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Shane Lynch
Chief Executive
Utility Regulator
Queens House
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20 November 2012

Dear Shane

RESPONSE TO FINAL DETERMINATION AND ARTICLE 14 NOTICE

This letter comprises NIE's response to the final determination for the RP5 transmission and distribution price controls issued by the Utility Regulator on 23 October 2012 (the "**Final Determination**"). It also responds to the notice given by the Utility Regulator on the same date under Article 14(2) of the Electricity (Northern Ireland) Order 1992 of its proposal to modify NIE's Participation in Transmission licence to reflect new price control arrangements (the "**Notice**").

NIE regrets that it is unable to accept the terms of the Final Determination and accordingly does not consent to the modification of its licence in the manner proposed in the Notice.

NIE has not taken this decision lightly. It has worked diligently throughout the price review process in order to provide a robust business plan with extensive and detailed supporting information to facilitate the Utility Regulator to determine a price control that will enable NIE to provide an adequate service to its customers over RP5 and for the foreseeable future, and to finance its activities efficiently. But the Final Determination does not come close to achieving that objective.

The allowances proposed fall substantially short of the amounts required to enable NIE to meet its statutory and licence obligations and to carry out the necessary programme of work for RP5 to deliver the level of service customers expect. Significant elements of NIE's reasonable requests for funding have been disallowed without reasonable justification.



Moreover, the Utility Regulator's proposals rely on regulatory arrangements which depart from the well-established system of regulation for network utilities that applies in the rest of the UK, notably in respect of their emphasis on ex post assessments and retrospective adjustments.

Since both NIE and the Utility Regulator consider that the present price control requires modification, NIE now expects the Utility Regulator to refer the RP5 price control to the Competition Commission under Article 15 of the 1992 Order.

Yours sincerely

JOE O'MAHONY
NIE Managing Director