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Ref: NET/E/TH/746

Dear Eimear

Application for the Authority's¹ consent to further extend the Connection Offer Timelines for EP Kilroot Limited's GT West CCGT Project

Thank you for your letter of 19 October 2023 (**the Letter**).

We treat the Letter as a further application (**the Second Application/SONI's Second Application**"), made under Condition 25(5) of SONI's Transmission Licence (**the Licence**), seeking the Authority's consent for a longer period within which SONI is required² to issue a connection offer (**the Connection Offer**) to EP Kilroot Limited (**EPKL**) for the connection of a Combined Cycle Gas Turbine (**CCGT**) to be located at Kilroot Power Station, Larne Road, Carrickfergus, County Antrim.

The longer period sought is out to **30 November 2023** (from 2 November 2023).

We start by setting out the relevant terms of Condition 25 of the Licence. We then move to the Second Application itself before ending with our decision on the Second Application.

1. Condition 25 of the Licence.

Condition 25(5) (**C25(5)**) provides, as far as relevant, as follows (our underlining added):

"[SONI] shall offer terms for agreements in accordance with paragraphs 1 and 2 as soon as practicable and (save where the Authority consents to a longer period, which consent may be given on the application of [SONI] following consultation by [SONI] with the person making the application and such other persons as [SONI] considers may be affected or interested) in any event not more than the period specified in paragraph 7 after receipt by [SONI] of an application containing all such information as [SONI] may reasonably require for the purpose of formulating the terms of the offer . . ."

¹ In this letter "we", "UR" "us", and "the Authority" are used interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

² Subject to any applicable exception under Condition 25(6) of the Licence.

Condition 25(7) provides that the “period specified” in this case is three months.

As will be discussed (below), the Second Application refers to a previous application (**the First Application**) under C25 in respect of the making of a Connection Offer. The First Application sought consent for a longer period (for the making of a Connection Offer) out from 4 January 2023 to **2 November 2023**.

This letter sets out our decision on the Second Application. It should be read with our decision³ on the First Application dated 4 January 2023. Our decision on the First Application was to grant the consent sought, so that the longer period (then) stood extended out to 2 November 2023.

As will be seen, the Second Application is related to an associated application (**the C20 Application**) made by NIE Networks Limited (**NIE Networks**) under Condition 20 of the NIE Networks licence⁴ authorising participation in transmission. This decision should be read alongside our decision⁵ on the Condition 20 Application dated 10 November 2023. Our decision on the C20 Application is made alongside, but prior to, our decision on the Second Application and confirms our consent for the extension of the period within which NIE is required to make a Construction Offer to SONI (related to the making of a Connection Offer (to EPKL)) from 11 November 2023 to 16 November 2023.

2. The Second Application

The Letter explains the Second Application. What follows is a relevant summary⁶ of the main elements of the Second Application.

On 21 September 2022, SONI received a Transmission Connection Application from EPKL seeking a Connection Offer to connect a CCGT (EP Kilroot GT West total MEC = 500 MW) – ‘GT West’ - to be located at Kilroot Power Station. The Connection Application sought a connection to the NI transmission system.

SONI assessed the Connection Application and deemed it effective on 4 October 2022 so that SONI was then obliged – by the terms of Condition 25 – to make the requisite Connection Offer to EPKL as soon as practicable and, in any event, by no later than 4 January 2023.

³ [2023.01.04 GT West Decision Letter_0.pdf \(uregni.gov.uk\)](#)

⁴ [NIE Networks Transmission Licence - effective 24_05_2023.pdf \(uregni.gov.uk\)](#)

⁵ All decisions are published on the Authority’s website.

⁶ We do not set out a full rehearsal of the Second Application. Regard has been had to all relevant matters. Failure to records any detail does not mean that it has not been considered. The same goes for details of interactions in the period following receipt of the Second Application.

SONI made the First Application (for an extension of the Condition 25(7) period out to 2 November 2023) on 19 December 2022. In broad summary, SONI's rationale for the extension request sought in the First Application, was that more time was needed to determine the LCTA connection arrangement at the Kilroot 275kV Substation.⁷

As already mentioned, the First Application was granted by the Authority on 4 January 2023. By this decision this Authority granted consent to a longer C25 period (for the making of the relevant Connection offer) out to **2 November 2023**⁸. The Authority also emphasises that the consent offered did not affect the C25 obligation to make a Connection Offer *as soon as practicable*.

