

DECISION PAPER ON MODIFICATIONS TO GAS AND ELECTRICITY LICENCES

3 June 2016



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing the markets, networks and corporate affairs functional areas of the organisation. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission:

Value and sustainability in energy and water

Our Vision:

We will make a difference for consumers by listening, innovating and leading

Our Values:

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted

Be a united team

Be collaborative and cooperative

Be professional

Listen and explain

Make a difference

Act with integrity

Abstract

This paper sets out the Utility Regulator's final decisions on proposed changes to electricity and gas licences necessary to reflect market experience, process updates and legislative changes. The final changes affect the gas and electricity supply licences, the electricity distribution licence and the gas conveyance licences (distribution and transmission).

Audience

This decision paper would be of particular interest to licence holders and consumer representative bodies.

Consumer impact

The majority of the changes outlined in this decision paper represent a clean-up of licences and do not require a system or process change and will therefore have minimal impact on licence holders. The decisions do include some modifications that seek to enhance existing consumer protection conditions; however consumers will see no direct changes to their services as a result of these modifications. Impact on consumers will therefore be minimal with some reinforcement of current consumer protection measures.

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1. Introduction

Background

- 1.1 One of our fundamental roles is to issue and maintain licences for gas, electricity and water companies to operate in Northern Ireland. These licences set out the rules and regulations which the company must operate within. As the Regulator, we are required to enforce the conditions within licences to ensure the protection of consumer interests.
- 1.2 There are a number of circumstances which can lead to modifications to licence conditions, for example, changes in market behaviour, the introduction of new legislation or changes to market processes. In order to ensure licences offer high levels of consumer protection, are enforceable and meet market needs, it is important to ensure licences are up to date. Accurate licences provide certainty, transparency and clarity for licence holders and consumers.
- 1.3 Consumers must be adequately protected in their dealings with electricity and gas suppliers. As the Northern Ireland (NI) retail energy market continues to develop and competition grow, we see new and emerging issues which have a direct impact on the levels of protection afforded to consumers. We also see necessary changes to systems and processes to ensure the market can run efficiently and effectively. Licences must continue to evolve to meet these changing needs and address any issues that emerge as the market continues to develop.

Consultation paper

- 1.4 On 5 January 2016, we published a consultation¹ and legislative notices which proposed a number of modifications to, primarily, electricity and gas supply licences to ensure accuracy and reflect market behaviour. Some modifications were also proposed to gas conveyance and electricity distribution licences to reflect legislative changes and changes to market processes.
- 1.5 Prior to drafting the consultation paper, we used gas and electricity industry forums to consult with industry on the proposed changes that would require any change to licence holder systems or processes. This period of pre-consultation helped us to

¹ Consultation proposed modifications to gas and electricity licences, 5 January 2016:

http://www.uregni.gov.uk/uploads/publications/2016-01-05_Consultation_on_Licence_Modifications_FINAL.pdf

inform our proposals and ensure they met the consumer protection requirements, but placed minimal burden on suppliers. Some representations were made during this pre-consultation phase and we considered these responses when forming the proposals set out in the consultation.

- 1.6 The remaining modifications set out in the consultation paper were proposed to make necessary clean ups to licences to reflect inaccuracies or changes in market processes.
- 1.7 The reasons and effects of each of the proposed modifications were laid out within the consultation paper. Clear references to the affected licence conditions were noted throughout the paper as well as red line extracts of each of the proposed modifications. Annexes 1 - 23 in the consultation paper contained the legislative notifications of the proposed modifications.

Consultation responses and decision making

- 1.8 We welcomed comments from all interested parties during the consultation period on any of the proposed modifications in order to assist us in reaching our final decisions. We received nine responses to the consultation; eight of the respondents were licence holders that would be affected by the proposed modifications and the other respondent was the Consumer Council (CCNI). A copy of each response has been published along with this decision paper and links to each of these responses can be found in Annex 1.
- 1.9 We did note in the consultation paper that if we received significant representation to any of the proposed licence modifications, then we would further consult on the proposed changes. After reviewing the consultation responses received we do not consider a second consultation period necessary as the majority of the responses were supportive of the modifications and no significant negative representations were received.
- 1.10 We have carefully considered each of the consultation responses and in this decision paper we have summarised the representations made in relation to each of the proposed modifications. We have also detailed how we have taken account of the representations made in relation to each of the proposed licence modifications and have provided our final decisions in relation to the modifications that will be made. Where there are any differences between the modifications proposed in the consultation paper and the modifications being made in this decision paper we have provided the reasons for the differences.

Final modifications

- 1.11 This decision paper sets out the final modifications to be made to gas and electricity licences. Clear references to the affected licence conditions are noted throughout this paper and red line extracts of each of the final modifications are provided.
- 1.12 Legislative notices of the decision to modify gas and electricity licences have also been published alongside this consultation paper. Links to each of these notices can be found in Annex 2.
- 1.13 The modifications outlined in this decision paper will take effect from 1 September 2016.
- 1.14 As noted in the consultation paper, the vast majority of these modifications will not require any material changes to be made by licence holders. We therefore consider it appropriate that all licence holders will be compliant with their amended licence conditions by 1 September 2016.

General responses received

- 1.15 Some of the consultation responses included general comments on the consultation and the consultation process. These responses are summarised in this section.
- 1.16 firmus energy requested further engagement with the UR to discuss the possibility of some further 'house-keeping' licence modifications. The UR is open to facilitating discussions on further licence modifications and has written to firmus energy separately on this.
- 1.17 Two respondents noted the 'simultaneous' consultation and publication of the Article 14 modification notice. One noted that this was not considered best practice and suggested that decisions had already been made. The UR would note that the consultation outlined a suite of tidy up and minor licence modifications to ensure accuracy and reflect market behaviour. The vast majority of the modifications proposed would not require licence holders to make any changes to their systems or processes and a pre-consultation exercise also took place. We also stated in the consultation paper, if we had received any significant representation to any of the modifications proposed we would further consult.
- 1.18 The UR values the importance of a robust consultation process and would not hesitate to further consult on any issue raised by respondents to the proposed amendments. It was however reasonable, in this instance, to proceed with the publication of the Article 14 notice alongside the consultation due to the nature of the proposed modifications.

1.19 One respondent also noted concern in relation to the number of licence modifications made within the last 12 months and the availability of a consolidated licence. We are aware that as a consequence of a number of legislative and policy issues, many licence holders will have seen a number of modifications made to their licences over the past year. We consider this to be an exceptional period due to legislative changes, process updates and market experience and therefore not our normal practice. We would note also that consolidated versions of licences are available on the Utility Regulator website www.uregni.gov.uk

2. Licence modifications decisions

2.1 DECISION: Licence modification 1 - to ensure suppliers must not block or prevent prepayment meter customers from vending/topping up

Summary of proposed modification

- 2.1.1 We proposed to amend the “Code of Practice on Services for Prepayment Meter Customers” condition in electricity and gas supply licences to ensure prepayment meter customers cannot be blocked or prevented from purchasing electricity or gas in any way or topping up their meters.
- 2.1.2 With a significant number of energy consumers choosing to purchase their electricity and gas via a prepayment meter, we consider it vital that the system offers the necessary consumer protection provisions for consumers.
- 2.1.3 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas supply licences	Modification to condition 2.9
All electricity supply licences	Modification to condition 34

Responses to the consultation

- 2.1.4 Five of the respondents to the consultation made specific comments in respect to this proposed modification. The majority of those responses were positive and welcomed the proposed amendment. Two of the respondents raised some concerns with the proposed modification.
- 2.1.5 During the pre-consultation discussions, one supplier provided an outline of ‘limited scenarios’ where they feel it is necessary to block a customer from vending. These scenarios were believed to ensure customers register for their electricity consumption and provide ‘appropriate information in relation to attempted debt avoidance’. These concerns were also expressed in the formal consultation response.
- 2.1.6 The UR agrees that bad debt is an issue of high importance and places a burden on all customers. We do not believe however that this modification would have a significant material impact on the level of bad debt incurred by any supplier.

Through licences and indeed suppliers own customer services, all suppliers are required to have systems in place that prevent a customer accruing debt where at all possible. Suppliers must do all that they can to engage and communicate with their customers. All suppliers will also have in place debt recovery mechanisms to help minimise the impact of any debt on both the customer and supplier. We believe these measures should be sufficient enough to protect the supplier from significant levels of bad debt, without the need to disconnect the customer by blocking vends. We do not feel therefore that the examples provided by the respondent are sufficient enough to require a change to or removal of the proposed modification.

- 2.1.7 One other respondent noted that 'recognition needs to be given to scenarios which could cause suppliers to be unable to fulfil their licence requirements in this respect such as an industry wide issue or breakdown related to prepayment meter vending which could prevent this customer base from topping up'. We note that the UR takes a measured and pragmatic approach to all licence issues and takes into consideration all market issues when assessing licence compliance. We would therefore be mindful of any issue, over which a supplier has no control, that could prevent them from complying with a specific licence condition. We therefore do not consider it necessary to amend our proposed modification to include such exceptions.

UR final decision and effect of modification

- 2.1.8 **Decision:** Having therefore considered all representations made during the pre and formal consultation, we intend to modify the licences as proposed in the consultation.
- 2.1.9 **Effect:** This modification will ensure that suppliers are explicitly prohibited via their licence to block or prevent a customer from purchasing electricity or gas via a prepayment meter.

Licence extract showing final modification decision

- 2.1.10 The final decision is to insert a new paragraph into condition 34 in the electricity supply licences and condition 2.9 in the gas supply licences.
- 2.1.11 An extract of condition 34 from the electricity supply licences is provided below showing the modifications. The modification will be mirrored in condition 2.9 of gas supply licences.

Condition 34: Code of Practice on Services for Prepayment Meter Customers (extract)

- 5 The Licensee shall not prevent the customer from purchasing their electricity in advance through a prepayment meter.
- 56 In this Condition “prepayment meter services” means the system of services for the operation of prepayment meters operated by the use of tokens, keys or cards.
- 67 Paragraphs 2 and 3 of this Condition are subject to Condition 35: Preparation, Revision Of and Compliance with Codes of Practice.

2.2 DECISION: Licence modification 2 - to ensure that prepayment meters must not be calibrated to recover more than 40% of any outstanding charge in any single transaction as a payment of or towards that charge

Summary of proposed modification

- 2.2.1 We proposed to amend the “Code of Practice on Services for Prepayment Meter Customers” condition in electricity and gas supply licences to ensure prepayment meters are not calibrated to recover more than 40% of any outstanding charge, in any single transaction, as a payment of or towards that charge.
- 2.2.2 This modification proposed to extend the existing condition that ensures a prepayment meter must not operate so as to recover more than 40% for debt repayment from each amount that is purchased by the customer in any single transaction to **all** customers using a prepayment meter.
- 2.2.3 We noted in our consultation that we feel that **all debt being recovered through prepayment meters**, irrespective of how it originated, should be treated and recovered in the manner intended in the Code of Practice on Payment of Bills . This helps to ensure the equal and fair treatment of all customers in debt, irrespective of how it originated.
- 2.2.4 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas supply licences	Modification to condition 2.9
All electricity supply licences	Modification to condition 34

Responses to the consultation

- 2.2.5 Respondents who provided comment on the proposed modification were in favour of the proposals but sought clarification on some specific points.
- 2.2.6 One respondent noted that they would prefer to be able to offer the indebted Pay As You Go Customer a choice of paying the full debt through ‘normal debt recovery’ or recover through the PAYG meter. We note that the licence condition and indeed minimum standards on the Code of Practice on Payment of Bills is clear. A supplier must consider individual circumstances when setting repayment rates. We would expect to see evidence that suppliers are taking individual circumstances into account. If a customer would like to pay more than the 40% prepayment rate via their prepayment meter they can do so providing they have stated their willingness to do so in writing. A customer is also able to make further direct payments to a

- supplier in relation to any debt, but again, a supplier must take into account ability to pay and cannot force a prepayment meter customer to make these payments.
- 2.2.7 One respondent sought clarification that the percentage recovery rate is applicable regardless of how the debt was accrued. As noted in the consultation paper we note that **all** debt being recovered through prepayment meters, irrespective of how it originated, should be treated and recovered in the manner intended in the Code of Practice on Payment of Bills.
- 2.2.8 The introduction of this modification mirrors the condition already captured in the Code of Practice on Payment of Bills and adds it to the Code of Practice on Services for Prepayment Meter Customers. One respondent noted that this could potentially lead to future issues if they become misaligned. We note however that it is not our intention to modify licences at such a frequency that could result in multiple changes to these conditions. Additionally, we would also note that in our 2016/17 Forward Work Programme we have identified a project to work with the Department of Enterprise, Trade and Investment (now the Department for the Economy) in relation to scoping the extent to which energy licences could be simplified. The aim of this project is to lead to a more standardised form of licence, facilitate compliance with EU directives and reduce regulatory burden. This workstream should help to further simplify licences and prevent any misalignment.
- 2.2.9 The licence condition states that customers can request in writing for the debt recovery rate to be greater than 40%. One respondent noted that due to logistical issues and significant cost, the debt recovery rate cannot be set above 40% on Libra gas meters in the ten towns licensed area. The respondent noted that they can however assist these customers through other payment means at their request. We accept that it may not be possible to recover a rate greater than 40% through all prepayment meters (for example the Libra gas meter) and are content that, in such cases, suppliers can assist customers to make additional payments through other means of payment. However it is important to reiterate that any debt recovery payments greater than 40%, through any means of payment, must be at the request of the customer and suppliers must consider and evidence the individual circumstances of each customer..

