to the costs of the (now approved) Agivey GCI - from those generators - to the *maximum extent consistent with* the terms of the NIE SOCC.¹⁵

We welcome the indication by NIE that it shall return to us in the unlikely event that a costs over-run be in reasonable prospect.

The UR shall monitor the costs of the Agivey GCI. The out-turn costs of the Agivey GCI shall be validated at the conclusion of the project in the normal way.

Closing acknowledgement

We wish to close by putting on record our acknowledgement of the substantial work done by NIE Networks in processing the application for “construction approval”. We welcome the industry and attention to detail shown. The evident concern that the interests of consumers be suitably protected by, and through, the application process, is also welcomed. NIE Networks’ general approach is to be commended. We look forward to continued co-operation within the scope of the applicable regulatory arrangements.

Yours sincerely



Tanya Hedley
Director of Networks
Duly authorised by the Authority

Accordingly, the decision to grant construction approval is considered consistent with the responsibilities set out in Art. 12 of the 2003 Order.

¹⁵ We note that the CC_X_i term (of para 4.21 of the Annex to the Licence) provides that net costs for an approved Cluster may only be included in the RAB addition where that inclusion is “*consistent*” with the NIE SOCC. We have regard here to the provisions of para. 4.2 of the NIE SOCC (to include para 4.2.4, which obliges a connecting generator to agree to pay *all* costs associated with complying with *inter alia* requisite *planning conditions*).