

UTILITY REGULATOR'S CALL FOR EVIDENCE ON SONI GOVERNANCE

NIE Networks' Response

30 September 2019

1. Introduction

NIE Networks welcomes the opportunity to respond to the Utility Regulator's 'Call for Evidence' in respect of its review of SONI governance arrangements.

NIE Networks is the owner of the electricity transmission and distribution networks in Northern Ireland and the distribution network operator. NIE Networks is responsible for developing, constructing and maintaining the transmission network. In its separate role as electricity transmission system operator, SONI is responsible for operating and planning the transmission network in Northern Ireland. SONI is therefore an important stakeholder for NIE Networks, with our ability to work in cooperation with SONI critical to the efficient delivery of electricity transmission infrastructure projects in Northern Ireland.

Going forward, both SONI and NIE Networks will continue to have crucial roles in delivery of the future transition of the energy system in Northern Ireland as an enabler towards a low carbon economy. This will aim to build on the early achievement of Government's 2020 target of 40% of electricity generated from renewable sources. In common with the increasing drive towards a sustainable 'whole energy' future across the UK and European Union, the future energy transition in Northern Ireland will bring the potential for new market models for electricity system services and much greater electrification of heat and transport.

In this context, NIE Networks and SONI will increasingly need to work in partnership to deliver outcomes that meet future Northern Ireland electricity system needs, as well as coordinating day to day operation of the distribution and transmission systems respectively.

Therefore, NIE Networks considers it important that SONI's governance mechanisms should support and enhance arrangements in Northern Ireland aimed at:

- the timely and efficient delivery of transmission infrastructure projects
- the evolution to a low carbon economy
- the best outcomes for Northern Ireland customers and stakeholders

Our detailed response below is structured in accordance with the themes highlighted by the Utility Regulator in section 8 of its Call for Evidence paper.

2. Decision-making in SONI

The Utility Regulator asks¹ for views on the need for clarity on the role of the SONI Board in the context of Northern Ireland stakeholders understanding who establishes SONI's purpose, values and strategy. NIE Networks agrees that in principle, it is important that Northern Ireland stakeholders understand these arrangements to ensure public confidence is maintained.

The Utility Regulator asks for views on the respective roles of the SONI Board and those matters that should be reserved for the Eirgrid Board. NIE Networks considers this issue relates to the wider consideration of Condition 12² of SONI's TSO licence, which is discussed further in section 4 below.

3. UK Corporate Governance Code

The Utility Regulator seeks³ views on whether the principles of the UK Corporate Governance Code should be applicable to SONI.

To the extent that particular principles outlined in the Code may be considered beneficial to improving SONI governance, NIE Networks considers that each of these should be assessed separately and carefully on their own merits, rather than simply requiring SONI to comply with the Code in whole. Such assessment should be on the basis of selected principles that are necessary to improve SONI's governance arrangements, and any change would preferable be done by agreement with SONI on a voluntary basis.

4. Transparency and Accountability

NIE Networks notes⁴ that the Utility Regulator has already formed the view that changes are required to Condition 12 of SONI's TSO licence to improve clarity, and that the Utility Regulator will subsequently consult on these changes thus providing stakeholders with the opportunity to provide their views.

NIE Networks also notes that once any changes have been made to Condition 12, the Utility Regulator will need to give SONI notice to submit its Compliance Plan. This process would seem designed to clarify SONI's licence provisions and once published, SONI's Compliance Plan should improve the transparency that stakeholders have in these matters.

The Utility Regulator highlights⁵ what appears to be overlapping roles and responsibilities between SONI and Eirgrid, and raises the potential that this may not serve the interests of transparency for Northern Ireland stakeholders and arguably does not provide the confidence that any conflicts of interest will be managed effectively.

¹ Paragraphs 8.5

² Relating to 'Independence of the Transmission System Operator Business'

³ Paragraphs 8.12

⁴ Paragraph 6.19ff

⁵ Paragraph 8.14

With reference to Appendix 3 of the ‘Call for Evidence’ paper, NIE Networks notes that Condition 12⁶ of SONI’s licence appears to require decisions relating to the Northern Ireland transmission system to be taken only by directors or other persons employed by SONI’s TSO business. On this basis, Condition 12 would appear to already provide for independent decision-making within SONI.