UR final decision and effect of modification

- 2.2.10 **Decision:** Taking into consideration all points raised by respondents, and the support for this proposal, the UR intends to introduce this licence modification without change.
- 2.2.11 **Effect:** This modification will ensure that prepayment meters must not be calibrated to recover more than 40% of any outstanding charge in any single transaction as a payment of or towards that charge.

Licence extract showing final modification decision

- 2.2.12 The final decision is the addition of a new paragraph 3 (g) into condition 34 in the electricity supply licences and condition 2.9 in the gas supply licences.
- 2.2.13 The decision to proceed with the modification to condition 34 in the electricity supply licence is shown below. The modification will be mirrored in condition 2.9 of gas supply licences.

Condition 34: Code of Practice on Services for Prepayment Meter Customers (extract)

3 (g) ensure that any calibration of the prepayment meter to recover outstanding charges due from any Customer does not operate so as to recover more than 40% (except where the Customer has in writing requested for a higher percentage to apply) from each amount that is purchased by the Customer in any single transaction (and thereby transferred to the token, key or card by which the prepayment meter is operated), as payment of or towards the outstanding charges.

2.3 DECISION: Licence modification 3 - to ensure after closing an account with a supplier, any refunds are passed back to consumers within 6 weeks of account closure and treatment of dormant accounts

Summary of proposed modification

- 2.3.1 We proposed to amend the “Provision of Information to Consumers” condition in all gas and electricity supply licences to include drafting which would require suppliers to return any credit balances (where a customer is owed money) held in closed accounts within six weeks.
- 2.3.2 This is the same period within which suppliers are required to issue a final bill to a customer once they have closed their account with the supplier.
- 2.3.3 Electricity and gas suppliers currently have licence obligations in terms of issuing final bills to domestic customers, however the licences do not provide adequate direction on how credit on closed accounts should be treated.
- 2.3.4 A further point to note is that, there is no guidance or requirements set out in the licence on how to treat an account which is dormant. An account becomes dormant in the instance where the supplier is unable to return the outstanding credit balance to a customer. For example this may be in the circumstance where the person has moved and not left a forwarding address. We are of the view that no supplier should make financial gain in this circumstance. Whilst we have not proposed at this stage to make any modification in the licences to mandate how dormant accounts are treated, we have the expectation that suppliers will deal with any dormant accounts in an appropriate manner. There are examples in the GB market in both energy and the financial sector where companies pass the money to charity or use it for project which will benefit the wider customer group. We will discuss this further with any suppliers who require additional guidance.
- 2.3.5 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas supply licences	Modification to condition 2.19
All electricity supply licences	Modification to condition 38

Responses to the consultation

- 2.3.6 There were four consultation responses to this proposed modification.

- 2.3.7 One supplier noted that they already use best endeavours to ensure accounts are closed and credit refunded within six weeks and therefore they are content with the proposed modification.
- 2.3.8 Two other suppliers were supportive of the proposal to refund any outstanding credit on closed accounts to the customers; however they both raised concerns in relation to the proposed six week timeframe for the refund to be made. One respondent added that the licence requires suppliers to issue a final bill within six weeks of ceasing to supply and if it takes this time to finalise a bill, then some additional time will be required after the final bill is issued in order to process the refund. A timeframe of eight weeks from ceasing to supply was suggested by the respondent. We accept the concerns highlighted around the six week timeframe for the refund to be made and we are content that the suggested timeframe of eight weeks would allow suppliers sufficient time to process any refunds while still retaining protection for customers. We have therefore amended the timeframe for refunds to eight weeks.
- 2.3.9 The CCNI also welcomed the proposed modification stating that they believed it was appropriate to have a licence condition which put the onus on suppliers to refund customers. CCNI stated that they would expect suppliers to apply a consistent approach to tracing customers in credit as they would if they were tracing customers in debt. CCNI added that they will evaluate, through their complaints function, instances where they believe 'best endeavours' has not been made to refund credit to customers.

UR final decision and effect of modification

- 2.3.10 **Decision:** All respondents supported the modification to include an obligation for suppliers to refund any credit amounts on closed accounts within the 'Provision of Information to Consumers' condition and therefore we have decided to proceed with implementing this modification.
- 2.3.11 However we have taken the consultation responses on board and have decided to **change the timeframe for the refunds to be made to eight weeks**. In the consultation paper the proposed timeframe was six weeks, therefore the final decision will allow all suppliers additional time for processing refund payments.
- 2.3.12 **Effect:** This modification will require a supplier to return any money owed to a customer, once they close their account, within eight weeks. The modification will ensure there is consistency of treatment across all suppliers in terms of the requirements to hand the money back to customers within a certain timescale.

Licence extract showing final modification decision

2.3.13 An extract from condition 2.19 of a gas supply licence is provided below showing the final modifications. The same changes will occur in condition 38 of the electricity supply licences.

Condition 2.19: Provision of Information to Consumers (extract)

2.19.13 Where a domestic consumer terminates the Contract in accordance with its provisions ~~and exercises his right to receive a supply of gas at the Domestic Premises from another gas supplier~~, the Licensee shall:

- (a) send a final bill to the domestic consumer within six weeks of the Licensee ceasing to provide a supply of gas to the domestic consumer; and
- (b) use best endeavours to refund any outstanding credit to the domestic consumer within eight weeks of the Licensee ceasing to provide a supply of gas to the domestic consumer via an appropriate mechanism.

2.4 DECISION: Licence modification 4 - to change the period in which supply companies must inform consumers they are coming to the end of a fixed term contract

Summary of proposed modification

- 2.4.1 We proposed amendments to the “Terms and conditions of Gas/Electricity Supply Contracts” condition in all gas and electricity supply licences to change the timeframe under which the supplier must send notice to domestic customers that they are coming to the end of a fixed term period.
- 2.4.2 Where a supplier offers fixed term contracts for domestic customers, paragraph 12(b) of this condition currently requires suppliers to send a notice to each domestic customer at least 28 days, but no more than 42 days before their fixed term period ends. Suppliers are also required to notify domestic customers of any change in the customer’s terms and conditions, including any change in price at least 21 days before the change takes effect.
- 2.4.3 The modification proposed to change the timeframe under which a supplier must send notice to domestic fixed term customers so that the notice is given at least 21 days, but no more than 42 days before the fixed term period ends.
- 2.4.4 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas supply licences	Modification to condition 2.18
All electricity supply licences	Modification to condition 27

Responses to the consultation

- 2.4.5 There were four responses to this proposed modification. All of these respondents supported the proposed modification.
- 2.4.6 Some of the comments from the respondents were that they agreed with the UR’s rationale for making the modification and they believed it was logical to align the notice periods in the licence and it could create benefits for customers on fixed term contracts.

UR final decision and effect of modification

- 2.4.7 **Decision:** As all respondents supported the modification, we have decided to proceed with implementing the modification to the “Terms and conditions of Gas/Electricity Supply Contracts” condition exactly as proposed in the consultation.
- 2.4.8 **Effect:** This modification will align the fixed term minimum notice period to the 21 day minimum notice of a change in terms and conditions (including price). This would allow suppliers to be able to plan customer notices such that they would not be required to send two separate notices in close proximity to each other, and therefore eliminate confusion. Suppliers could also reduce their costs by sending one notice instead of two notices.

Licence extract showing final modification decision

- 2.4.9 An extract from condition 2.18 of the gas supply licences is provided below showing the final modification. The final modification will be mirrored in condition 27 of the electricity supply licences.

Condition 2.18: Terms and Conditions of Gas Supply Contracts (extract)

- 2.18.12 Where the Licensee enters into a Contract with a domestic consumer which has a fixed term period:
- (a) any such Contract may not include any term or condition which has the effect of:
 - (i) extending the length of that fixed term period; or
 - (ii) applying a consecutive fixed term period,unless the domestic consumer has the right to terminate the Contract at any time in the extended or consecutive fixed term period without payment of a termination fee; and
 - (b) the Licensee shall, by way of sending a notice, notify each such domestic consumer of:
 - (i) the expiry date of the fixed term period at least ~~21-28~~ but no more than 42 days before that expiry date;
 - (ii) the name and unit rate, expressed as “pence per kWh”, of the domestic consumer’s current tariff; and
 - (iii) details of the standard evergreen tariff, including the applicable unit rate expressed as “pence per kWh”, that will apply under the Contract following the expiry date of the fixed term period.

2.5 DECISION: Licence modification 5 - to place a duty on gas suppliers to offer terms to any domestic consumer (Gas only – new condition)

Summary of proposed modification

- 2.5.1 We proposed to modify the gas supply licences to include a new condition placing an obligation on gas suppliers to offer terms to domestic consumers.
- 2.5.2 The electricity supply licences already include a ‘duty to offer terms’ condition and therefore the proposed modification would align the gas supply licences with the electricity supply licences.
- 2.5.3 There is currently no obligation on gas suppliers to supply to domestic consumers. The proposed modification would introduce a new licence condition that would place a duty on gas suppliers to offer terms to domestic consumers.
- 2.5.4 It was proposed that this new condition would apply where the gas supplier is already supplying or offering to supply other domestic consumers within each licensed area (i.e. Greater Belfast, Ten Towns or the West). For example, if a gas supplier is supplying, or offering to supply domestic consumers in the Greater Belfast area, then the condition would apply if the supplier received a request from another domestic consumer in the Greater Belfast area, but for clarity would not apply if they received a request from a domestic consumer in the Ten Towns area.
- 2.5.5 The new condition would require that where a domestic consumer accepts the terms of the contract offered by the gas supplier, the licensee would then supply gas in accordance with that contract.
- 2.5.6 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas supply licences	New condition (included as 2.17A)

Responses to the consultation

- 2.5.7 There were three responses to this proposed modification. One supplier responded noting that they were content with the new condition as proposed. The CCNI also welcomed the modification noting that it will ensure customers are treated equally.
- 2.5.8 In Phoenix Natural Gas Limited’s (PNGL) response they noted that the proposed new condition includes exemptions where the gas supplier would not be required to enter a contract with a domestic customer and supply gas to that customer.
- 2.5.9 However PNGL believe an additional exemption is required to cover instances where the Network Operator is unable to offer a connection, e.g. to ensure the

safety and integrity of its network in the authorised area. PNGL state that it is unclear whether the exemption in paragraph 4(a) of the new condition is intended to cover this and while the exemption in paragraph 4(b) may cover this in part, additional clarification is needed to ensure that supplying gas to a Domestic Premises is in compliance with the Operator's operating policies. The UR has considered this point and confirms that the exemption in paragraph 4(a) does indeed cover circumstances where the Network Operator is unable to offer a connection. For clarity, where circumstances prevail such that the Network Operator is unable to offer a connection, e.g. to ensure the safety and integrity of its network, then the customer's premises will not be connected to the relevant network and as such, the exemption in paragraph 4(a) will be applicable. Consequently we do not consider that any additional exemption is required.

- 2.5.10 PNGL also highlighted the exemption in paragraph 4(c) of the new condition where a gas supplier has given the customer at least seven days' notice of its intent to stop providing a supply of gas. PNGL pointed out that this timeline may not be achievable in instances where the gas supplier is notified by the Network Operator of a proposed permanent disconnection from the system due to the confirmation of energy theft at the premises. PNGL therefore suggested that clarification is added to paragraph 4(c) to ensure that this condition does not take precedence over the relevant Network Operator's revenue protection policies. The UR has considered this issue and notes that it would appear that PNGL's existing revenue protection procedures would allow for at least seven days' notice to be provided to the customer in the majority of cases. Despite this we consider that there could be extenuating circumstances where a fast-tracked disconnection may be warranted, e.g. where there is a high safety risk. Therefore we have decided to amend paragraph 4(c) in the new licence condition to allow for circumstances where the supplier cannot give the customer seven days' notice of its intent to stop providing a supply of gas.

UR final decision and effect of modification

- 2.5.11 **Decision:** The responses were supportive of the proposal to include a new condition on 'Duty to Offer Terms' into gas supply licences and therefore we have decided to proceed with introducing this new condition.
- 2.5.12 However following specific comments from one respondent we have decided to **amend the wording of the condition in paragraph 4(c) to allow for circumstances where the supplier cannot give the customer seven days' notice of its intent to stop providing a supply of gas.**
- 2.5.13 **Effect:** This new condition will require that where a domestic consumer accepts the terms of the contract offered by the gas supplier, the licensee would then supply gas

in accordance with that contract. This condition would mean that all domestic gas consumers will have equal opportunities to change supplier provided that they are willing to accept the supplier's terms.

