



TRANSMISSION INTERFACE ARRANGEMENTS

AMENDMENT REPORT

Proposer:	SONI
Capacity of Proposer	Party
Date of Proposal(s):	23 rd September 2020

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1. Introduction

SONI and NIE Networks (the “Parties”) have carried out a joint review of the application of the Transmission Interface Arrangements (“TIA”). Both SONI and NIE Networks will submit reports on this consultation exercise to the Utility Regulator. NIE Networks will submit an amendment report in relation to changes proposed to provide clarity on the working arrangements particularly for pre-construction activities. This amendment report is submitted by SONI in relation to proposed changes in respect of the unlimited indemnity within paragraph 8.3 of Section B.

Part A provides the proposer’s (SONI) description of the issues the proposed amendments seek to address and a description of the proposed amendments. It also provides additional information required by Section P (Governance) of the TIA.

Part B provides the Other Party’s (NIE Networks) views and recommendations regarding the proposed amendments.

2. Proposed Amendments

Part A – To be Completed by the Proposer

1 Proposer

The Proposer is SONI.

2 Description of the Issues the Proposed Amendment seeks to Address

Paragraph 8.3 of Section B of the TIA currently provides that:

8.3 SONI shall, under the terms the Construction Agreement entered into between SONI and NIE Networks in relation to the relevant New Connection, indemnify and keep indemnified NIE Networks, its officers, employees and agents, from and against all loss or liability suffered by reason of a failure by any **User** that enters into a **Contestable Offer** to comply with any **Contestable Offer Specific Requirements** unless such losses or liabilities are recoverable by NIE Networks pursuant to the terms of a **Standard Adoption Agreement** entered into by NIE Networks with the relevant **User**.

The extent of the obligations created by this text would create a barrier to SONI issuing contestable offer, and would become a barrier to ICPs entering the market, if passed on to connecting parties by SONI.

3 Description of the Proposed Amendments and Proposed Text Changes to the TIA

Proposed amendment to Section B Paragraph 8.3

Paragraph 8.3 of Section B should be updated as set out below.

Amended Section B Paragraph 8.3 with changes tracked:-

SONI shall, under the terms the Construction Agreement entered into between SONI and NIE Networks in relation to the relevant New Connection until such time as NIE Networks has **Adopted** the Contestable Works, indemnify and keep indemnified NIE Networks, ~~its officers, employees and agents,~~ from and against all direct loss or liability suffered by reason of a failure by any **User** that enters into a **Contestable Offer** to comply with any **Contestable Offer Specific Requirements** ~~unless such losses or liabilities are recoverable by NIE Networks pursuant to the terms of a **Standard Adoption Agreement** entered into by NIE Networks with the relevant **User**.~~ PROVIDED ALWAYS that SONI's liability under this paragraph 8.3 shall be subject to sub-paragraph 5.3 of Section O of this TIA and that SONI's liability under this paragraph 8.3 shall not exceed £10 million per incident or series of incidents.

NIE Networks agrees to provide any information reasonably requested by SONI or its insurers in connection with any claim under this paragraph 8.3, including evidencing any costs for which NIE Networks is seeking recovery.

Amended Section B Paragraph 8.3 with changes accepted:-

SONI shall, under the terms the Construction Agreement entered into between SONI and NIE Networks in relation to the relevant New Connection until such time as NIE Networks has **Adopted** the Contestable Works, indemnify and keep indemnified NIE Networks from and against all direct loss or liability suffered by reason of a failure by any **User** that enters into a **Contestable Offer** to comply with any **Contestable Offer Specific Requirements** PROVIDED ALWAYS that SONI's liability under this paragraph 8.3 shall be subject to sub-paragraph 5.3 of Section O of this **TIA** and that SONI's

liability under this paragraph 8.3 shall not exceed £10 million per incident or series of incidents.

NIE Networks agrees to provide any information reasonably requested by SONI or its insurers in connection with any claim under this paragraph 8.3, including evidencing any costs for which NIE Networks is seeking recovery.

Proposed amendment to the definition of Adoption in Section U to include definition of Adopted

It is proposed to update the definition of the term “Adoption” in Section U.

Adoption is currently defined as “the ownership transfer of the Contestable Works from the User, or the User’s ICP, as appropriate, to NIE Networks”;

Amended Definition of Adoption with changes tracked:-

Adoption “the ownership transfer of the Contestable Works from the User, or the User’s ICP, as appropriate, to NIE Networks, with full title guarantee in accordance with the Contestable Offer Specific Requirements and the terms of the Standard Adoption Agreement (and **Adopt**, **Adopted** and cognate expressions shall be construed accordingly)”

Amended Definition of Adoption with changes accepted:-

Adoption “the ownership transfer of the Contestable Works from the User, or the User’s ICP, as appropriate, to NIE Networks, with full title guarantee in accordance with the Contestable Offer Specific Requirements and the terms of the Standard Adoption Agreement (and **Adopt**, **Adopted** and cognate expressions shall be construed accordingly).”

