

Company Secretary  
Northern Ireland Electricity Limited  
120 Malone Road  
Belfast  
BT9 5HT

1 July 2014

Dear Sirs

## 1. Certification of Northern Ireland Electricity Ltd (NIE)

- 1.1. This letter sets out the decision of the Northern Ireland Authority for Utility Regulation (referred to as the Utility Regulator (**UR**)) in relation to NIE being certified as a transmission system operator in Northern Ireland.

## 2. Background

- 2.1. The Third Energy Package<sup>1</sup> requires the unbundling of transmission system owners/operators from production and supply interests and the certification of transmission system operators.
- 2.2. NIE is the owner of a transmission system in Northern Ireland in respect of which the transmission system operation functions are effectively shared between NIE and SONI Limited.
- 2.3. Both NIE and SONI are licensed in Northern Ireland to participate in the transmission of electricity and thereby each is the holder of a 'transmission licence'.
- 2.4. Article 10B of the Electricity (Northern Ireland) Order 1992 (the **Order**) requires NIE to ensure that it is certified at all times when it acts under the authority of its transmission licence. The certification of transmission system operators is a function conferred on the UR. Accordingly NIE applied to the UR for certification.

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<sup>1</sup> For these purposes Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (the **Directive**) and Regulation (EC) No. 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (the **Regulation**).

2.5. Article 10F sets out four grounds of certification. Article 10F(4) provides that the second certification ground is that the applicant has applied for a derogation from the ownership unbundling requirement [as set out in Article 10G] on the grounds in paragraph (9) of Article 9 of the Directive and the UR has determined that the requirements of that paragraph are met.

2.6. Article 9(9) of the Directive allows arrangements already in place on 3 September 2009 to be retained if they ensure more effective independence of the transmission system operator than the rules provided for under the independent transmission operator unbundling model set out in Articles 17 to 23 of the Directive.

2.7. NIE's application for certification was for it to be certified on the second certification ground.

2.8. Having considered the application and the arrangements in place, in accordance with the requirements of the Directive, on 15 February 2013 the Utility Regulator notified its preliminary decision on NIE certification to the European Commission (the **Commission**).<sup>2</sup>

### 3. The European Commission's decision

3.1. On the 12 April 2013 the Commission published its decision pursuant to Article 3(1) of the Regulation and Article 10(6) of the Directive.

3.2. On the basis of the reasons set out in its decision document the Commission considered that, the arrangements notified by the UR according to which the tasks of transmission system operation are shared between SONI and NIE deliver more effective independence than the independent transmission operator model.

3.3. The Commission held that, the arrangements in place in relation to the vertical integration and operation of the transmission system belonging to NIE existing on 3 September 2009, as set out in the Utility Regulator's preliminary decision, meet the requirements of Article 9(9) of the Directive and could clearly guarantee more effective independence of the transmission system operators than the provisions of Chapter V of the Directive.

3.4. The decision of the Commission was that SONI should be certified as the transmission system operator for Northern Ireland.<sup>3</sup>

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<sup>2</sup> See [http://www.uregni.gov.uk/news/view/preliminary\\_decisions\\_on\\_tso\\_certification/](http://www.uregni.gov.uk/news/view/preliminary_decisions_on_tso_certification/)

#### 4. Certification of NIE

- 4.1. In accordance with the Commission's decision, the UR made its decision to certify SONI, as a transmission system operator, on and from 26 June 2014 as a transmission system operator meeting the second certification ground.
- 4.2. In accordance with domestic law (Regulation 10A of the Gas and Electricity (Internal Markets) Regulations (Northern Ireland) 2011) where the UR makes a final decision that SONI shall be certified on the second certification ground, NIE shall be deemed to be also certified for the purposes of Articles 10B to 10K on the second certification ground.
- 4.3. Accordingly NIE is deemed to be certified as a transmission system operator for the purposes of Articles 10B to 10K of the Order on the second certification ground from 26 June 2014. The date of certification is the date upon which the SEM Committee took the decision to certify and the purpose of this letter is to notify the decision.

Yours faithfully,



**Jenny Pyper**

**For and on behalf of the Northern Ireland Authority for Utility Regulation**

cc. John Mills  
Inge Bernaerts

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<sup>3</sup> See [http://www.uregni.gov.uk/uploads/publications/Adopted\\_Decision\\_SONI-NIE\\_130412.pdf](http://www.uregni.gov.uk/uploads/publications/Adopted_Decision_SONI-NIE_130412.pdf)