Licence extract showing final modification decision

2.5.14 The new condition is shown below. This condition will be included in all gas supply licences as condition 2.17A.

Condition 2.17A: Duty to Offer Terms (new condition)

2.17A.1 Where:

- (a) the Licensee is authorised to supply gas to premises in one or more areas described in Schedule 1 ("authorised areas"); and
- (b) the Licensee supplies or offers to supply gas to Domestic Premises in one of those authorised areas

then the Licensee must, within a reasonable period of time after receiving a request from a Domestic Consumer for a supply of gas to Domestic Premises located in that same authorised area, offer to enter into a contract with that consumer.

2.17A.2 If the Domestic Consumer accepts the terms of the Contract offered to him under paragraph 2.17A.1, the Licensee must supply gas in accordance with that Contract.

2.17A.3 A Contract must:

- (a) be in writing; and
- (b) include all the terms and conditions for the supply of gas as provided for in Condition 2.18.

2.17A.4 The Licensee is not required to comply with the obligations set out in paragraphs 2.17A.1 or 2.17A.2 in any of the following circumstances:

- (a) the Domestic Premises are not connected to the network in the authorised area;
- (b) supplying gas to the Domestic Premises would, or might, involve danger to the public, provided that the licensee has taken all reasonable steps to prevent such danger from occurring;

- (c) it is not reasonable in all the circumstances of the case for the Licensee to supply gas to the Domestic Premises, provided that, if it is already supplying gas to the premises, it has given at least seven working days' notice or, (where the circumstances of the case are that the relevant Network Operator has a legal right to disconnect the Domestic Premises and has notified the licensee that it is exercising this right and the licensee is unable to give at least seven working days' notice) such advance notice as the licensee is reasonably able to give of its intention to stop doing so; or
- (d) the Licensee requires the Domestic Consumer to pay a reasonable Security Deposit and he does not do so.

2.6 DECISION: Licence modification 6 - to amend the definition of domestic consumer in gas supply and gas conveyance licences

Summary of proposed modification

- 2.6.1 We proposed to modify the definitions of domestic and business consumers and premises within all gas supply and conveyance licences.
- 2.6.2 Domestic premises are currently defined in gas supply licences as premises that are not expected to exceed annual consumption of 73,250 kWh, or where the gas supply is taken wholly or mainly for domestic purposes. Business premises are currently defined in the gas supply licences as premises used wholly or mainly for commercial purposes that are expected to have gas usage exceeding 73,250 kWh per annum.
- 2.6.3 We do not consider that a customer's usage should determine the tenure of the property.
- 2.6.4 Therefore, we proposed to modify the definitions of the terms 'business premises' and 'domestic premises' within condition 1.1 of all gas supply licences and include a new definition for the term 'business consumer'. These modifications mean that domestic premises would be defined as any premises taking gas wholly or mainly for domestic purposes. This means that small businesses would no longer be classified as domestic under the gas supply licences.
- 2.6.5 In order to align the definitions in the gas conveyance and supply licences, we also proposed to modify the definition of the term 'domestic consumer' in condition 1.1 of the gas conveyance licences and to include new definitions for the terms 'domestic premises' and 'non-domestic consumer'.
- 2.6.6 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas supply licences	Modification to condition 1.1
All gas conveyance licences (distribution and transmission)	Modification to condition 1.1

- 2.6.7 We consider that the proposed modifications to gas supply and conveyance licences to define a domestic consumer as any consumer taking gas wholly or mainly for domestic purposes would align the definition in the licences to how the gas industry is operating in practice. We therefore believe that modifying these definitions will add clarity for gas suppliers and network companies operating in the

- NI gas industry and will not have any impact on the working practices of gas suppliers and network companies.
- 2.6.8 When a new supplier enters the gas market they can choose to supply to domestic or business customers, or both. To date, some suppliers have opted to only supply to business customers.
 - 2.6.9 When a gas supplier chooses to supply gas to business customers only, they only complete the new entrant market assurance processes for the business sector. This means that the gas supplier may not be ready (or able) to operate in the domestic sector and may also not be compliant with licence conditions that relate specifically to domestic customers and protection of same.
 - 2.6.10 It is therefore important to have clearly defined definitions of domestic and business customers so that gas suppliers have clarity on which customers they can supply particularly if they have only completed new entrant market assurance for the business sector.
 - 2.6.11 We also note that the Gas (Applications for Licences and Extensions) (Amendment No. 2) Regulations (Northern Ireland) 2013² (the Regulations) define 'domestic premises' as meaning 'premises to which gas is conveyed at a rate which is reasonably expected not to exceed 2,500 therms a year'.
 - 2.6.12 We have discussed the amendment of this definition with the Department of Enterprise, Trade and Investment (now the Department for the Economy) and we understand that they plan to consult on a proposed legislative amendment during 2016.

Responses to the consultation

- 2.6.13 We received six responses in relation to this modification proposal.
- 2.6.14 Three of the responses were supportive of the proposed modification with no issues or objections being raised.
- 2.6.15 One supplier agreed that a customer's gas usage should not be used to determine the tenure of the property (i.e. whether it is domestic or business premises) and they also supported the UR's proposal to align the definitions in gas supply and conveyance licences to ensure consistency and clarity throughout the gas industry. This supplier noted support for the proposed modification stating that the proposed definition of domestic consumers was appropriate.

² Gas (Applications for Licences and Extensions) (Amendment No. 2) Regulations (Northern Ireland) 2013: <http://www.legislation.gov.uk/nisr/2013/281/made>

- 2.6.16 This supplier added that they believed that further industry discussion was required when considering exceptions to the domestic and business customer classifications and they noted the importance of Network Operators and suppliers classifying customers in the same categories. The UR agrees that further discussion is required on whether it would be appropriate to have any exceptions to the new licence definitions so that premises that are being used wholly or mainly for domestic purposes could be defined as business premises. This was discussed at Gas Market Opening Group (GMOG) industry meetings in October and November 2015 prior to the consultation on proposed licence modifications being published. We will bring this item back to future GMOG meetings for further discussion following the publication of the decision paper and we will take this forward with the gas industry.
- 2.6.17 Another supplier states in their response that further discussion was required in relation to the proposal to amend the definition of domestic consumers in gas licences. They noted concern that the change in definition would require the UR to amend the Retail Energy Market Monitoring (REMM)³ reporting breakdowns which would be costly to licensees. They also stated that it was unclear whether they would be required to notify all of their customers of the change in definitions.
- 2.6.18 We have spoken with this supplier separately on their responses and their concerns set out above and can clarify that they had misunderstood the intention of the modifications to the definitions in gas licence. As stated previously, and in the consultation paper, the effect of these modifications is that it will align the definitions in the licences to how the gas industry is operating in practice. Therefore the modifications will add clarity for gas suppliers and network companies operating in the NI gas industry and will not have any impact on the working practices of gas suppliers and network companies. We confirm that these modifications will not result in any change to the reporting breakdowns for REMM and the suppliers will not be required to notify all customers.
- 2.6.19 SGN Natural Gas Limited (SGN) noted support for the proposed modification to their licence but highlighted that the term “domestic premises” within Condition 3.1 in Part 3 of their licence should also be modified. We agree that the term “domestic premises” within Condition 3.1 in Part 3 of the SGN should be modified to ensure consistency throughout their licence. We have included this as a new change to the SGN licence and have also included a new amendment to the term “small/medium I&C” in Condition 3.1.

³ Retail Energy Market Monitoring final decisions, June 2015:

http://www.uregni.gov.uk/news/retail_energy_market_monitoring_remm_final_decisions_published

2.6.20 SGN also noted that the use of capital letters and lower case should be applied consistently throughout their licence. We have noted this request so that it can be considered when future modifications are being made to the SGN licence.

UR final decision and effect of modification

2.6.21 **Decision:** As there was overall support for the proposed modifications, we have decided to proceed with modifying the definitions exactly as proposed in the consultation paper.

2.6.22 We have however **included additional modifications to gas conveyance licences:**

- (i) **the term “non-domestic premises” is being included into condition 1.1 in all gas conveyance licences as a new modification.** This will ensure completeness of the definitions; and
- (ii) **the terms “domestic premises” and “small/medium I&C” are being modified in condition 3.1 in SGN Natural Gas Limited’s conveyance licence.** These amendments were not included in the consultation paper; however they are included in the final decisions to ensure the definitions in Part 3 of the licence are consistent with the rest of the licence.

2.6.23 **Effect:** We consider that these modifications to gas supply and conveyance licences will align the definitions in licences to how the gas industry is operating in practice. Therefore the modifications will add clarity for gas suppliers and network companies operating in the NI gas industry.

Licence extract showing final modification decision

2.6.24 The modifications to condition 1.1 of the gas supply licences are shown below. These definitions will be amended or inserted into the definitions within paragraph 6 of condition 1.1.

Condition 1.1: Interpretation and Construction (extract)

“business consumer”	means a consumer supplied, or requiring to be supplied, with gas at Business Premises;
“business premises”	means any premises that are not domestic premises used wholly or mainly for commercial purposes being

	supplied with gas at a rate reasonably expected to exceed 73,250 kilowatt hours a year;
"domestic consumer"	means a consumer supplied, or requiring to be supplied, with gas at Domestic Premises;
"Domestic Premises"	means premises at which, at the time of the Licensee entering into a contract for the supply of gas to such premises, the normal annual consumption of gas is reasonably expected not to exceed 73,250 kilowatt hours a year or where the supply of gas is taken wholly or mainly for domestic purposes;

2.6.25 The modifications to condition 1.1 of the gas conveyance licences (transmission and distribution) are shown below. These definitions will be amended or inserted into the definitions within paragraph 6 of condition 1.1.

Condition 1.1: Interpretation and Construction (extract)

"domestic consumer"	means a person who is supplied with gas conveyed to premises at a rate which is reasonably expected not to exceed 2,500 therms a year means a consumer supplied, or requiring to be supplied, with gas at Domestic Premises;
"domestic premises"	means premises where the supply of gas is taken wholly or mainly for domestic purposes;
"non-domestic consumer"	means a consumer who is not a domestic consumer;
"non-domestic premises"	means premises which are not domestic premises

2.6.26 Additional modifications will be made to paragraph 1 in Condition 3.1 in Part 3 of SGN Natural Gas Limited's conveyance licence as set out below.

Part 3: ADDITIONAL SPECIAL CONDITIONS

Condition 3.1: Definitions (extract)

"Domestic Premises"	means:
	(a) any premises at which the supply of gas is, or is to be, taken wholly or mainly for domestic purposes; and
	(b) any premises not falling within sub-paragraph (a) above at which the normal annual consumption of gas is reasonably expected not to exceed 73,250 kilowatt hours a year;
	means premises where the supply of gas is taken wholly or mainly for domestic purposes;
"Small/Medium IC"	means Non-Domestic Premises at which the normal annual consumption of gas is reasonably expected to exceed 73,250 kilowatt hours a year but not to exceed 732,500 kilowatt hours a year.

2.7 DECISION: Licence modification 7 - to align the provision of switching information by distribution companies with the timetables outlined in REMM

Summary of proposed modification

- 2.7.1 In the consultation we proposed to amend the ‘Systems to facilitate change of supplier’ condition in the electricity distribution licence and the gas conveyance licences held by distribution companies.
- 2.7.2 This licence condition currently requires each distribution company to provide information on supplier transfers to the UR no later than fourteen days after the end of each quarter year. The proposed modification would extend the timeframe for the distribution companies to submit information on supplier transfers to the UR from fourteen days to one month after the end of each quarter.
- 2.7.3 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
Phoenix Natural Gas Limited (PNGL) gas conveyance licence:	Modification to condition 1.23
firmus energy (Distribution) Limited (feDL) gas conveyance licence:	Modification to condition 1.23
SGN Natural Gas Limited (SGN) gas conveyance licence:	Modification to condition 1.18
Northern Ireland Electricity Networks Limited (NIE) electricity distribution licence:	Modification to condition 44

Responses to the consultation

- 2.7.4 There were four responses to this proposed modification. Each of the respondents supported the modification and welcomed the clarity and alignment of the licence with the REMM framework⁴.

⁴ Retail Energy Market Monitoring final decisions, June 2015:

http://www.uregni.gov.uk/news/retail_energy_market_monitoring_remm_final_decisions_published

UR final decision and effect of modification

- 2.7.5 **Decision:** As all respondents supported the modification, we have decided to proceed with implementing the modification to the ‘Systems to facilitate change of supplier’ condition exactly as proposed in the consultation.
- 2.7.6 **Effect:** The effect of the proposed modification is that distribution companies will have a longer timeframe to collate and submit information on supplier transfers.

Licence extract showing final modification decision

- 2.7.7 An extract from condition 1.23 of the PNGL licence is provided below showing the proposed modification. The proposed modification will be mirrored in the feDL, SGN and NIE licences.

