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**By Email Only: [John.Heywood@nienetworks.co.uk](mailto:John.Heywood@nienetworks.co.uk)**

**Date: 10 November 2023**

**Our Ref: NET/E/TH/745**

Dear John,

**Request for Extension of Time to Issue a Construction Offer to SONI Ltd in relation to the connection of Kilroot GT West (500MW).**

Thank you for your letter dated 20 October 2023 (**the Letter**) setting out an application (**the Application**) made by NIE Networks Limited (**NIE Networks**) - under Condition 20 (3) (**C20(3)**) of the licence held by NIE Networks authorising participation in the activity of transmission (**the Licence**)<sup>1</sup> – for the Authority’s<sup>2</sup> consent to a longer period for the making of a construction offer (**the Construction Offer**) by NIE Networks to SONI Limited (**SONI**) in relation to an application (**the Connection Application**) for connection (to the NI transmission system (**the NITS**)) made to SONI concerning the planned Kilroot GT West (500MW).

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<sup>1</sup> [Transmission licence](#)

<sup>2</sup> In this letter we use the words “we” “us” “our” “the UR” “the Utility Regulator” and “Authority” interchangeably to refer to the Northern Ireland Authority for Utility Regulation.

## 1. The Application

The Letter describes the relevant background<sup>3</sup> to the Application. It starts by referring to the provisions of section 2.4.1 of Section D of the *Transmission Interface Arrangements (the TIA)*<sup>4</sup> between NIE Networks and SONI, as follows:

*“Where NIE Networks receives an effective Construction Application under sub-paragraph 2.4.1 above NIE Networks shall, unless otherwise agreed with SONI pursuant to paragraph 5 of this Section D or determined or directed by the Authority, submit a Construction Offer to SONI as soon as reasonably practicable but, in any event, on or before three months less ten Business Days after the User Application Date or the RoI TSO Application Date.”*

There is then reference to the terms of C20(3) of the Licence. C20(3) provides as follows:

3. *The Licensee 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) in any event not more than 2 months after receipt by the Licensee of an application containing all such information as the Licensee may reasonably require for the purpose of formulating the terms of the offer.*

(our underlining).

Whilst the Application begins with a reference to timelines under the TIA the Letter reads as confirming that the Application is an application for consent within the meaning of C20(3) of the Licence.

The Letter confirms that NIE Networks received a relevant (C20 compliant) application for a Construction Offer from SONI – arising out of the Connection Application – on **11 September 2023**. It is explained that absent a relevant C20(3) consent from the Authority to a “longer period” NIE Networks is obliged (by the terms of C20(3)) to make a C20 type

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<sup>3</sup> What follows is a summary of the Application. It is not intended to be a complete rehearsal. All parts of the Application have been considered in making the decision set out in this correspondence. Failure to mention parts of the Application should not be taken as representing any failure to have regard to those parts. The same goes for correspondence in relation to the Application, following its receipt.

<sup>4</sup> <https://www.nienetworks.co.uk/tia>

Construction Offer to SONI (in respect of the Construction Application) by **11 November 2023** (this being 2 months following receipt of the complaint application from SONI).

It should be noted that the obligation set out in C20(3) requires, in the circumstances rehearsed, NIE Networks to make a relevant C20 Construction Offer (to SONI) in respect of the Construction Application *as soon as practicable*<sup>5</sup> and in event by 11 November 2023. The 11 November 2023 date is a back stop date and only that.

Returning to the Letter, it is explained there that NIE Networks needs more time to make a C20 Construction Offer to SONI.

It is explained that:

- (i) the Connection Application is an application to connect a Combined Cycle Gas Turbine (**CCGT**) with a Maximum Export Capacity of 500MW to the NITS at 275kV.
- (ii) during the determination of the design, NIE Networks (as transmission owner (**TO**)) determined that the connection point within Kilroot 275kV S/S and the cable route proposed by SONI would have significant implications for future plans identified in SONI's Transmission Development Plan for NI (the TDPNI) and further discussions were had with SONI on the way forward.
- (iii) NIE Networks asks for a C20(3) consent for extension of 5 days so that the longer period runs out to 16 November 2023 (from 11 November 2023 absent the Authority's consent).

The Letter explains that NIE Networks has needed time due to the above-mentioned discussions with SONI and it needs further time to finalise design and costings. It is further explained that NIE Networks considers that it is close to finalising a design, however, if for some reason an agreement cannot be reached NIE Networks may need to request a further (C20(3) type) extension.

NIE makes the case that if a C20(3) extension was not granted to allow NIE Networks (TO) to suitably cost the designed Construction Offer, then such an offer could not be made under the timescales laid out in Licence.