While supportive of this requirement, NIE Networks would caution the Utility Regulator against going further without full and careful consideration that balances any desire for greater operational independence with enabling SONI to benefit as far as possible from the wider capability and resource readily available to it within Eirgrid. The electricity transmission system operates on an all-island basis and Eirgrid faces similar challenges as TSO in the Republic of Ireland to those challenges SONI faces in Northern Ireland. Enabling SONI to avail of the wider capability and resource within Eirgrid should therefore bring benefits for Northern Ireland stakeholders through lower costs and better coordinated TSO outcomes. However, leveraging the benefits of the wider resource capability in the Eirgrid in this way should be managed in accordance with SONI’s TSO licence, as well as the transmission arrangements that apply in Northern Ireland. This is discussed further in section 5 below.

5. Flexibility for Future Arrangements

The Utility Regulator rightly highlights⁷ the critical importance of engagement between SONI and NIE Networks in the delivery of transmission network infrastructure. NIE Networks considers the Transmission Interface Agreement (TIA) to be an important enabler in this regard and would highlight that NIE Networks and SONI are currently reviewing the TIA with a view to ensuring that the formal working procedures that underpin our engagement are optimised and fit for purpose for the challenges ahead. This review is progressing well and is expected to be completed shortly, with new TIA subsidiary documents to be developed to provide greater transparency on the working procedures. Any modifications that are required to the TIA itself will be submitted to the Utility Regulator for its formal approval.

NIE Networks would also highlight that the transmission licence and interface arrangements that exist in Northern Ireland, whilst similar to those in GB, are somewhat different from those existing in the Republic of Ireland. Therefore to the extent that SONI continues to involve Eirgrid staff in resourcing its activities, it is important that the Northern Ireland arrangements are fully understood and taken into account of in whatever processes are put in place within SONI / Eirgrid, in order that the Northern Ireland interface arrangements operate effectively in practice to the benefit of Northern Ireland stakeholders.

The Utility Regulator invites⁸ views on what resources SONI will require to manage the energy transition, with particular reference to Northern Ireland requirements and the creation of new ways of working with NIE Networks. NIE Networks considers resourcing primarily to be a question for SONI to consider along with the Utility Regulator in light of its responsibilities under its TSO licence and future Compliance Plan, including those

⁶ Condition 12(2)(c)

⁷ Paragraph 8.20

⁸ Paragraph 8.24

requirements relating to its operational independence. The Utility Regulator's proposals⁹ to clarify these requirements should assist in this regard.

The Utility Regulator also seeks views on what enablers and barriers may be important to consider in light of SONI's role in the energy transition. In this respect, and as referred to in section 4 above, NIE Networks considers it will be important that any changes in SONI's governance arrangements resulting from the Utility Regulator's review are carefully balanced with enabling SONI to access the wider capability and resource available to it within Eirgrid whilst complying with the SONI's TSO licence obligations and in accordance with Northern Ireland transmission arrangements.

6. Points of Factual Accuracy

The Utility Regulator asks that respondents draw attention to any issues of factual accuracy. NIE Networks would highlight the following points.

- The paper refers¹⁰ to SONI's TSO licence and general duties under legislation, with these inaccurately summarised. NIE Networks would highlight that in broad terms, SONI is responsible for 'operating and planning' the NI transmission system, whilst NIE Network is responsible for 'developing and maintaining' the Northern Ireland transmission system.
- The paper refers¹¹ to the divestment of SONI and NIE Networks. Firstly, these divestments did not occur at the same time; rather SONI was divested in March 2009 and NIE Networks¹² was divested in December 2010, and by Viridian Group (not NIE). It should also be noted that NIE Networks was acquired by ESBNI Limited¹³, not ESB Networks.
- Contrary to what is stated¹⁴ in the paper, the chair of the NIE Networks Board is in fact an independent non-executive director.
- Reference is made in Appendix 1 of the paper¹⁵ to the transfer of transmission pre-construction functions from NIE Networks to SONI. This transfer took place in 2014 (not 2013 as stated).

⁹ Paragraph 6.19

¹⁰ Paragraph 2.1

¹¹ Paragraph 2.13

¹² Namely Northern Ireland Electricity Limited at the time

¹³ A wholly owned subsidiary of ESB established at the time

¹⁴ Paragraph 7.18

¹⁵ Final paragraph of page 37