Condition 1.23: Systems to Facilitate Change of Supplier (extract)

1.23.2 Maintaining Records and Reporting

The Licensee shall no later than ~~one month–fourteen days~~ after the end of each quarter year ending on 30 June, 30 September, 31 December and 31 March, give to the Authority a report which sets out –

- (a) the number of Registration Requests received by it in each month of that quarter,
- (b) the number of actual Supplier Transfers completed in each month of that quarter, and
- (c) of the number of Supplier Transfers completed in each month of that quarter, the number which took more than 15 working days to complete from the date of the valid Registration Request being received by the Licensee.

2.8 DECISION: Licence modification 8 - to provide a reference to the minimum standards in the Codes in gas and electricity supply licences

Summary of proposed modification

- 2.8.1 We propose to amend the ‘Preparation, Revision Of and Compliance with Codes of Practice’ condition in the electricity and gas supply licences. The proposed modification will add a direct and specific reference to compliance with the minimum standards for Codes of Practice in licences.
- 2.8.2 We have defined mandated minimum standards that suppliers must adhere to in their Codes of Practice⁵. All suppliers are bound to the conditions of the minimum standards on Codes of Practice by virtue of their licence which requires UR approval of the Codes. However, at present, the minimum standards are not directly referenced in licences.
- 2.8.3 In order therefore to ensure maximum clarity for licence holders, new entrants and consumers, we propose to add an explicit reference to the minimum standards in each licence.
- 2.8.4 No additional requirement will be placed on licence holders as a result of this modification.
- 2.8.5 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All Electricity Supply Licences:	Modification to condition 35
All Gas Supply Licences:	Modification to condition 2.13

Responses to the consultation

- 2.8.6 All respondents who specifically commented on this modification indicated their support for the modification.
- 2.8.7 One respondent reaffirmed the importance of the Codes of Practice and compliance with the minimum standards and particularly welcome that this modification recognises these within the licence.
- 2.8.8 One further respondent noted that the Codes have been agreed and welcomed across the industry and have been implemented accordingly and note the modification should have no fundamental impact.

⁵ Energy Supplier Codes of Practice Final Decisions, June 2015:
http://www.uregni.gov.uk/uploads/publications/Final_Codes_of_Practice_Decision_Paper.pdf

UR final decision and effect of modification

- 2.8.9 **Decision:** As all respondents supported the modification, we have decided to proceed with implementing the modification to add the reference to the Code minimum standards in gas and electricity supply licences exactly as proposed in the consultation.
- 2.8.10 **Effect:** This modification will include a specific reference to the compliance with the Codes of Practice in licences.

Licence extract showing final modification decision

- 2.8.11 The modification being made is the addition of a new paragraph into condition 35 in the electricity supply licences and condition 2.13 in the gas supply licences. The new paragraph will be inserted as paragraph 2 and the existing paragraphs within the condition will be renumbered accordingly.
- 2.8.12 The drafting for the new paragraph in condition 35 of the electricity supply licences is shown below. This will be mirrored in condition 2.13 of gas supply licences.

Condition 35: Preparation, Revision Of and Compliance with Codes of Practice (extract)

2. The Licensee shall comply with the Code of Practice minimum standards on Payment of Bills, Code of Practice minimum standards on Provision of Services for persons who are of Pensionable Age or Disabled or Chronically Sick, Code of Practice minimum standards on Complaints Handling Procedure, Code of Practice minimum standards on Services for Prepayment Customers and Code of Practice minimum standards on the efficient use of electricity, as amended or replaced from time to time.

2.9 DECISION: Licence modification 9 - to remove duplications in Marketing Condition

Summary of proposed modification

- 2.9.1 We proposed to amend the ‘Marketing of Electricity/Gas’ condition in the electricity and gas supply licences to deal with duplication and also to minimise confusion
- 2.9.2 We proposed to remove paragraphs 3, 4 and 5 as well as amending and removing some of the definitions in condition 40 of the electricity supply licences and condition 2.21 of the gas supply licences.
- 2.9.3 The Implementation of the EU’s Third Package of energy market Directives (IME3) included licence modifications to energy supplier licences which required the development of a new Supplier Marketing Code of Practice. This requirement was added to condition 40 in electricity supply licences and condition 2.21 in gas supply licences. The Directive called for a “high level of customer protection” and the UR felt to achieve this it was appropriate to install a mandatory code of practice to guard against mis-selling to customers (especially in doorstep/face to face selling situations).
- 2.9.4 The UR Energy Marketing Codes of Practice (the Codes) were subsequently developed. A separate Code was developed for domestic and business customers. The Codes are a detailed, standalone documents designed to encompass all marketing obligations for suppliers.
- 2.9.5 The licence condition itself (in both the gas and electricity supply licences) sets out a number of stipulations to be covered in relation to marketing activities. These were drafted before the existence of separate Codes. As a result, there are a number of areas of duplication within the licence condition and the actual Codes, and an instance of contradiction between the two.
- 2.9.6 Therefore, we proposed to amend the marketing condition in the supply licences to reflect this. The Codes themselves were widely consulted on and have been formally in place since June 2014. The proposed modification was therefore a simple ‘tidy up’ exercise to ensure the licence was updated to reflect the Codes.
- 2.9.7 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All Electricity Supply Licences:	Modification to condition 40
All Gas Supply Licences:	Modification to condition 2.21

Responses to the consultation

- 2.9.8 There were four responses to this proposed modification.
- 2.9.9 Three suppliers responded noting support for the proposed modification, with one supplier adding that the modification should have no fundamental impact.
- 2.9.10 CCNI also supported the modification and added that they have experienced customer complaints due to marketing failure in the past, but noted that there has been an improvement since the introduction of the Marketing Codes. CCNI believe the modification will add clarity which will strengthen how suppliers interact with customers.

UR final decision and effect of modification

- 2.9.11 **Decision:** As all respondents supported the modification, we have decided to proceed with implementing the modification to the ‘Systems to facilitate change of supplier’ condition exactly as proposed in the consultation.
- 2.9.12 **Effect:** The effect of the licence modification would be the removal of duplication in the licence and the Codes. This should minimise confusion.

Licence extract showing final modification decision

- 2.9.13 Condition 40 of an electricity supply licence is provided below showing the modifications. The same changes are will be made to condition 2.21 of the gas supply licences.

Condition 40: Marketing of Electricity

- 1 This Condition shall apply, from the date of the direction, where the Authority has directed that it shall apply to the Licensee. This Condition applies to the selling methods and marketing activities of the Licensee in respect of the supply or proposed supply of electricity.
- 2 The Licensee shall (and shall procure that its agents or sub-contractors shall) comply with the Marketing Code of Practice for Domestic Customers and/or the Marketing Code of Practice for Business Customers.
- 3 The Licensee shall (and shall procure that its agents or sub-contractors shall):
 - (a) establish appropriate procedures for the selection of persons employed or engaged in roles the principal duties of which involve verbal communications with Customers for the purpose of selling to such Customers the Licensee's services in respect of the supply of electricity;
 - (b) take all reasonable steps to ensure that each such person is sufficiently trained so as to have a sufficient understanding of:
 - (i) the electricity supply market in Northern Ireland;
 - (ii) the terms and conditions of the Licensee's Contracts available for Domestic Customers; and
 - (iii) matters relating to the efficient use of electricity (in order to provide energy efficiency advice to Domestic Customers including details of other organisations that may be able to assist the Domestic Customer on such matters),
so that any advice given to Domestic Customers by such persons is not misleading; and
 - (c) take all reasonable steps to ensure that a Domestic Customer is:
 - (i) made aware or will readily understand that he has entered, or is about to enter, into a Contract with the Licensee for the supply of electricity to the Domestic Customer's premises;
 - (ii) where the Domestic Customer is to receive a supply of electricity for the first time at the premises, made aware or will readily understand that he should take appropriate action to ensure that he is able to continue the use of his existing fuel source (if any) until the commencement of the supply of electricity; and
 - (iii) take all reasonable steps to ensure that any unsolicited contact made on behalf of the Licensee with any Domestic Customer takes place at a reasonable time of the day.
- 4 Where the Licensee enters into a Contract with a Domestic Customer in the course of:
 - (a) a visit to that Customer's premises by a representative of the Licensee;

	<p>(b) a conversation in a place to which the public have access; or</p> <p>(c) a telephone conversation between a representative of the Licensee and the Customer,</p> <p>the Licensee shall use its reasonable endeavours to contact the Customer between 1 to 14 days after the Contract has been entered into to confirm that the Customer understands that he has entered into the Contract and is content to have done so but that the supply of electricity will not commence until the supply start date notified, or to be notified, to him.</p>
5	If in the course of, or in response to, the Licensee's contact in accordance with paragraph 3 the Domestic Customer indicates that he is not content to have entered into the Contract and wishes to cancel the Contract, the Licensee shall use all reasonable endeavours to ensure that the Contract is cancelled and that the Licensee does not commence the supply of electricity to the Customer's premises.
63	In this Condition:
marketing activities	means any activities of the Licensee that are directed at or incidental to identifying and communicating with Customers for the purpose of promoting the Licensee's electricity supply contracts to them, and includes entering into contracts with such Customers;
Marketing Code of Practice for Domestic Customers	means the relevant document of that name, prepared and published from time to time by the Authority, relating to marketing activities
Marketing Code of Practice for Business Customers	means the relevant document of that name, prepared and published from time to time by the Authority, relating to marketing activities
Agent of Sub-contractor Representative	means any person directly or indirectly authorised to represent the Licensee in its dealings with Customers.

2.10 DECISION: Licence modification 10 - to ensure correct references are made to the NIE distribution licence

Summary of proposed modification

- 2.10.1 As a consequence of the Third Energy Package of Directives (IME3) and their implementing regulations, we removed the distribution conditions from the NIE Transmission and Distribution licence. NIE now hold two separate licences, one for transmission and one for distribution. We therefore proposed to update electricity supply licences to ensure the correct references to NIE Distribution are made throughout the licence.
- 2.10.2 Electricity supply companies interact with NIE in order to carry out their functions. Indeed, suppliers are required by virtue of their licences to comply with NIE systems and processes in order to operate in the market.
- 2.10.3 It is therefore important to update supply licences to ensure any references to either the relevant transmission or distribution licences are correct. It was proposed definitions would also been updated to reflect this licensing change.
- 2.10.4 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
Electricity Supply Licences:	Modification to Conditions of the Licence, Conditions 1, 3, 4, 5 (Power NI Condition 60), 7 (except Power NI), 17 and 23
Power NI licence only	Modification to Licence Conditions 44, 50, 66, 69, Annex 3

Responses to the consultation

- 2.10.5 All respondents who commented on the proposed modifications to the references to the NIE distribution licence were supportive of the proposals.
- 2.10.6 Two respondents commented that there are other unused or out of date conditions within their licence that should also be removed or amended. We would like to note that the UR is conscious that over the last number of months, due to the introduction of new legislation and other policy changes, licence holders have had a number of changes made to their licences. Indeed in their response one supplier noted the significant number of recent changes. As such the scope of this consultation has been limited to specific policy issues and tidy up issues.

- 2.10.7 We continue to keep note of further licence modifications required to reflect market conditions, policy decision and inaccuracies in licences. We will consult further on any proposed changes at a later date.
- 2.10.8 We would also note that in our 2016/17 Forward Work Programme we have identified a project to work with the Department of Enterprise, Trade and Investment (now the Department for the Economy) in relation to scoping the extent to which energy licences could be simplified. The aim of this project is to lead to a more standardised form of licence, facilitate compliance with EU directives and reduce regulatory burden. This workstream should also address any additional necessary amendments to licences as identified by licence holders.
- 2.10.9 One respondent identified three errors in the drafting of licence amendments. In Power NI's licence: Condition 44 definition of Land Bank it should be Distribution, not Distributor as drafted. We note this drafting error and agree with this suggestion. Condition 66 clause 7(c) should have the word Transmission removed. We note this drafting error and agree with this suggestion. Annex 3, sub-clause of the definition of Dt should have the word 'owner' removed. In this instance we do not agree with the suggested amendment. The references are being updated to reflect the split in the NIE Networks Transmission and Distribution Licences and we have aimed to mirror the references wherever possible. As such we are retaining the word 'owner' in the reference.

UR final decision and effect of modification

- 2.10.10 **Decision:** All respondents were supportive of the proposed amendments as outlined in the licence save for three specific corrections of which we agree with two of these corrections as detailed above. As such we will proceed with implementing these amendments as outlined in the consultation save two corrections as outlined below.
- 2.10.11 Condition 44 definition of Land Bank will be updated to 'Distribution'
- 2.10.12 Condition 66 clause 7(c) has the word Transmission removed
- 2.10.13 **Effect:** The modifications will ensure the correct references to the NIE Distribution licence are made in all electricity supply licences.

Licence extract showing final modification decision

2.10.14 Extracts from conditions 1, 3, 4, 5, 17 and 23 in all electricity supply licences are provided below showing the modifications to each condition.