4 The Proposer's Justification of the Proposed Amendments

The current unlimited indemnity presents a serious solvency challenge for SONI and its parent company should such a failure arise. An unlimited liability of this nature is not commercially tenable from a company and corporate governance perspective.

5 Impact of the Proposed Amendments on the Proposer's Licensable Activities

Although SONI has not yet been asked to provide any contestable offers, the Transmission Connection Charging Statement makes provision for this type of offer. SONI is keen to ensure that no inappropriate barriers to entry are imposed on connecting customers.

Whilst the SONI liability to NIE Networks is proposed to be capped at £10 million there is a remaining potential impact albeit unlikely, in so far as any loss which SONI incur and which cannot be recovered from the User will have to be paid to NIE Networks. SONI has raised these concerns with the UR and NIE Networks.

The UR has indicated that it is content to discuss further with parties what measures might be undertaken to mitigate the risk of a liability arising, while noting that it would however be important to ensure any such actions are reasonable, efficient and undertaken by the appropriate party concerned i.e. on-site construction inspections of assets in the field, would be more pertinent for the asset owner.

SONI will continue to engage with the UR and NIE Networks to ensure that these residual risks are mitigated appropriately.

6 Impact of the Proposed Amendments on Other Industry Documents, TIA Subsidiary Documents and contents of any Construction Agreement or Transmission Project Agreement and any Changes Required

SONI does not currently anticipate any impact on any other industry documents.

7 Mechanism and Likely Timescales for making any Changes identified in Paragraph 6

Not applicable.

8 Changes or Developments Required to Computer Systems and Processes Used in Connection with the Operation of Arrangements Established Under any other Industry Documents

None

9 Mechanism and Likely Timescales for making any Changes identified in Paragraph 8

Not applicable

10 Estimate of any Costs Associated with Implementing the Proposed Amendments

None

11 Proposed Implementation Date

Immediate

12 The Proposer's Recommendation

SONI recommends that these proposed amendments should be implemented for the reasons set out in paragraph 4 above.

13 List of Attachments, if any

None

Part B – To be Completed by the Other Party

1 The Other Party

The Other Party is NIE Networks.

2 Impact of the Proposed Amendment on the Other Party's Licensable Activities

There is a potential impact in so far as any loss which NIE Networks incurs but which can not be recovered from SONI, due to the scope of the indemnity being limited (to direct loss incurred prior to adoption which is less than £10m) rather than unlimited (as is the current position), will have to be paid for by NIE Networks. The risk of such an event would be considered to be a very low. However, under such circumstances, NIE Networks would consider submitting a request to the UR to recover of any such loss through the price control, and therefore remuneration of such losses would be decided on a case-by-case basis by UR.

3 The Other Party's Recommendation

NIE Networks recommends that the proposed amendment is implemented.

4 List of Attachments, if any

None.

3. Consultation

3.1 Consultation Process

- This section of the amendment report describes the consultation process and provides an overview of the submissions received and our responses to the issues raised.
- The SONI Proposed TIA Amendment Report was posted for consultation on both NIE Networks' and SONI's websites¹ in accordance with para 2.2.4.9 of Section P of the TIA.
- Representations were invited over a 4-week consultation period from 3rd to 31st July 2020.
- A notification of SONI's consultation was sent, via email, to the SONI stakeholders subscribed to the info@soni.ltd.uk mailing list. In addition, information was posted on SONI's social media channels.
- In total 5 responses were received. These were from:-
 - Energia
 - NIRIG
 - Mr. Owen Bradley
 - Scottish Power Renewables, and
 - The Consumer Council
- We would like to thank all parties for their responses. We have included the five submissions in Appendix 1 of this report.
- In the following sections, we summarise and respond to the submissions received relating to the SONI proposed TIA amendments.
- This Amendment Report will be submitted to the UR and published on each Party's website.
- The Parties have considered the representations and comments are provided in this report.
 - A summary of views is set out in section 3.2, along with SONI's response
 - SONI's Recommendations and Conclusions are set out in Section 4
 - NIE Networks' Recommendations and Conclusions are set out in section 5
- What happens next
 - The Amendment Report will be submitted to the UR and placed on each Party's website in accordance with 2.2.4.11 of Section P of the TIA.
 - SONI will await a notification from the UR in relation to approval (or otherwise) of the proposed amendments.
 - Should the proposed amendments be approved they shall be implemented and an updated version of the TIA will be published on each Party's website.