SONI submitted a Construction Application to NIE Networks (as transmission owner (**TO**)) on 11 September 2023 (for the LCTA connection arrangement identified by SONI). This was done under the procedures set out in the Transmission Interface Arrangements (**the TIA**)⁹ between NIE Networks and SONI. The Construction Offer from NIE Networks is required to enable SONI to make a Connection Offer (to EPKL).

The TIA timelines were such that a Construction Offer (from NIE Networks (TO)) was due to be issued by **19 October 2023**. SONI explains that NIE Networks has been unable to make the relevant timelines. NIE Networks needs more time. Instead, NIE Networks has consulted with SONI on the C20 Application to extend the time for the making of a Construction Offer by 4 weeks¹⁰ out to **11 November 2023**.

SONI relies on the greater time required by NIE Networks (explained in the C20 Application) for provision of the (necessary) Construction Offer as the basis for the making of the Second Application and asks for a further extended (C25 type) longer period (for the making of the Connection Offer) out to **30 November 2023** (from 2 November 2023). Essentially SONI is asking for the same period for production of a Connection Offer: 14 days from receipt of the relevant Construction Offer from NIE Networks.

The Letter explains that NIE Networks consulted with SONI on the (NIE Networks) C20 Application. SONI initially explained that it was supportive of the C20 Application but wanted to liaise with EPKL. EPKL was not supportive of the C20 Application.

⁷ The published decision on the First Application sets out the relevant details.

⁸ [2023.01.04 GT West Decision Letter_0.pdf \(uregni.gov.uk\)](#)

⁹ [transmission-interface-arrangements-nov-2021.aspx \(nienetworks.co.uk\)](#)

¹⁰ The C20 Application frames the extension sought – under Condition 20 of the NIE transmission licence – as one of 5 days from 11 November 2023 to 16 November 2023. Our decision on the C20 Application explains the difference, which is insignificant noting that the end date – *16 November 2023* – for the provision of the NIE Networks Construction Offer remains a constant.

The Authority has been provided with further correspondence (dated 26 October 2023) between SONI and NIE Networks on the C20 Application (and the Second Application). That correspondence confirms that EPKL was not supportive of the C20 Application (or the Second Application) but indicated a willingness to reconsider should it be provided with more details of the C20 Application (see the email from EPKL dated 25 October in response to email from SONI dated 24 October). Those details have not been provided. We do not consider that this means we cannot properly determine the Second Application. We adopted the same approach when deciding the C20 Application. Again, we have decided to grant the C20 Application.

The Letter explains that if the Second Application is granted then that would, in SONI's view, enable SONI to provide the Connection Offer (to EPKL) albeit with a 4 week "delay" to the current (C25) (extended longer) "period" (i.e., 2 November 2023) instead of having to refuse to issue a Connection Offer.

SONI's case is that if the consent sought (to the (further) longer period) in the Second Application is not granted then:

"SONI would not be able to issue a connection offer on 2 November 2023 as it will not have been in receipt of the NIEN(TO) Construction Offer within the TIA timelines and would therefore have to invoke Condition 25 (6) of the Licence."

SONI states that it has considered alternative actions to allow the issue of the Connection Offer to EPKL by 2 November 2023 but has:

"concluded that, in the absence of the NIEN(TO) Construction offer, there are no such actions."

3. Consultation

An application by SONI under Condition 25(5) – like the Second Application - requires SONI to consult with:

" . . . the person making the application [for connection: in this case EPKL] and such other persons as [SONI] considers may be affected or interested."

SONI has consulted with EPKL. EPKL's views are set out below. SONI has also made a case that it is not – *in the circumstances of this case* – obliged to formally consult with NIE Networks on the Second Application. We explore that contention below.

At this point we note that, although the Authority received the Second Application by the Letter dated 19 October 2023, the EPKL consultation response to the SONI consultation with EPKL was not included. This was subsequently provided to the Authority, on 25 October 2023. Subsequent interactions between the Authority and SONI resulted in provision (to the Authority) of the correspondence (mentioned above) of 26 October 2023.

EPKL

In the email dated 24 October 2023, EPKL said:

“EP Kilroot (EPK) disagree with SONI’s proposal to extend the time period. EPK also do not accept that failure of the UR to grant an extension should lead to refusal to issue an offer given that pursuant to its licence obligations SONI is required to issue an offer in accordance with the Connections Policy and SONI’s Licence Obligations unless strict exceptions apply – none of which apply here.”