Condition 1: Interpretation and construction (extracts)

Distribution Code

~~Has the meaning given to it in the Transmission Owner Licence.~~ means, in relation to any Licensed Distributor, the code of that title required to be prepared by it and approved by the Authority in accordance with a condition of the Distribution Licence held by that Licensed Distributor.

Distribution Licence

means a licence granted or treated as granted under Article 10(1)(bb) of the Order

Distribution Owner

means the person authorised, from time to time, under the Successor Distribution Licence in its capacity as the holder of that Licence

Licensed Distributor

means any person holding a Distribution Licence

PSO agreement

means the agreement of that title with the ~~Transmission~~ Distribution Owner in the form approved from time to time by the Authority

Successor Distribution Licence

means the licence which, pursuant to Regulation 90(1)(b) of the Internal Markets Regulations, has effect as a licence under Article 10(1)(bb) of the Order and is held by Northern Ireland Electricity Limited (a body corporate registered in Northern Ireland under company number NI026041).

Successor Transmission Licence	means the licence which, pursuant to Regulation 90(1)(b) of the Internal Markets Regulations, has effect as a licence under Article 10(1)(b) of the Order and is held by Northern Ireland Electricity Limited (a body corporate registered in Northern Ireland under company number NI026041).
Transmission Owner	Means the person authorised, from time to time, under the Transmission Owner Licence in its capacity as the holder of that Licence.
Transmission Owner Licence	Means the licence granted, under Article 10(1)(b) of the Order, to Northern Ireland Electricity plc (a body corporate registered in Northern Ireland under company number NI026041) on 31 March 1992.
transmission system	has the meaning given in the Successor Transmission Owner Licence

Condition 3: Compliance with the Grid Code and Distribution Code (extract)

1. The Licensee shall comply with the provisions of the Grid Code and ~~each the~~ Distribution Code insofar as applicable to it.
2. (b) ~~in respect of a Distribution Code of any Licensed Distributor and following consultation with the relevant Licensed Distributor~~ ~~Transmission Owner~~, issue directions relieving the Licensee of its obligation under paragraph 1 above in respect of such parts of ~~the~~ ~~that~~ Distribution Code and to such extent as may be specified in those directions.

Condition 4: The Market Registration Framework Agreement (extract)

Market Registration Framework Agreement shall have the meaning given to it from time to time in the ~~Transmission Owner~~ Successor Distribution Licence.

Condition 5: Modification of the Single Electricity Market Trading and Settlement Code and Cancellation of contracts

11. In this Condition:

Land Bank Business has the meaning given to that expression in the ~~Successor Distribution Licence~~ ~~transmission licensee granted to Northern Ireland Electricity plc on 31 March 1992~~

Condition 7: Compulsory Acquisition of Land

In this Condition:

land bank has the meaning given in the ~~Successor Distributor Transmission Owner Licence~~.

Condition 17: Procedures for the Detection and Prevention of Theft, Damage and Meter Interference (extract)

4. The Licensee shall inform the owner of its policy in relation to incidents of the type referred to in Paragraph 3, and in particular of the circumstances in which it requires the ~~Transmission Owner~~ owner and/or operator of the distribution system to which the premises are connected to remedy such incidents by the use of:

Condition 23: Claims for Last Resort Supply Payments (extracts)

1. If the Licensee has received the Authority's consent under paragraph 5, it may make a claim for a Last Resort Supply Payment made under Condition 33 of the ~~Transmission Owner~~ Successor Distribution Licence.
8. A claim by the Licensee for a Last Resort Supply Payment from the ~~Transmission~~ Distribution Owner must specify:
 - (a) the relevant amount to be paid by the ~~Transmission~~ Distribution Owner; and
 - (b) whether payment is to be made by quarterly or monthly instalments.

2.10.15 Extracts from conditions 44, 50, 66, 69, Annex 3 of the additional modifications to Power NI's licence are shown below detailing the modifications to each condition.

Condition 44: Restriction on own-generation and gas pipeline capacity

In this Condition:

land bank has the meaning given in the Successor Distribution Transmission Owner Licence.

Condition 50: Independence of the Transmission Owner and Distribution Businesses

1. The Licensee shall co-operate with:

- (a) the Transmission Owner, to the extent that such co-operation is reasonably required, to ensure that the Transmission Owner is able to fulfil its obligations under Condition 12 of the Successor Transmission Owner Licence; and
- (b) with the Distribution Owner, to the extent that such co-operation is reasonably required, to ensure that the Distribution Owner is able to fulfil its obligations under Condition 12 of the Successor Distribution Licence.

Condition 66: PPB/TO Interface Agreement

- 1 The Licensee shall, in common with the Distribution Transmission Owner, prepare, obtain the Authority's approval of, and at all times have in force, implement and comply with, an agreement (the PTIA) which:
- 3 The terms and arrangements referred to in sub-paragraph 1(a) are those terms and arrangements between the Licensee and the Distribution Transmission Owner that are requisite for the enjoyment and discharge of the rights and obligations of the Licensee or the Distribution Transmission Owner under this Licence or the Successor Distribution Transmission Owner Licence (respectively) and such other code or document as may be specified from time to time by the Authority. The Licensee

- shall not enter into any terms or arrangements with the **Distribution Transmission** Owner otherwise than pursuant to the PTIA or another document or code referred to in this Licence.
- 6 Without prejudice to paragraph 5, the Licensee shall, in common with the **Distribution Transmission** Owner, periodically, or at any time on the receipt of a request from the Authority to do so, review the PTIA and its implementation to:
- (a) ensure that it meets the requirements of paragraphs 1, 3 and 4; and
 - (b) to consider whether any alternative arrangements would better achieve those requirements.
- 7 Following any such review, the Licensee shall, in common with the **Distribution Transmission** Owner, send to the Authority:
- (a) a report on the outcome of the review;
 - (b) any revisions which the Licensee and the **Distribution Transmission** Owner agree should be made to the PTIA (having regard to the outcome of the review); and
 - (c) any matters on which the Licensee and the **Distribution Transmission** Owner disagree (which matters will be referred to the Authority for determination in accordance with paragraph 4).

Condition 69: Recovery of the PPB Amount

- 1 The Licensee shall enter into, and at all times remain party to, an agreement with the **Distribution Transmission** Owner which provides for:
- (a) notification by the Licensee of its schedule of monthly charges in relation to the PPB Amount for each relevant year, in such amounts each month as the Licensee reasonably considers appropriate, and any mid-year adjustments that may from time to time be agreed with the Authority; and
 - (b) an obligation on the **Distribution Transmission** Owner to make payments each month to the Power Procurement Business of the monthly charge relating to the PPB Amount (or, where the PPB Amount is a negative number, for payment in the relevant month of the monthly charge by the Power Procurement Business to the **Distribution Transmission** Owner).

- 2 Where the relevant monthly payment in respect of the PPB Amount is a negative number, the Power Procurement Business shall pay the relevant amount to the **Distribution Transmission** Owner in accordance with the agreement referred to in paragraph 1.

Annex 3 – Determination of the PPB Amount

D_t means:

- (a) the allowed charge in relevant year t for excluded power procurement costs and changes of law calculated as the aggregate of the excluded power procurement costs plus the allowed change of law revenues, plus
- (b) any reasonable costs incurred by the Power Procurement Business in complying with the requirements imposed on the Licensee under legislation and other legal requirements through which Directive 2003/54/EC and/or 2009/72/EC is implemented, whether before or after the coming into effect of this Annex, as reasonably determined by the Authority, to the extent not recovered under another part of this Licence or (except to the extent the **Distribution Transmission** Owner is recovering amounts in relation to payments due to the Licensee of the PPB Amount) under the **Successor Distribution Transmission** Owner Licence, plus
- (c) any reasonable costs incurred by the Power Procurement Business in complying with the requirements imposed on the Licensee under the arrangements for the Single Electricity Market (being the project described in the Memorandum of Understanding dated 23 August 2004 and made between the Authority and the Commission for Energy Regulation in Dublin), whether before or after the coming into effect of this Annex, as reasonably determined by the Authority, to the extent not recovered under another part of this Licence or (except to the extent the **Distribution Transmission** Owner is recovering amounts in relation to payments due to the Licensee of the PPB Amount) under the **Successor Distribution Transmission Owner** Licence, plus
- (d) any other amounts, not included in the revenues under the **Successor Distribution Transmission Owner** Licence or another Annex of this Licence,

requested by the Licensee and approved by the Authority whether prior to or after the coming into effect of this Annex;

5. **Excluded power procurement costs**

5.1 Subject to paragraph 5.2, the following costs and revenues of the power procurement manager (whether a positive or negative amount) shall be treated as excluded power procurement costs in relevant year t (and, in the case of (xii) and (xiii) below, such costs shall be so treated for each year in which the buy-out agreement continues to be in force):

- (i) the cost incurred in the purchase of electricity during fuel security periods and periods of force majeure in relevant year t calculated in accordance with the definition of A_t and with a basis for attributing costs between different periods of the year approved by the Authority;
- (ii) the Licensee's allowed power procurement related security costs, being any cost incurred by the power procurement manager and approved by the Authority as being an allowed security cost in accordance with the Northern Ireland Fuel Security Code (as that term is therein defined), but excluding any cost which forms part of;
 - (a) the **Distribution Transmission** Owner's allowed related security costs; or

2.11 DECISION: Licence modification 11 - to reflect correct legislation references in electricity supply licences

Summary of proposed modification

- 2.11.1 We proposed to update electricity supply licences to ensure the correct references to the most up to date pieces of legislation are used. Some pieces of legislation that are referenced in the electricity supply licences have been superseded. The consultation modifications proposed to update all licences to reference the most recent and up to date pieces of legislation
- 2.11.2 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All Electricity Supply Licences (with the exception of Power NI)	1, 2, 10 and 25
Power NI	1, 43, 47, 49, 52A, 53, 53A, 60 and Annex 3

Responses to the consultation

- 2.11.3 All respondents welcomed the clarification these modifications bring in respect to legislation references in licences.
- 2.11.4 One respondent noted a drafting error which resulted in the duplication of the term 'related undertaking' in Condition 1 of Power NI's licence. The UR accepts this drafting error and has removed this duplication.
- 2.11.5 One respondent also noted that we should take this opportunity to tidy up references to also rename the supply licence held by Power NI Energy Limited. This would mean amending NIE Energy Supply Licence to Power NI Energy Supply Licence in all cases. As outlined in section 2.10.7 we continue to keep track of additional modifications to licences that may be required and in conjunction with the simplification of licences project (as mentioned in section 2.10.8) we will address these issues at a later date.

UR final decision and effect of modification

- 2.11.6 **Decision:** As all responses were in favour of the proposed changes we will implement the modifications as outlined in the consultation paper save the removal

of the duplication of ‘related undertakings’ in Condition 1 of Power NI’s licence which has been removed.

2.11.7 **Effect:** Each electricity supply licence includes a clause under the ‘Interpretation and Construction’ condition which means that where legislation is superseded, the new legislation will apply. Therefore the proposed modifications will not have any effect on licence holders; however we took this opportunity to update the references in the licences to ensure they were up to date and as accurate as possible.

Licence extract showing final modification decision

2.11.8 Extracts from conditions 1,2,10 and 25 of all electricity supply licences (with the exception of Power NI) are shown below:

Condition 1: Interpretation and Construction (extracts)

3. In the Conditions and the Schedules unless the context otherwise requires:

Auditors	means the Licensee’s auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006 .
Cancellable generating unit agreement	means a generating unit agreement which may be the subject of a cancellation direction, being the generating unit agreement specified in Schedule 8 of the transmission licence issued to Northern Ireland Electricity plc with effect from 1 April 1992 (as it may be modified pursuant to paragraph 12 of Condition 12 of Part III thereof or paragraph 5 of Condition 7 of Part III thereof). Annex 4 (as it may be modified from time to time) of the NIE Energy Supply Licence.
Holding company	means a holding company within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986 section 1159 of the Companies Act 2006.
Related undertaking	in relation to any person means any undertaking in which that person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000.

Subsidiary	means a subsidiary within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986 section 1159 of the Companies Act 2006.
undertaking	bears the meaning ascribed to it by Article 267 of the Companies (Northern Ireland) Order 1986 section 1161 of the Companies Act 2006.