¹ The Proposed Amendment Reports were published on the SONI website at <http://www.soni.ltd.uk/newsroom/press-releases/tia-consultation/>

3.2 Summary of Responses Received

ENERGIA COMMENT	SONI'S RESPONSE
<p>In relation to the proposed £10m contestable liability cap on SONI liability to NIE Networks:</p> <p><i>“Energia support the proposal to cap SONI’s liability under paragraph 8.3 of the TIA at an amount not to exceed £10 million per incident or series of incidents. Energia believe this change will improve the financial feasibility of such projects for developers in NI.”</i></p>	<p>SONI agrees with this observation.</p>

NORTHERN IRELAND RENEWABLES INDUSTRY GROUP (NIRIG) COMMENT	SONI'S RESPONSE
<p>General comment:</p> <p><i>“NIRIG has no objection to the proposals regarding the amendments to the SONI and NIE Networks Transmission Interface Arrangement which are being consulted on. “</i></p>	<p>SONI has no further comment.</p>

MR OWEN BRADLEY COMMENT	SONI'S RESPONSE
<p>Mr Bradley’s comments do not relate to the Amendments proposed within this report.</p>	<p>SONI and NIE Networks have offered a meeting with Mr Bradley to discuss the points raised and to confirm our agreed position.</p>

SCOTTISH POWER RENEWABLES COMMENT	SONI'S RESPONSE
<p>Scottish Power Renewables comments did not relate to the Amendments proposed within this report.</p>	<p>Not applicable</p>

THE CONSUMER COUNCIL COMMENT	SONI'S RESPONSE
<p>In relation to the proposed £10m contestable liability cap on SONI liability to NIE Networks:</p> <p><i>“The Consumer Council is concerned that this amendment may cause consumer detriment and additional costs for consumer.”</i></p>	<p>SONI considers that the likelihood of exposure is low and that it is important to place this in the context of the reasons for introducing contestability in connections, i.e. to improve efficiency and competition in the market, which should result in benefits end customers through lower prices in the wholesale market. While there remains a risk that SONI and NIE Networks may be financially exposed if any loss cannot be recovered from the User. The existing situation leaves SONI wholly exposed to the financial risk, and this would need to be reflected in SONI’s price control allowances. Both SONI and the UR have assumed that this risk</p>

THE CONSUMER COUNCIL COMMENT	SONI'S RESPONSE
	<p>is resolved and therefore it is currently not considered within that process.</p> <p>As noted in Section 2 of this report the UR has indicated that it is content to discuss further with parties what measures might be undertaken to mitigate the risk of a liability arising, while noting that it would however be important to ensure any such actions are reasonable, efficient and undertaken by the appropriate party concerned i.e. on-site construction inspections of assets in the field, would be more pertinent for the asset owner.</p> <p>SONI will continue to engage with the UR and NIE Networks to ensure that these residual risks are mitigated appropriately and in a cost efficient manner. Funding SONI to the extent necessary to allow it to remain financeable while carrying this risk or providing it with the means to mitigate it to a reasonable extent is unlikely to be in the public interest.</p>
<p><i>“The Consumer Council would also like to take this opportunity to reiterate its position that as SONI’s role and influence on Northern Ireland’s electricity market has grown, taking over the planning of the transmission network in 2014, being central to the design and management of the Single Electricity Market and now helping to inform the energy transition process it is critical that the regulatory and governance process surrounding SONI ensures that the needs of consumers in Northern Ireland are correctly and fairly reflected and that robust governance arrangements are in place to ensure that SONI’s projects, policies and strategies are focused on Northern Ireland consumers and business independently of Eirgrid.”</i></p>	<p>SONI notes this response and is actively engaging with the Utility Regulator’s ongoing review of our governance. We are currently awaiting the publication of a consultation report and will be responding to that in due course.</p>

4. SONI's Recommendations and Conclusions

SONI recommends that the proposed amendments should be implemented for the reasons set out in section 2 paragraph 4 of this report. SONI will continue to engage with the UR and NIE Networks to ensure that the residual risks associated with contestable liability are mitigated appropriately and efficiently.

5. NIE Networks' Recommendations and Conclusions

NIE Networks has carefully considered all the responses received during the consultation period.

NIE Networks remains of the view that the proposed amendments to paragraph 8.3 of Section B and to the definition of Adoption should be implemented.

Appendix 1 – Consultation Responses

1. Energia	 1. Energia.msg
2. NIRIG	 2. NIRIG.msg
3. Owen Bradley	 3. Owen Bradley.msg
4. Scottish Power Renewables	 4. Scottish Power Renewables.msg
5. The Consumer Council	 5. The Consumer Council.msg