In its reply email of 25 October 2023 to EPKL’s response SONI commented that:

“Condition 25 (6) (c) of the SONI Licence sets out that SONI shall not be obliged to offer to enter or to enter into any Connection Agreement if the Transmission Owner does not offer to enter into an agreement for connection works (i.e., the Construction Offer) in respect of the Connection Agreement.

Therefore, if SONI has not received the Construction Offer from NIE Networks then SONI is not able to issue the Connection Offer. That is the sole reason for SONI needing to seek the 4-week extension so that SONI is able to issue a Connection Offer at a later stage when we are in receipt of the NIE Networks Construction Offer so that we can avoid having to invoke Condition 25(6)(c) of the SONI Licence and not issue a Connection Offer.”

EPKL also commented (in its email of 24 October 2023) that the delays to connection:

“to date has resulted in EPK missing two opportunities to qualify in the ISEM Capacity Remuneration Mechanism (CRM), not only affecting EPK’s business plans but also having the potential to put the future security of supply for Northern Ireland (NI) at risk.”

EPK’s email of 24 October 2023 also raised the following concern:

“We note from your email on the 19th October 2023 that when [NIE Networks] consulted with SONI on 12th October 2023 with respect to seeking an extension

of four weeks, SONI advised [NIE Networks] that SONI had no objections in principle and this was without consulting EPK or the UR. We consider that SONI should have consulted with EPK before responding to NIEN and indeed should wait for and review our response before making application to the UR.”

“If SONI and [NIE Networks] were to provide further detail on [NIE Networks] bulleted points outlined in your email on 19th October 2023 and thus allow us to make a more informed determination on whether the connection offer requires more time, we may reconsider our position on supporting the granting of a further extension.”

Here we pause to note (again) that the further detail sought by EPKL has not been provided. As in our adjudication of the C20 Application, we proceed on the basis most favourable to EPKL, namely that EPKL objects to the Second Application.

Going back to the (SONI) 25 October 2023 email, SONI observed that (so far as SONI’s approach to the C20 Application was concerned):

“this is SONI’s position and does not override or reflect any position that EPK have on this or on the consequential extension that SONI is seeking on the Connection Offer. For the avoidance of doubt, SONI will also share the EPK’s response and position with NIE Networks so that they are clear as to what EPK’s position on this is as part of SONI’s follow up to the NIE Networks’ consultation with SONI.”

We note that SONI did in fact share EPKL’s view with NIE Networks on the C20 Application in the (above mentioned) 26 October 2023 email correspondence.

The 25 October 2023 email response from SONI further observed (on the timing of interactions point) that:

“Under the process for extensions there is a requirement for SONI to submit their extension request to UR at least 2 weeks prior to the Connection Offer issuance long stop date, hence why the request was submitted on 19 October 2023. There is, as you correctly point out, an obligation to consult with EPK as an affected party, which was the basis of the consultation below. The timing of the consultation on this occasion was not ideal, however, timelines for submitting the SONI request were subject to the timing of when SONI received the formal consultation from NIE Networks with respect to their extension request for the associated Construction offer as well as the timings under the extension process itself. However, as per above, please be assured that your response will be

shared with UR so that they are aware of EPK's position when deciding whether to give your consent to SONI's extension request."

NIE Networks

As flagged above, the Letter records a view on consultation with NIE Networks as follows:

"There is no requirement to consult NIEN(TO) as a person SONI considers may be affected or interested, given that the SONI application is the direct result of an associated request by NIEN(TO) to extend the issuing of the NIEN(TO) Construction Offer. Therefore, NIEN(TO)'s agreement to the SONI application is taken as granted."

We note here the contents of the Authority's 2017 Decision Paper on Connections¹¹ (**the Decision Paper**) which included that:

"We expect the Licensee to consult adequately and in a timely manner with affected parties. For example, by affected parties we mean the connection applicant(s) in question, and where relevant the TSO or DSO licensee."