Condition 2: Separate Accounts for Separate Businesses

4 The Licensee shall in respect of each Separate Business:

- (a) keep or cause to be kept for the period referred to in ~~Article 230(5)(b) of the Companies (Northern Ireland) Order 1986~~ section 388 of the Companies Act 2006 and in the manner referred to in that ~~Article~~ section such accounting records in respect of each Separate Business as would by ~~Article 229 of the Companies (Northern Ireland) Order 1986~~ section 386 of the Companies Act 2006 be required to be kept in respect of each such business if it were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, each Separate Business are separately identifiable in the books of the Licensee (and any affiliate or related undertaking of the Licensee) from those of any other business;

7 Accounting statements in respect of a financial year prepared under sub-paragraph 4(b)(i) shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) have the same content and format (in relation to each Separate Business) as the annual accounts of the Licensee (and any affiliate or related undertaking of the Licensee) prepared under ~~Article 234 and, where appropriate, Article 235 of the Companies (Northern Ireland) Order 1986~~ Part 15 of the Companies Act 2006 and conform to the best commercial accounting practices including Statements of Accounting Practice issued or adopted by the Accounting Standards Board currently in force; and

- 8 Unless the accounting statements prepared under sub-paragraph 4(b)(i) are prepared on the current cost basis as provided by the alternative accounting rules, the Licensee shall, unless otherwise agreed by the Authority, in addition to preparing those accounting statements under that paragraph, prepare accounting statements for each Separate Business covering the same period, which shall comprise and show separately:
- (a) a profit and loss account, a balance sheet and a cash flow statement, together with notes thereto, which shall:
- (i) include in respect of current cost assets amounts determined on the current cost basis as provided by the alternative accounting rules; and
- (ii) show or disclose the information and other matters required by the alternative accounting rules to be shown or disclosed in accounts where the amounts included in respect of assets covered by any items shown in those accounts have been determined on any basis mentioned in ~~paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986~~ paragraph 32 of section C of Part 2 of Schedule 1 to the Accounting Regulations applicable to the Licensee;
- (b) in respect of each Separate Business the adjusted amount of any such provision for depreciation as is referred to in ~~paragraph 32(2) of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986~~ paragraph 33(2) of section C of Part 2 of Schedule 1 to the Accounting Regulations applicable to the Licensee and the items shown in the profit and loss account of the Separate Business for the relevant period which are affected by the determination of amounts on the current cost basis as provided by the alternative accounting rules, including the profit (or loss) before taxation; and
- 11 In this Condition:

Accounting Regulations	means the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 or the Small Companies and Groups (Accounts and Directors' Report) Regulations 2008
alternative accounting rules	means the rules set out in Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986 section C of Part 2 of Schedule 1 to the Accounting Regulations.
current cost accounts	means assets of any description mentioned in paragraph 31 of Section C of Part II of Schedule 4 to the Companies (Northern Ireland) Order 1986 paragraph 32 of section C of Part 2 of Schedule 1 to the Accounting Regulations.

Condition 10: Provision of Information to the Authority

7 In this Condition:

enforcement matter	means any matter in respect of which any function of the Authority under Article 42 and/or Article 45 of the Energy Order is or may be exercisable.
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Condition 25: Classification of Premises

6. For the purposes of paragraph 5, a **Multi-Site Contract** is a Contract for the supply of electricity to:

- (a) one or more Non-Domestic Premises; and
 - (b) one or more premises at which electricity is taken wholly or mainly for a domestic purpose, but which are occupied for a purpose ancillary to that for which any of the Non-Domestic Premises that are supplied under the Contract is occupied,
- and where all of those premises are owned or occupied by:
- (c) the same person or body of persons, whether corporate or unincorporate; or
 - (d) an undertaking (the **principal undertaking**) and an affiliate of that principal undertaking, or any other undertaking in which the principal undertaking has a participating interest ~~(as defined by Article 268 of the Companies (Northern Ireland) Order 1986)~~ within the meaning of section 421A of the Financial Services and Market Act 2000.

2.11.9 Extracts from conditions 1, 43, 47, 49, 52A, 53, 53A, 60 and Annex 3 of Power NI's licence are shown below:

Condition 1: Interpretation and Construction (extracts)

3. In the Conditions and the Schedules unless the context otherwise requires:

Auditors	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006 .
Holding company	means a holding company within the meaning of Article 4 of the Companies (Northern Ireland) Order 1986 section 1159 of the Companies Act 2006.
Related undertaking	in relation to any person means any undertaking in which that person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000.

Relevant exempt self supplier	Means a relevant exempt self supplier within the meaning of the Electricity (Class Exemptions from the requirement for a Licence) Order (Northern Ireland) 1992 2013.
undertaking	bears the meaning ascribed to it by Article 267 of the Companies (Northern Ireland) Order 1986 section 1161 of the Companies Act 2006.

Condition 43: Restriction on Dividends

1. The directors of the Licensee shall not declare or recommend a dividend, and the Licensee shall not make any other form of distribution within the meaning of Article 271 of the Companies (Northern Ireland) Order 1986 section 829 (Part 23) of the Companies Act 2006, or redeem or repurchase any share capital of the Licensee, unless prior to the declaration, recommendation or making of the distribution (as the case may be) the Licensee has issued to the Authority a certificate in the following form:

Condition 47: Separate Accounts for Separate Businesses (extract)

- 3 The Licensee shall in respect of each Separate Business:
 - (a) keep or cause to be kept for the period referred to in Article 230(5)(b) of the Companies (Northern Ireland) Order 1986 section 388 of the Companies Act 2006 and in the manner referred to in that Article section such accounting records in respect of each Separate Business as would by Article 229 of the Companies (Northern Ireland) Order 1986 section 386 of the Companies Act 2006 be required to be kept in respect of each such business if it were carried on by a separate company, so that the revenues, costs, assets, liabilities, reserves and provisions of, or reasonably attributable to, each Separate Business are separately identifiable in the books of the Licensee (and any affiliate or related undertaking of the Licensee) from those of any other business;

- 6 Accounting statements in respect of a financial year prepared under sub-paragraph 4(b)(i) shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:
- (b) have the same content and format (in relation to each Separate Business) as the annual accounts of the Licensee (and any affiliate or related undertaking of the Licensee) prepared under ~~Article 234 and, where appropriate, Article 235 of the Companies (Northern Ireland) Order 1986~~ Part 15 of the Companies Act 2006 and conform to the best commercial accounting practices including Statements of Accounting Practice issued or adopted by the International Accounting Standards Board and adopted for use in the European Union;

Condition 49: Restriction on use of certain information (extract)

- 7 In this Condition, unless the context otherwise requires:

control has the meaning attributed to it by ~~section 416 of the Income and Corporation Taxes Act 1988~~ section 450 (as read in conjunction with section 451) of the Corporation Tax Act 2010.

Condition 52A: Top-up and Standby (extract)

- 3 The Licensee shall not be obliged pursuant to this Condition to offer to enter or to enter into any agreement:
- (a) if to do so would involve the Licensee being:
- (i) in breach of the ~~Electricity Supply Regulations (Northern Ireland) 1991 as amended by the Electricity Supply (Amendment) Regulations (Northern Ireland) 1993~~ Electricity, Safety, Quality and Continuity Regulations (Northern Ireland) 2012 or of any regulations made under Article 32 of the Order; or

Condition 53: Spill Arrangements (extract)

13 In this Condition:

Class A exemption

means the exemption granted, under Article 3(1)(b) of the Exemption Order, to the class of persons specified in Class A: Small supply of Schedule 2 to the Exemption Order Article 3(1)(c) of the Exemption Order, to the class of person specified in Class A: Small supply of Schedule 3 in the Exemption Order.

Exemption Order

means the Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 1999 Electricity (Class Exemptions from the Requirement for a Licence) Order (Northern Ireland) 2013.

Condition 53A: Duty to Offer Terms for Relevant Arrangement(s) (extract)

8 In this Condition:

Relevant Arrangement

shall have the meaning given to it in Article 16(1) of The Renewables Obligation Order (Northern Ireland) 2007 34(10) of the Renewables Obligation Order (Northern Ireland) 2009.

Condition 60: Modification of Single Electricity Market Trading and Settlement Code and Cancellation of Contracts (extract)

9. The implementation of the requisite arrangements may be secured (in whole or in part) either

(a) by the exercise by the Authority of its powers:

(i) to make or approve modifications of the Single Electricity Market Trading and Settlement Code);

- (ii) under paragraph 5 of Condition 16 of the Transmission System Operator Licence (to direct the Transmission System Operator to revise the Grid Code);
 - (iii) under paragraph 9 of Condition 46 of the Licence (to direct that the economic purchasing obligation of NIE Energy Ltd shall come into force); and
 - (iv) under Clause 2.01(F) of Part 2 of the Northern Ireland Fuel Security Code (to make amendments to that Code);
- or
- (b) by the exercise of powers under or by virtue of the Electricity (Single Wholesale Market) Northern Ireland Order 2007.

Annex 3: Determination of the PPB Amount (extract)

“PPB Amount
restriction conditions” means this Annex as from time to time modified or replaced in accordance therewith or pursuant to Article 14, ~~14G, 17, 17A~~ or 18 of the Order, under the Energy Order under the SEM Order, or under the Directive Regulations;

2.12 DECISION: Licence modification 12 - to reflect correct legislation references in gas supply licences

Summary of proposed modification

- 2.12.1 We proposed to update gas supply licences to ensure the correct references to the most up to date pieces of legislation are used.
- 2.12.2 Some pieces of legislation that are referenced in the gas supply licences have been superseded. The consultation modifications proposed to update all licences to reference the most recent and up to date pieces of legislation
- 2.12.3 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
firmus energy (Supply) Limited (Ten Towns licence) gas supply licence	Modifications to conditions 1.1, 1.2, 2.27 and 4.5
firmus energy (Supply) Limited (Greater Belfast licence) gas supply licence	Modifications to conditions 1.1, 1.2, 2.26 and 2.27
SSE Airtricity Gas Supply (NI) Limited gas supply licence	Modifications to conditions 1.1, 1.2, 2.27 and 4.2
SSE Airtricity Energy Supply (NI) Limited gas supply licence	Modifications to conditions 1.1, 1.2, and 2.27
Viridian Energy Supply Limited (T/A Energia) gas supply licence	Modifications to conditions 1.1, 1.2, 1.8 and 2.27
LCC Power Limited (T/A Go Power) gas supply licence, and ONI Gas Limited gas supply licence	Modifications to conditions 1.1, 1.2, and 2.27
ESB Independent Energy (NI) Limited (T/A Electric Ireland) gas supply licence, and Vayu Limited gas supply licence	Modifications to conditions 1.1, 1.2, and 2.27
SSE Energy Supply Limited gas supply licence, Power NI Energy Limited ⁶ gas supply licence, and	Modifications to conditions 1.1 and 2.27

⁶ Licence granted to Power NI Energy Limited on 24 September 2014 for the supply of gas in the Greater Belfast and Ten Towns areas.

Flogas Natural Gas Limited	
AES Ballylumford gas supply licence	Modifications to conditions 1.1, 1.4, 1.8, 2.26 and 2.27
Coolkeeragh ESB Limited gas supply licence	Modifications to conditions 1.1, 1.3, 1.4 and 2.27
Power NI Energy Limited ⁷ gas supply licence	Modifications to conditions 1.1, 1.3, 1.4, 2.26 and 2.27
British Gas Trading Limited gas supply licence	Modifications to conditions 1.1, 1.2A, 1.7, 2.26 and 2.27

Responses to the consultation

2.12.4 There were three consultation responses to the proposed modification. Each of the respondents supported the proposed modifications.

UR final decision and effect of modification

2.12.5 **Decision:** As all respondents supported the modifications, we have decided to proceed with implementing these modifications exactly as proposed in the consultation.

2.12.6 **Effect:** Each gas supply licence includes a clause under the 'Interpretation and Construction' condition which means that where legislation is superseded, the new legislation will apply. Therefore the proposed modifications will not have any effect on licence holders; however we took this opportunity to update the references in the licences to ensure they were up to date and as accurate as possible.

Licence extract showing final modification decision

2.12.7 Extracts from conditions 1.1, 1.2, 2.27 and 4.5 of the gas supply licence held by firmus energy (Supply) Limited (Ten Towns licence) are provided below showing the modifications that will be made to this licence.

⁷ Note this licence was originally granted to Northern Ireland Electricity PLC on 21 May 1999

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Act 1985 Chapter 2 of Part 16 of the Companies Act 2006 ;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order ;
"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000;
"subsidiary"	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order 1986 section 1159 of the Companies Act 2006; and

Condition 1.2 Separate Accounts for Separate Businesses (extracts)

1.2.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business and each of the Eligible Customer Supply Business and the Non-Eligible Customer Supply Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~ sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.2.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to

the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies Act-~~1985~~ 2006.

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article ~~44(4) 40(4)~~ of the Directive (the **Guidelines**).

Condition 4.5: Restriction on Use of Certain Information (extract)

4.5.1

- (d) to procure the above in relation to an affiliate or related undertaking which has control of the Licensee (control being defined by ~~Section 416 of the Income and Corporation Taxes Act 1988~~ section 450 (as read in conjunction with section 451) of the Corporation Tax Act 2010), shall be to do so by using reasonable endeavours and obtaining an appropriate contractual undertaking from that affiliate or related undertaking in respect of such protected information; and

2.12.8 Extracts from conditions 1.1, 1.2, 2.26 and 2.27 of the gas supply licence held by firmus energy (Supply) Limited (Greater Belfast licence) are provided below showing the modifications that will be made to this licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions

"auditors" means the Licensee's auditors for the time being holding office in accordance with the requirements of ~~the Companies Act 1985~~Chapter 2 of Part 16 of

	the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000;
"subsidiary"	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order, 1986 section 1159 of the Companies Act 2006; and

Condition 1.2 Separate Accounts for Separate Businesses (extracts)

1.2.2 Separate Business Accounting

This Condition applies for the purposes of ensuring that the Licensee (in conjunction with any relevant affiliate or related undertaking of the Licensee) maintains internal accounting and reporting arrangements which:

- (a) enable separate financial statements to be prepared for each Separate Business and showing the financial affairs of each such Separate Business; and
- (b) facilitate the avoidance of discrimination, cross-subsidisation or distortion of competition between the Licensed Business and any other business of the Licensee.