The Letter goes on to record the "impacts" of a decision on the C20(3) Application as follows:

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<sup>5</sup> We note that the obligation to make an offer in C20(1) of the Licence is framed as an obligation to make the stipulated offer *as soon as reasonably practicable*. It is unclear whether there is any.

### ***Granting Extension - Impact Assessment***

- The extension will allow NIE Networks to suitably determine the costings for the Construction Offer for the design as agreed with SONI.
- This extension will ensure that this connection can be facilitated while also allowing for future connections or development in line with [NIE Networks'] obligation to design an efficient network.

### ***Not Granting Extension- Impact Assessment***

- Feedback from SONI suggests that not providing a Construction offer in an agreed timescale would be detrimental to [SONI's] Connection Offer.

## **2. Consultation associated with the Application**

NIE Networks has consulted with SONI on the Application. We have been provided with relevant email correspondence.

We note that there is a reference in the *consultation documentation* to the Application being an application for an extension of 4 weeks (and not 5 days) out to 16 November 2023. It seems that the 4-week period is computed from 19 October 2023. It further appears that this 19 October 2023 date is the date when SONI might have expected the Construction Offer to be made in line with TIA arrangements not cited in the Letter, but of which the Authority is aware.<sup>6</sup>

It might be that the Application could have been clearer in this regard. But we are prepared to be practical and note that the Application presents as an application in respect of the C20(3) obligation (only) and the net effect of the longer period sought (no matter what the starting point, 19 October 2023 or 11 November 2023<sup>7</sup>) is still one that looks to 16 November 2023 as the (same) relevant date.

SONI has not objected to the Application. It supports it. Its initial response indicated that it supported the Application “in principle” but would like to liaise with the applicant for the relevant SONI Connection Offer (**the Connection Applicant**).

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<sup>6</sup> See section 2.2.2 of Section D of the TIA.

<sup>7</sup> To be clear, we consider that 11 November 2023 is the right starting point for the C20(3) application made in the Application.

An email of 26 October 2023 from SONI to NIE confirms that the Connection Applicant was not supportive of the Application. SONI confirms its initial support for the Application in the 26 October email.

It should be noted, for context, that the longer period required by NIE Networks to make SONI a Construction Offer (as set out in the Application) has caused SONI to make a related application (under Condition 25 (**C25**) of the SONI TSO Licence<sup>8</sup>) to the Authority for consent for a longer period, for the making of a Connection Offer to the Connection Applicant. This is the second time that SONI has applied for a relevant C25 consent. The Connection Applicant is not supportive of the second C25 application. Our decision on the Application precedes our decision on the related second C25 application.

We further note that the email of 26 October 2023 records that the position of the Connection Applicant on: (i) the Application and (ii) the second C25 application might change if the Connection Applicant had more detail on the grounds for the Application. It does not seem that this further detail has been provided to the Connection Applicant. We therefore proceed on the basis most favourable to the Connection Applicant, namely, that it maintains an objection to both the Application and the second C25 application.

### **The Authority's decision**

In making our decision on the Application we have regard to our published decision document on extension applications<sup>9</sup> and our principal objective (and related statutory objectives) under Art 12 of the Energy (NI) Order 2003.

Having considered the matter fully, to include the representations made by the Connection Applicant (and SONI) on the Application, it is our decision to provide the consent sought in the Application. We consider that the request for C20(3) type consent is justified for the reasons provided in the Application. It follows that the Authority hereby consents to a longer period for C20(3) purposes - for the making of the relevant Construction Offer - out to **16 November 2023**.

We would take this opportunity to confirm that the period ending 16 November 2023 is a “long stop” date. The obligation under Condition 20(3) of the Licence is (now), subject to

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<sup>8</sup> [2022-11-18 SONI TSO Consolidated.pdf \(uregni.gov.uk\)](#)

<sup>9</sup> [Electricity Connections Review Decision Paper | Utility Regulator \(uregni.gov.uk\)](#)

applicable exceptions<sup>10</sup>, to offer a relevant Construction Offer “as soon as practicable”<sup>11</sup> and “in any event no later than” 16 November 2023. The Licence obligation is not (now) simply to make a C20 Construction Offer by 16 November 2023. It seems from the Application that NIE Networks is aware of this obligation. The email of 26 October appears to confirm that efforts are being made to expedite the making of the Construction Offer *before* 16 November 2023.

This decision will be published in the normal way.

Please do return to us should you require any clarification.

Yours sincerely,



**Tanya Hedley**

**For and duly authorised by the Authority.**

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<sup>10</sup> Consonant with obligations under the Licence and NIE’s statutory duties set out in Article 12 of the Electricity (NI) Order 1992.

<sup>11</sup> We again note the slight difference in wording as between C20(1) and C20(3) concerning the timing of construction offers.