We consider that to require SONI to formally consult with NIE Networks (TO) on the Second Application would be an exercise in undue formalism *in the circumstances of this case*. As SONI points out, it is the circumstances grounding the C20 Application made by NIE Networks and the extra time needed by NIE Networks to provide SONI with the Construction Offer that prompts the Second Application. It is not clear what NIE Networks could possibly say *against* the Second Application as part of any formal consultation with SONI. We also note that the 26 October email correspondence makes it clear that NIE Networks is fully apprised of the circumstances of the Second Application and has offered no indication of objection to it.

Nothing said here should be read as underlining or diluting the expectations recorded in our published Decision Paper. SONI should pay careful regard to the guidance contained in the Decision Paper in formulating and presenting application for "extension" of applicable licence periods; a statement reflected in our published decision on the First Application. That includes where the Decision Paper speaks of our expectations as to applicable *consultation*. Those expectations include an expectation that timely consultation with consultees might obviate the need for an application for extension to be made.

¹¹ [Electricity Connections Review Decision Paper | Utility Regulator \(uregni.gov.uk\)](https://www.uregni.gov.uk/electricity-connections-review-decision-paper)

It is a matter of concern that the Second Application was not apparently made with the benefit of *timely* consultation with EPKL. However, against this, EPKL has been able to make representations on the Second Application and these have been considered by the Authority in deciding on the Second Application (and the related C20 Application). Moreover, there is no suggestion that had EPKL been able to make more timely representations than the Second Application (or the First Application) would not have proceeded (or the outcome on the Second Application materially changed). EPKL has made representations on the impact of the First and Second Applications.

We shall return to matters related to the Decision Paper as a Postscript to this decision letter.

4. Our Decision on the Second Application

We judge the Second Application with due regard to:

- (a) our principal objective and general duties set out in Article 12 of the Energy (NI) Order 2003,
- (b) the matters set out in the Decision Paper, and
- (c) our decision on the related C20 Application.

As mentioned, we also proceed on the basis that EPKL objects to the Second Application.

Taking all relevant matters into account, it is the Authority's decision to accede to the Second Application. Accordingly, the Authority hereby grants consent there sought for a (further) extension of the applicable (C25) period for the making of a Connection Offer (to EPKL) out to **30 November 2023** (from 2 November 2023). The Second Application is considered justified for the reasons explained in the Letter and further explained in the email correspondence ending 26 October 2023. The decision on the C20 Application also supports the decision on the First Application.

We would remind SONI (as we did at the end of our decision on the First Application) that the grant of consent relayed in this letter does not absolve SONI of its Condition 25 obligation to make a Connection Offer to EPKL *as soon as practicable*. The newly substituted Condition 25 date – **30 November 2023** - is a long stop date.

This decision shall be published and placed on the Electricity Register.

5. Postscript.¹²

Regrettably, we are again forced to raise concerns about the way SONI is processing extension applications. We recognise the increasing complexity of connection arrangements. We are open to making appropriate allowance for that. The complexity of connection arrangement can properly inform an orderly application by SONI for an extension of time under C25.

However, as mentioned above, the expectations in the Decision Paper should be adhered to. An application for consent to a longer period under C25 should explain why there has been a material departure from the relevant expectations. SONI should make all reasonable efforts to organise timely consultation with affected parties. It should allow connection applicants a reasonable opportunity for timely representations on an *intended* application for extension. We are disappointed to note that we raised related concerns in our decision letter on the First Application. Our decision on the First Application asked SONI to reflect on the expectations set out in the Decision Paper and adapt its processes accordingly.

Further, we note that in its email to EPKL of 25 October 2023 SONI said this:

“Under the process for extensions (see <https://www.uregni.gov.uk/publications/electricity-connections-reviewdecision-paper>) there is a requirement for SONI to submit [its] extension request to UR at least 2 weeks prior to the Connection Offer issuance long stop date, hence why the request was submitted on 19 October 2023.”

(Our underlining).

The words “*at least*” are important. These words – contained in the Decision Paper - connote that in the ordinary course the Authority would expect applications (particularly contentious/complex applications) for consent to a longer period (for the making of a connection offer) to be submitted *more than* two weeks out from the expiry of the long stop date. The date two weeks prior to the expiry of the applicable licence period is not a target date.

SONI is asked to consider the above observations in its processing of future (relevant) applications. We shall liaise separately with SONI in this regard.

We trust this is satisfactory. If you have any queries, please contact Jody O’Boyle.

¹² This “postscript” does not form part of the formal decision on the Second Application.

Yours sincerely,



Tanya Hedley

For and on behalf of the Authority