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~ sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.2.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies Act 1985 2006.

Condition 2.26: The Supply Meter Point Agreement (extract)

2.26.1 Establishing Supply Meter Point Agreement

The Licensee shall, within-[~~twelve~~] twelve months of this condition coming into force and in conjunction and co-operation with all other suppliers, prepare, maintain and be party to a form of agreement to be known as the Supply Meter Point Agreement, as may be designated by the Authority for the purposes of this condition generally, being a document:

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the **Guidelines**).

2.12.9 Extracts from conditions 1.1, 1.2, 2.27 and 4.2 of the gas supply licence held by SSE Airtricity Gas Supply (NI) Limited are provided below showing the modifications that will be made to this gas supply licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;

"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000;
"subsidiary"	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order, 1986 section 1159 of the Companies Act 2006; and
Condition 1.2 Separate Accounts for Separate Businesses (extracts)	
1.2.2 <u>Separate Business Accounting</u> (extract)	In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under Article 236 of the Companies (Northern Ireland) Order 1986 sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.
1.2.8 <u>Form of financial statements</u>	Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:
(a)	conform to UK generally accepted accounting principles and practices;
(b)	state the accounting policies adopted; and
(c)	be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies (Northern Ireland) Order 1986 the Companies Act 2006.
Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)	
2.27.2	Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the Guidelines).

Condition 4.2: Restriction on Use of Certain Information (extract)

4.2.1

- (d) to procure the above in relation to an affiliate or related undertaking which has control of the Licensee, (control being defined by section 450 (as read in conjunction with section 451) of the Corporation Tax Act 2010) ~~Section 416 of the Income and Corporation Taxes Act 1988~~, shall be to do so by using reasonable endeavours and obtaining an appropriate contractual undertaking from that affiliate or related undertaking in respect of such protected information; and

2.12.10 Extracts from conditions 1.1, 1.2, and 2.27 of the gas supply licence held by SSE Airtricity Energy Supply (NI) Limited are provided below showing the modifications that will be made to this licence.

Condition 1.1: Interpretation and Construction (extracts)1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000;
"subsidiary"	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order, 1986 section 1159 of the Companies Act 2006; and

Condition 1.2 Separate Accounts for Separate Businesses (extracts)

1.2.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~ sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.2.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under ~~the Companies (Northern Ireland) Order 1986~~ the Companies Act 2006.

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) ~~40(4)~~ of the Directive (the **Guidelines**).

2.12.11 Extracts from conditions 1.1, 1.2, 1.8 and 2.27 of the gas supply licence held by Viridian Energy Supply Limited (T/A Energia) are provided below showing the modifications that will be made to this licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors" means the Licensee's auditors for the time being holding office in accordance with the requirements of ~~the Companies (Northern Ireland) Order 1986~~ Chapter 2 of Part 16 of the Companies Act 2006;

"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (Northern Ireland) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000;
"subsidiary"	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order, 1986 section 1159 of the Companies Act 2006; and
Condition 1.2 Separate Accounts for Separate Businesses (extracts)	
1.2.2 <u>Separate Business Accounting</u> (extract)	In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under Article 236 of the Companies (Northern Ireland) Order 1986 sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.
1.2.8 <u>Form of financial statements</u>	Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:
(a)	conform to UK generally accepted accounting principles and practices;
(b)	state the accounting policies adopted; and
(c)	be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies (Northern Ireland) Order 1986 the Companies Act 2006.

Condition 1.8: Modifications

1.8.1 Modification of licence Conditions

The Conditions of the licence are subject to modification in accordance with their terms or with Articles 9, 14, 14A, 14E or 18 of the Order or with any provision for the modification of the same in the Energy Order.

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the **Guidelines**).

2.12.12 Extracts from conditions 1.1, 1.2 and 2.27 of the gas supply licence held by LCC Power Limited (T/A Go Power) are provided below showing the modifications that will be made to this licence. The same modifications will also be made to the gas supply licence held by ONI Gas Limited.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of section 2(1)g of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;

"related undertaking"	means any undertaking in which any person has a participating interest as defined by Article 268 of the Companies (NI) Order 1986 within the meaning of section 421A of the Financial Services and Market Act 2000;
"subsidiary"	has the same meaning as given to it in Article 4 of the Companies (Northern Ireland) Order, 1986 section 1159 of the Companies Act 2006; and
Condition 1.2 Separate Accounts for Separate Businesses (extracts)	
1.2.2 <u>Separate Business Accounting</u> (extract)	
<p>In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under Article 236 of the Companies (Northern Ireland) Order 1986 sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.</p>	
1.2.8 <u>Form of financial statements</u>	
<p>Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:</p> <ul style="list-style-type: none"> (a) conform to UK generally accepted accounting principles and practices; (b) state the accounting policies adopted; and (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the Companies (Northern Ireland) Order 1986 the Companies Act 2006. 	
Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)	
<p>2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the Guidelines).</p>	

2.12.13 Extracts from conditions 1.1, 1.2 and 2.27 of the gas supply licence held by ESB Independent Energy (NI) Limited (T/A Electric Ireland) are provided below showing the modifications that will be made to this licence. The same modifications will also be made to the gas supply licence held by Vayu Limited.

Condition 1.1: Interpretation and Construction (extracts)

1.1.2 General Rules of Construction (extract)

- (f) any references to the Companies Act 2014 ~~1963, the Companies Acts 1963 to 2006, or the European Communities (Companies: Group Accounts) Regulations 1992 or the Companies (Amendment) Act 1990~~ shall be construed as being to such statutes of Ireland.

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies Acts 1963 to 2006 the Companies Act 2014;
"company"	means a company within the meaning of section 2 of the Companies Act 2014 section 2(1)g of the Companies Act 1963 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"subsidiary"	has the same meaning as given to it in Section 155 of the Companies Act 1963 section 7 of the Companies Act 2014; and

Condition 1.2 Separate Accounts for Separate Businesses (extracts)

1.2.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Section 150(2) of the Companies Act 1963~~ Part V of Schedule 3 to the Companies Act 2014, but shall be required to prepare such accounts in accordance with this Condition.

1.2.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably

practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to Irish generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may reasonably be required by the Authority and so that they may be reconciled with the published accounts of the Licensee under ~~the (Irish) Companies Act 1963 to 2005~~ the Companies Act 2014.

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the **Guidelines**).

2.12.14 Extracts from conditions 1.1 and 2.27 of the gas supply licence held by SSE Energy Supply Limited are provided below showing the modifications that will be made to this licence. The same modifications will also be made to the gas supply licences held by Power NI Energy Limited⁸ and Flogas Natural Gas Limited.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

“Last Resort Supply Direction” means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the ~~Gas~~ Order;

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the **Guidelines**).

⁸ Licence granted to Power NI Energy Limited on 24 September 2014 for the supply of gas in the Greater Belfast and Ten Towns areas.

2.12.15 Extracts from conditions 1.1, 1.4, 1.8, 2.26 and 2.27 of the gas supply licence held by AES Ballylumford are provided below showing the modifications that will be made to this gas supply licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined within the meaning of section 421A of the Financial Services and Market Act 2000;
"Security Deposit"	means a deposit of money as security for the payment of charges for the supply of gas; and

Condition 1.4 Separate Accounts for Separate Businesses (extracts)

1.4.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.4.5 Basis of apportionment

The Licensee shall, before the financial year commencing on 1 April 2008-[2008], notify the Authority of the basis of apportionment that it proposes to use for the financial statements in respect of each Separate Business for that financial year, and:

- (a) the basis of apportionment in respect of those financial statements shall be the basis proposed by the Licensee unless the Authority following consultation with the Licensee gives a direction requiring the use of any other basis; and

- (b) except in so far as the Authority consents to the Licensee doing so the Licensee shall not change any basis of charge or apportionment used in the financial statements in respect of any Separate Business for any financial year subsequent to the financial year commencing on 1 April 2008 [2008] from the basis used in the financial statements in respect of that Separate Business for that financial year.

1.4.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may be reasonably required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the ~~Companies (Northern Ireland) Order 1986~~ Companies Act 2006.

Condition 1.8: Modifications

1.8.1 Modification of licence Conditions

The Conditions of the licence are subject to modification in accordance with their terms or with Articles 9, 14, 14A, 14E or 18 of the Order or with any provision for the modification of the same in the Energy Order.

Condition 2.26: The Supply Meter Point Agreement (extract)

2.26.1 Establishing Supply Meter Point Agreement

The Licensee shall, within-[twelve] twelve months of this condition coming into force and in conjunction and co-operation with all other suppliers, prepare, maintain and be party to a form of agreement to be known as the Supply Meter Point Agreement, as may be designated by the Authority for the purposes of this condition generally, being a document:

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4)-of the Directive (the **Guidelines**).

2.12.16 Extracts from conditions 1.1, 1.3, 1.4 and 2.27 of the gas supply licence held by Coolkeeragh ESB Limited are provided below showing the modifications that will be made to this gas supply licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of the Companies (Northern Ireland) Order 1986 Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined within the meaning of section 421A of the Financial Services and Market Act 2000;
"Security Deposit"	means a deposit of money as security for the payment of charges for the supply of gas; and

Condition 1.3 Separate Accounts for Separate Businesses (extracts)

1.3.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~ sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.3.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practises;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may be reasonably required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the ~~Companies (Northern Ireland) Order 1986~~ Companies Act 2006.

Condition 1.4: Modifications

1.4.1 Modification of licence Conditions

The Conditions of the licence are subject to modification in accordance with their terms or with Articles 9, 14, 14A, 14E or 18 of the Order or with any provision for the modification of the same in the Energy Order.

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article ~~44(4) 40(4)~~ of the Directive (the **Guidelines**).

2.12.17 Extracts from conditions 1.1, 1.3, 1.4, 2.26 and 2.27 of the gas supply licence held by Power NI Energy Limited⁹ are provided below showing the modifications that will be made to this gas supply licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licensee's auditors for the time being holding office in accordance with the requirements of Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied

⁹ Note this licence was originally granted to Northern Ireland Electricity PLC on 21 May 1999

	with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined within the meaning of section 421A of the Financial Services and Market Act 2000;
"Security Deposit"	means a deposit of money as security for the payment of charges for the supply of gas; and

Condition 1.3 Separate Accounts for Separate Businesses (extracts)

1.3.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~ sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.3.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may be reasonably required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the ~~Companies (Northern Ireland) Order 1986~~ Companies Act 2006.

Condition 1.4: Modifications

1.4.1 Modification of licence Conditions

The Conditions of the licence are subject to modification in accordance with their terms or with Articles 9, 14, 14A, 14E or 18 of the Order or with any provision for the modification of the same in the Energy Order.

Condition 2.26: The Supply Meter Point Agreement (extract)

2.26.1 Establishing Supply Meter Point Agreement

The Licensee shall, within [twelve] twelve months of this condition coming into force and in conjunction and co-operation with all other suppliers, prepare, maintain and be party to a form of agreement to be known as the Supply Meter Point Agreement, as may be designated by the Authority for the purposes of this condition generally, being a document:

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) 40(4) of the Directive (the Guidelines).

2.12.18 Extracts from conditions 1.1, 1.2A, 1.7, 2.26 and 2.27 of the gas supply licence held by British Gas Trading Limited are provided below showing the modifications that will be made to this gas supply licence.

Condition 1.1: Interpretation and Construction (extracts)

1.1.6 Definitions (extracts)

"auditors"	means the Licencee's auditors for the time being holding office in accordance with the requirements of the Companies Act 1985 Chapter 2 of Part 16 of the Companies Act 2006;
"company"	means a company within the meaning of Article 3 of the Companies (Northern Ireland) Order 1986 section 1 of the Companies Act 2006 or any other body corporate;
"Last Resort Supply Direction"	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Gas Order;
"related undertaking"	means any undertaking in which any person has a participating interest as defined within the meaning of section 421A of the Financial Services and Market Act 2000;

“Security Deposit”	means a deposit of money as security for the payment of charges for the supply of gas; and
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Condition 1.2A Separate Accounts for Separate Businesses (extracts)

1.2A.2 Separate Business Accounting (extract)

In this regard the Licensee shall not be required to prepare such financial statements as if they were annual accounts (in relation to each Separate Business) prepared under ~~Article 236 of the Companies (Northern Ireland) Order 1986~~ sections 394, 398 or 399 of the Companies Act 2006, but shall be required to prepare such accounts in accordance with this Condition.

