

Consultation on NIE Networks 6th Price Controls (RP6) Draft Determination

Response from SONI Ltd.

19 May 2017



Introduction

SONI welcomes the opportunity to respond to NIAUR's consultation on its draft determination on NIE Networks' 6th Price Control (RP6). This is the first price control to be fully assessed since NIE Networks' licences were separated to facilitate differences in its responsibilities and activities in distribution and transmission. Since 1 May 2014, as the certified TSO for the NI transmission system, SONI is responsible for the justification of all transmission investments, including those to be made over the RP6 period.

RP6 is therefore an opportunity to establish a framework that will underpin the industry structure to ensure that the benefits of independent planning of the transmission system are captured for consumers.

SONI's comments focus mainly on the aspects of the draft determination that are associated with NIE Networks' transmission licence activities, and other aspects that impact on SONI's ability to discharge its obligations. SONI is committed to supporting the transmission aspects of the RP6 process.

NI Transmission Licence Framework

Currently three parties hold transmission licences in Northern Ireland: NIE Networks; Moyle Interconnector Ltd; and SONI Ltd. SONI's licence includes the operation of both NIE Networks' and Moyle Interconnector Ltd.'s assets. SONI and NIE Networks are required to comply with the "Transmission Interface Arrangements" (TIA), whereby the transmission system is to be developed and maintained by NIE Networks and planned and operated by SONI Ltd.

SONI collects any revenue to be paid by customers and generators in NI that is due to NIE Networks for use of the transmission network and also that due to Moyle under its agreements.

SONI would like to highlight that regulated companies have different characteristics and that decisions made in the context of one licence holder can and should not automatically apply to another licence holder. The comments submitted here by SONI are in the context of NIE Networks' price control and SONI does not consider these decisions to set any precedence for its licenced activities.

NIE Networks' Importance to SONI and NI

NIE Networks undertakes the essential roles of Distribution Network Operator and Transmission Asset Owner for Northern Ireland and it is essential that they are well funded to carry out the necessary works and undertake sufficient maintenance to ensure that the assets remain fit for purpose for both today's customers and future generations.

SONI relies on project delivery by NIE Networks to discharge its own duties under licence and statute. It is therefore essential for SONI, that RP6 provides adequate resources for NIE Networks to undertake its role, augmented by appropriate and balanced incentives to deliver investments to the required standard in a timely manner.

SONI's Role in RP6

Role and Responsibilities of the TSO

Through its three energy legislation packages, which have been fully transposed into Statute in Northern Ireland, the European Commission (EC) has defined and strengthened the role of transmission system operators to ensure that access to the transmission networks across Europe is provided in a transparent and non-discriminatory manner and that investment decisions are only made by parties who are independent of interests in generation and supply. This is to facilitate competition in the generation and supply of electricity, with the aim of reducing prices for consumers and improving security of supply.

Article 10B¹ of the Electricity (Northern Ireland) Order 1992 requires the certification of TSOs as independent of interests in generation and supply. In accordance with NI Statute, the arrangements were certified by the EC on 12 April 2013. This was based on an assumption that network planning would be transferred to SONI, which took place on 1 May 2014. As a result, SONI was certified as the TSO for NI, with NIE Networks' corporate structure being assessed as contributing "to a stronger degree of independence" than the reference model and therefore sufficient to allow it to discharge the "transmission asset owner function".

Responsibility for Transmission Investment Plan

Under the revised Transmission Interface Arrangements (TIA) and Condition 33 of SONI's Transmission Licence, responsibility for the Transmission Investment Plan rests with SONI. While NIE Networks can request modifications to the plan, the final decision rests with SONI (subject to NIE Networks' right to raise a dispute to be adjudicated by the UR).

The approach proposed for RP6 seems to step outside this process. For example in paragraph 13.27, the UR states that NIE Networks is supposed to review business cases prepared by SONI and to consult with SONI ahead of submission to the UR.

Any exchanges around the plans for the transmission network should pass directly between SONI and the UR, to ensure that the certified arrangements are adhered to, and that both the UR and SONI can fulfil their statutory obligations.

Failure to clarify the roles appropriately in the Final Determination has the potential; to subvert and frustrate SONI's role as an Independent TSO, and could potentially call into question the certification under Article 10B of the Electricity (Northern Ireland) Order 1992.

¹ <http://www.legislation.gov.uk/nisi/1992/231/article/10B>

SONI's Role in Asset Replacement Decisions

Under the Transmission Interface Arrangements approved by the UR, SONI has the right to request amendments to the Transmission Asset Replacement Plan; including the option of referring a dispute to the UR for determination if NIE Networks does not agree to any request. It is therefore important that the funding arrangements determined under RP6 facilitate changes to the volume of asset replacement required without compromising NIE Networks' ability to finance its activities.

SONI considers these TIA processes to be integral to the efficient and appropriate management of the transmission network. Therefore, to ensure consistency with the framework approved by the UR, the substitution of transmission asset replacement projects should only be permitted after the necessary TIA processes have been completed.

SONI is happy to meet with UR and NIE Networks to discuss options that would deliver the alignment necessary between the TIA and RP6.

Comments on Draft Determination

SONI has reviewed the UR's draft determination for RP6 and would like to raise a number of important points with regard to the proposed approach to the review of NIE Networks' transmission revenue entitlement.

Approach to RP6 & Recognition of SONI's Role

- NIE Networks holds separate licences for its distribution and transmission activities. These reflect differences in its statutory role within the industry for these activities. We welcome the difference in the uncertainty mechanisms between the licences, which reflect these separate roles.
- The European Commission's decision on TSO certification has resulted in an industry structure that is unique to NI. Responsibility for planning the transmission system was transferred to SONI from NIE Networks on 1 May 2014. This means that SONI has a statutory role which needs to be incorporated into the outworking of RP6.
- SONI has some concern around the way its role and its interactions with NIE Networks have been reflected in this draft determination. The inconsistencies between RP6 and the approved Transmission Interface Arrangements need to be resolved as a priority, to ensure that RP6 is able to work in the best interests of consumers.
- We note that there has been no interaction directly between UR and SONI as part of this process, contrary to the process followed for previous price controls.

Consumer Engagement Advisory Panel

- If the network is to be designed to meet the expectations of customers, the role of the TSO will need to be incorporated within the RP6 arrangements, particularly around the identification and justification of transmission investments, including interaction with the Consumer Engagement Advisory Panel (CEAP).
- We welcome the continuation of the Consumer Engagement Advisory Panel during RP6. While the scope that has been followed to date is appropriate for distribution issues, SONI is responsible for some of the areas listed within the scope of the CEAP for the transmission network. We therefore request clarification of the role of the CEAP for transmission investments during RP6, and should the panel's remit include transmission, we would expect SONI to be represented to ensure that the panel is able to provide input to transmission investment decisions. This should facilitate alignment between investments at different voltages.

D5 Mechanism

- We welcome the inclusion of some maintenance projects within the D5 mechanism where there is a likelihood that they will not be replaced on a like for like basis. However, we would welcome clarification of the process that will be followed for their approval, particularly the role that SONI will play in confirming the future specification of the assets to be installed. We are also concerned that the draft determination does not reflect or facilitate the approved TIA arrangements, which provide SONI with a right to request changes to NIE Networks' asset management plan.
- As outlined in the draft determination, there is a risk that the excessive bureaucracy associated with D5 projects could frustrate the delivery of transmission investment projects, to the detriment of network users and customers. It is important that whilst the regulatory regime must be designed to handle and manage uncertainty in terms of those projects ultimately brought forward, that it does so in a manner consistent with ensuring efficient delivery of these NPV positive projects.

Telecoms to Support the Transmission Network

- The cost of the telecoms assets related to the transmission system is shared with SONI. We are surprised not to have been included in discussions around the future needs of the transmission network in this regard, particularly as RP6 extends beyond our current price control. We have some concerns that the funding allocated is not sufficient to allow NIE Networks to provide a standard of telecoms services to SONI that are suitable for the needs of the network out to 2024.
- We also note that NIE Networks will be provided an opportunity to substitute other projects for this essential investment. We therefore ask that you meet with us to ensure that your final determination and any subsequent substitution of telecoms investment will not constrain our ability to operate the network in a safe and secure manner.
- We ask that the UR recognises in its Final Determination that the revenues that support telecoms investment for the transmission network are split across two separate, non-contemporaneous price controls, and that the UR provides reassurance that it will align the provisions made across these controls, to ensure that both companies are able to contribute appropriately.

Innovation

- While SONI acknowledges the need for funding to ensure that NIE Networks is able to translate innovative solutions from other areas to its network, there is a risk that these solutions do not address the specific needs of Northern Ireland. The benefits of innovation on the transmission network also need to be realised. Therefore, while the proposals contained in the draft determination around innovation are a step in the right direction, a more strategic approach is required to ensure an efficient and economic network in the medium to long term.
- While the framework proposed for innovation appears to SONI to be consistent with the allocation of responsibilities for innovation on the distribution system, it does not address innovation on the transmission network. This was also omitted from the draft determination of SONI's revenue. We would welcome an opportunity for tri-partite engagement to explore how the benefits of innovation on the transmission system can be captured for consumers under the NI industry structure.

Financeability

- It is essential for SONI, the UR and electricity customers that NIE Networks remains financeable throughout RP6. SONI is concerned that the financeability assessment presented in the draft determination does not consider any sensitivity analyses. These are essential to provide assurance to all stakeholders that NIE Networks would remain financeable, even if the reality of RP6 differs from the optimistic circumstances modelled in the base case.
- Given SONI's reliance on NIE Networks to discharge its own statutory duties, SONI would welcome the consideration of some plausible scenarios as part of the assessment that underpins the final determination. We note that this practice has been adopted for other price controls undertaken by the UR, and would have expected a control as important as RP6 to be accorded an equivalent level of due diligence.
- Consideration should also be given to intergenerational equity in the context of falling RPI nominalised financing costs and the attendant effects on cash and cash ratios under an RPI indexed control. This may give cause to reconsider the current depreciation profiles to ensure that NIE Networks retains sufficient free and available cash flow to remain financeable.

Timelines

- We ask that UR review the timeframe it is providing for RP6, to ensure that a robust and sustainable outcome can be achieved, that delivers benefits for all users of the network in Northern Ireland. In particular, SONI does not believe that

UR has provided sufficient time to allow due consideration of the responses to the consultation on licence modifications.

Conclusion

SONI relies on project delivery by NIE Networks to discharge its own duties under licence and statute. It is therefore essential for SONI, that RP6 provides adequate resources for NIE Networks to undertake its role, augmented by appropriate and balanced incentives to deliver investments to the required standard in a timely manner.

SONI is concerned that the draft determination does not provide a framework that will deliver this objective, and instead has the potential to frustrate the ways of working that have been approved by the UR in the Transmission Interface Arrangements.

We ask that the UR reviews the time it is providing for the delivery of RP6, to ensure that a robust and sustainable outcome can be achieved, that delivers benefits for all users of the network in Northern Ireland. In particular, SONI does not believe that the UR has provided sufficient time to allow due consideration of the responses to the consultation on licence modifications.

SONI would welcome a meeting with UR to discuss the concerns that it has set out in this response.