1.2A.5 Basis of apportionment (extract)

The Licensee shall, before the financial year commencing on 1 April 2008-~~[2008]~~, notify the Authority of the basis of apportionment that it proposes to use for the financial statements in respect of each Separate Business for that financial year, and:

- (a) the basis of apportionment in respect of those financial statements shall be the basis proposed by the Licensee unless the Authority following consultation with the Licensee gives a direction requiring the use of any other basis; and
- (b) except in so far as the Authority consents to the Licensee doing so the Licensee shall not change any basis of charge or apportionment used in the financial statements in respect of any Separate Business for any financial year subsequent to the financial year commencing on ~~1 April 2008-
[1 April 2008]~~ from the basis used in the financial statements in respect of that Separate Business for that financial year.

1.2A.8 Form of financial statements

Financial statements prepared for the purposes of this Condition shall, so far as reasonably practicable and unless otherwise approved by the Authority having regard to the purposes of this Condition:

- (a) conform to UK generally accepted accounting principles and practices;
- (b) state the accounting policies adopted; and
- (c) be so prepared to a level of detail as may be reasonably required by the Authority and so that they may be reconciled with the published accounts of the Licensee under the ~~[Companies (Northern Ireland) Order 1986]~~ Companies Act 2006.

Condition 1.7: Modifications

1.7.1 Modification of licence Conditions

The Conditions of the licence are subject to modification in accordance with their terms or with Articles 9, 14, 14A, 14E or 18 of the Order or with any provision for the modification of the same in the Energy Order.

Condition 2.26: The Supply Meter Point Agreement (extract)

2.26.1 Establishing Supply Meter Point Agreement

The Licensee shall, within ~~twelve~~ twelve months of this condition coming into force and in conjunction and co-operation with all other suppliers, prepare, maintain and be party to a form of agreement to be known as the Supply Meter Point Agreement, as may be designated by the Authority for the purposes of this condition generally, being a document:

Condition 2.27: Wholesale Contracts and Gas Derivatives (extract)

2.27.2 Paragraph 2.27.1 shall not apply to a Gas Derivative entered into by the Licensee with a Wholesale consumer or a Gas Conveyance Licence Holder or to any transaction undertaken, under or in accordance with the provisions of a Gas Derivative entered into with a Wholesale consumer or a Gas Conveyance Licence Holder, prior to the date of the Guidelines referred to in Article 44(4) ~~40(4)~~ of the Directive (the **Guidelines**).

2.13 DECISION: Licence modification 13 - to ensure consistent use of terms in gas supply licences

Summary of proposed modification

- 2.13.1 In the consultation we proposed to update gas supply licences to update the terms ‘non-domestic’ and ‘customer’ to ‘business’ and ‘consumer’ respectively.
- 2.13.2 There are several instances in the gas supply licences where the wrong term is used. In some instances the gas supply licences use the terms ‘customer’ (rather than ‘consumer’) and ‘non-domestic’ (rather than ‘business’). The terms ‘customer’ and ‘non-domestic’ are not defined in the Interpretation and Construction condition within each licence.
- 2.13.3 We proposed to modify the gas supply licences to ensure the correct terms ‘consumer’ and ‘business’ are used throughout.
- 2.13.4 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
All gas Supply Licences	Modification to Conditions 2.1, 2.19 and 2.28
All gas Supply Licences except the licences held by: - British Gas Trading Ltd - AES Ballylumford Ltd - Coolkeeragh ESB Ltd - Power NI Energy Ltd ¹⁰	Modification to Condition 2.5

- 2.13.5 These modifications will not have any direct impact on the licensees.

Responses to the consultation

- 2.13.6 There were three consultation responses to the proposed modification. Each of the respondents supported the proposed modifications.
- 2.13.7 In one supplier’s response they stated that suppliers should be able to use their own terms with respect to each type of customer in their own documents. The UR agrees that each supplier can use its own terms in their documents provided that the information is clear and transparent.

¹⁰ Note this licence was originally granted to Northern Ireland Electricity PLC on 21 May 1999.

UR final decision and effect of modification

2.13.8 **Decision:** As all respondents supported the modification, we have decided to proceed with implementing these modifications exactly as proposed in the consultation.

2.13.9 **Effect:** The modifications will update terms used in the licences to ensure consistency and accuracy with the definitions provided in the licences.

Licence extract showing final modification decision

2.13.10 Extracts from conditions 2.1, 2.5, 2.19 and 2.28 of a gas supply licence are provided below showing the modifications.

Condition 2.1: Deemed Contracts (extract)

2.1.4 For the purposes of paragraph 2.1.3, the terms of a Deemed Contract shall be unduly onerous for any class of domestic consumers, or for any class of ~~business-non-domestic~~ consumers, only if the revenue derived from supplying gas to the premises of the relevant class of consumers on those terms:

- (a) significantly exceeds the Licensee's costs of supplying gas to those premises; and
- (b) exceeds such costs of supplying gas by significantly more than the Licensee's revenue exceeds its costs of supplying gas to the premises of the generality of its domestic consumers or, as the case may be, to the premises of the generality of its ~~business-non-domestic~~ consumers (in each case excluding from the calculation premises supplied under a Last Resort Supply Direction).

2.1.5 Where a ~~consumer-Customer~~ is being supplied by the Licensee with gas under a Deemed Contract as a result of a Last Resort Supply Direction being issued in relation to his premises, paragraph 2.1.3 shall not apply until that direction stops having effect.

Condition 2.5: Undue Discrimination and Undue Preference (extract) (note the modification to condition 2.5 does not apply to the gas supply licences held by British Gas Trading Ltd, AES Ballylumford Ltd, Coolkeeragh ESB Ltd or Power NI Energy Ltd)

2.5.7 Separate market for domestic consumers

For the purpose of this Condition, any market for the supply of gas to domestic

consumers shall be considered to be a separate market from any market for the supply of gas to **business**-**non**-**domestic** consumers.

Condition 2.19: Provision of Information to Consumers (extracts)

2.19.8 For the purposes of paragraph 2.19.7(e), the amount of gas calculated as having been consumed by the consumer shall be determined by reference to:

- (a) an actual meter reading;
- (b) a meter reading taken by the consumer that the Licensee considers to be reasonably accurate (a 'consumer meter reading'); or
- (c) where no actual or **consumer**-**customer** meter reading is available, the estimate of the Licensee (an 'estimated meter reading').

2.19.18 In this Condition:

Billing Code of Practice means the document of that name, prepared and published from time to time by the Authority, following consultation with the Licensee, other gas suppliers and such other persons as the Authority deems appropriate (which consultation may take place before paragraph 2 comes into effect), in relation to **consumer** **customer**-billing matters.

Condition 2.28: Provision of Information to gas suppliers and energy service providers (extracts)

2.28.6 The Licensee is not required to comply with paragraph 2.28.1 in respect of any **consumer** **customer**-information request received from an Energy Services Provider where:

- (a) the Licensee does not have the consent of the **consumer** **Customer** to provide Billing Information to the Energy Services Provider; and
- (b) the Energy Service Provider does not submit with the **consumer** **customer**-information request written evidence of the consent of the **consumer** **Customer** for the Energy Services Provider to obtain from the Licensee such Billing Information as is specified in the **consumer** **customer**-information request.

2.28.7 In this Condition:

Energy Services Provider means any person, other than a gas supplier, that provides goods or services to **consumers** **Customers** at their premises for the purposes of enabling the **consumer** **Customer** to reduce their energy consumption or to make efficient use of energy.

2.14 DECISION: Licence modification 14 - Removal of redundant Special Conditions which are no longer in effect

Summary of modification

- 2.14.1 We proposed to update the electricity supply licences of Power NI, ESB, Energia and SSE Airtricity to remove Conditions A to D. Conditions A to D were introduced as part of the implementation of the Single Electricity Market in 2007. These conditions are no longer in effect and are therefore no longer required in licences.
- 2.14.2 We therefore proposed to remove these conditions from licences and update where necessary the licences to reflect these deletions.
- 2.14.3 The licences and relevant conditions within each licence that the proposed modification would affect are set out in the following table:

Affected Licences	Relevant condition(s)
Electricity Supply Licences for:	Conditions A, B C and D
Power NI	Condition 1
ESB	
Energia	
SSE Airtricity	

Responses to the consultation

- 2.14.4 Three consultation respondents commented on the proposed modification. Each of the respondents welcomed the proposals.

UR final decision and effect of modification

- 2.14.5 **Decision:** As all respondents supported the modification, we have decided to proceed with implementing these modifications exactly as proposed in the consultation.
- 2.14.6 **Effect:** Licences will be updated to remove redundant special conditions which are no longer in effect.

Licence extract showing final modification decision

- 2.14.7 Condition A: Application of other Licence Conditions and Further Modification – removed from the licence in full

2.14.8 Condition B: Transition Steps (General) – removed from the licence in full

2.14.9 Condition C: Transition Steps (Specific) – removed from the licence in full

2.14.10 Condition D: Run-Off Steps (General) – removed from the licence in full

Condition 1: Interpretation and construction

- 8 Each relevant legal instrument shall, if the condition (whether of the Licence or any licence held by the predecessor company) under which it was issued ~~is was~~ modified at SEM Go-Live, continue to have effect under any corresponding provision of ~~Chapter 2 as modified the Licence~~, as if it had been made under that corresponding provision.
- 9 For the purposes of paragraphs 8 and 10 a “**relevant legal instrument**” means any direction, consent, approval, determination, designation or other instrument issued by the Authority or the Department, prior to SEM Go-Live, in accordance with a condition ~~of the Licence in force and effect at that time~~:
 - (a) ~~in Chapter 2~~, including any instrument issued:
 - (i) to another holder of the Licence, from whom the Licence was subsequently transferred or assigned to the Licensee;
 - (ii) before the conversion of the Licence to a supply licence under Article 10(1)(c) of the Order;
 - (b) of any licence held by the predecessor company.
- 10 For the purposes of paragraph 8 a “**corresponding provision**” of ~~Chapter 2 the Licence~~ shall be any provision which, following its modification at SEM Go-Live ~~in accordance with Condition A~~, has (notwithstanding that it ~~has been was~~ renumbered, moved, deleted and replaced, or otherwise amended in any way) substantially the same purpose and effect as the provision under which a relevant legal instrument was issued.

Annex 1 – Consultation Responses

We have published each of the responses to the consultation and these are available at the following links:

Budget Energy	http://www.uregni.gov.uk/uploads/publications/Budget_Energy_Response_to_consultation_on_proposed_licence_modifications.pdf
Consumer Council	http://www.uregni.gov.uk/uploads/publications/Consumer_Council_Response_to_consultation_on_proposed_licence_modifications.pdf
firmus energy	http://www.uregni.gov.uk/uploads/publications/firmus_energy_Response_to_consultation_on_proposed_licence_modifications.pdf
Mutual Energy Limited	http://www.uregni.gov.uk/uploads/publications/Mutual_Energy_Ltd_Response_to_consultation_on_proposed_licence_modifications.pdf
Phoenix Natural Gas Limited	http://www.uregni.gov.uk/uploads/publications/Phoenix_Natural_Gas_Ltd_Response_to_consultation_on_proposed_licence_modifications.pdf
Power NI	http://www.uregni.gov.uk/uploads/publications/Power_NI_Response_to_consultation_on_proposed_licence_modifications.pdf
Power NI Energy Limited Power Procurement Business	http://www.uregni.gov.uk/uploads/publications/Power_NI_Energy_Ltd_PPB_Response_to_consultation_on_proposed_licence_modifications.pdf
SGN Natural Gas Limited	http://www.uregni.gov.uk/uploads/publications/SGN_Natural_Gas_Ltd_Response_to_consultation_on_proposed_licence_modifications.pdf
SSE Airtricity	http://www.uregni.gov.uk/uploads/publications/SSE_Airtricity_Response_to_consultation_on_proposed_licence_modifications.pdf

Annex 2 – Licence Modification Notices

We have published notices under Article 14(8) of the Gas (Northern Ireland) Order 1996. The notices set out the UR's decisions on modifications that are being made to gas licences. The notices are available at the following links:

Licence Modification Notices for all gas supply companies	http://www.uregni.gov.uk/uploads/publications/Article_14_Notices_for_Modifications_to_Gas_Supply_Licences.pdf
Licence Modification Notices for all gas conveyance companies (Distribution & Transmission Operators)	http://www.uregni.gov.uk/uploads/publications/Article_14_Notices_for_Modifications_to_Gas_Conveyance_Licences.pdf

We have also published notices under Article 14(8) of the Electricity (Northern Ireland) Order 1992. The notices set out the UR's decisions on modifications that are being made to electricity licences. The notices are available at the following links:

Licence Modification Notices for all electricity companies	http://www.uregni.gov.uk/uploads/publications/Article_14_Electricity_Notices_Signed.pdf
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