

# Measures to Enhance the Operation of the Small Business Energy Market

Information Paper  
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# 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 each of the key functional areas in the organisation: Compliance and Network Operations, Finance and Network Assets, Wholesale, Retail and Consumer Protection and Corporate Affairs. 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 co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

# Abstract

Protecting consumers is at the heart of the Utility Regulator's (UR) role and ensuring there is effective competition in the Northern Ireland (NI) energy market is an integral part of our statutory duties. In 2016 the UR published its final decision paper for the Power NI 2017 Price Control. This saw the removal of the price control from the remainder of Power NI's small business customers.

In parallel, the CMA energy market review in GB noted some issues and concerns around the detrimental impacts on small businesses of some aspects of the energy market. In this context we plan to develop a set of measures to enhance the operation of the small business energy markets. Whilst there is still price regulation for small business gas consumers we envisage these measures will apply to the small business gas market as well, as we are of the view they will not interfere with, but rather enhance, the gas small business market irrespective of whether price regulation exists or not.

This paper lays out the context for this project and the timetable in which we aim to complete it.

# Audience

Consumers and consumer groups; industry; and statutory bodies.

# Consumer impact

Small business consumers will see the benefit of a new set of measures with the aim of enhancing the operation of the small business energy market. The direct consumer impact of this will be in relation to the type of measures which may be implemented e.g. measures in relation to contract clauses or tariff clarity. The new measures will not directly affect price. However, they may affect the level of deposits and for how long suppliers retain them.

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## Glossary

CMA	Competition and Markets Authority
GB	Great Britain
I&C	Industrial and Commercial
I-SEM	Integrated Single Electricity Market
NI	Northern Ireland
REMM	Retail Energy Market Monitoring
UR	The Northern Ireland Authority for Utility Regulation or the “Utility Regulator”

## Introduction

Protecting consumers is at the heart of the Utility Regulator's (UR) role and we pursue this, where appropriate, through promoting effective competition in the Northern Ireland (NI) energy markets. The UR operates to ensure consumers are adequately protected in these markets through competition alongside regulation if that competition is not deemed effective enough to adequately protect consumers.

In November 2016 the UR published its final Decision Paper<sup>1</sup> for the 2017 Power NI Price Control (SPC17). One of key decisions in this paper was the removal of the price control on the remainder of the small business market. This results in a price control remaining on Power NI's domestic customers only. In the gas market however price regulation remains in the small business sector in both Greater Belfast and Ten Towns.

In parallel, the CMA energy market review in GB noted some issues and concerns around the detrimental impacts on small businesses of some aspects of the energy market.

We also carried out bi-lateral meetings with small business representatives as part of the SPC17 process which identified areas where they felt that the energy market for small business wasn't working as well as it should be.

In this context, we committed to carrying out a project which would examine a potential range of new measures which could be implemented for small business customers<sup>2</sup> which could enhance the operation of the small business energy market. This project has been included in the UR Forward Workplan (FWP)<sup>3</sup>

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<sup>1</sup> <https://www.uregni.gov.uk/news-centre/utility-regulator-publishes-decision-paper-2017-power-ni-price-control>

<sup>2</sup> The definition of "small business customers" for both electricity and gas will be identified as part of the project itself.

<sup>3</sup> <https://www.uregni.gov.uk/news-centre/forward-work-programme-fwp-201718-published>

which was published on 31 March 2017. This project is under Strategic Objective 3: Protecting the long-term interests of business and domestic consumers.

At this point, we are minded to limit the scope of the project to the small business sector customers in the context of the recent Power NI price deregulation of this group. This also mirrors the scope of the CMA recommendations. Furthermore, we see merit in applying these measures to the small business market in gas as well as electricity. Whilst there is still price regulation in the small business sector in gas we see these measures as suitable for complimenting that price regulation and see no reason not to implement them in that market as well as electricity. The price de-regulation of the small business sector in electricity was merely the catalyst for this project but not the reason. The measures proposed will enhance the operation of a market with or without price regulation.

The UR carries out extensive work in relation to putting downward pressure on prices through controlling costs, for example network price controls and the control of end user prices in retail markets where there is still a dominant supplier. In this context, it is important to note that the focus of this project is not specifically on concerns regarding prices but rather proposals which will potentially enhance the operation of and customer experience in the small business gas and electricity markets.

The outcomes of this project will sit alongside other important measures which the UR has implemented such as Retail Energy Market Monitoring (REMM) to ensure, as best we may, that retail energy markets are working to the benefit of consumers now and into the future.

The purpose of this paper is to formally communicate to stakeholders the commencement of the UR's "Measures to Enhance the Operation of the Small Business Energy Market" a 17/18 FWP project.

More detailed consultation and project development will of course take place later in 2017 and stakeholders will have extensive opportunities to provide feedback as the project develops.

## Background

Since the liberalisation of the energy retail markets in electricity and gas in NI the UR has followed a policy of continuing to price control the former incumbent gas and electricity suppliers who remain dominant in certain market sectors, whilst progressively lowering the threshold for price regulation as competition developed in the larger user end of the markets.

As highlighted previously, the latest Power NI price control will apply to domestic customers only. This has acted as a catalyst for the UR to examine and consult upon measures which will help enhance the operation of the small business energy market. This should allow customers to better engage and take advantage of the competition in this market. We are also keen to ensure that where appropriate small business customers have similar measures in place as those in the domestic market (such a tariff transparency) which could contribute positively to the functioning of the market and help competition. Whilst some business customers are still covered by price regulation in the gas market (therefore some of the measures will already exist due to price regulations such as a regulated price which leads to tariff transparency) we envisage that these measures will apply equally there.

As part of the Power NI price control consultation we consulted on the removal of the price control on the remainder of small business customers. In addition to this, we also held bi-lateral meetings with small business representatives. The purpose of this was to engage with them on their views as well as determining what their concerns were and what issues their members had encountered in the market.

There were recurring themes amongst the customer representative groups in relation to the issues which their members have experienced. These included various concerns such as:

- tariff transparency;
- levels of deposit required;
- time period deposits are held for; and
- rollover contracts.

The customers rep groups were all supportive of the UR carrying out a project which would examine potential measures to address these concerns. They were of the view that this could help their members engage more meaningfully in the market and help competition.

The UK Competition and Markets Authority (CMA) also completed their review of the GB energy market in 2016. The findings of this review included the issues which they found to exist in the GB energy market regarding small business customers. A number of these have echoed those which the customer representatives identified to the UR as issues in the NI market.

In their final report published in June 2016<sup>4</sup> the CMA identified that there were several Adverse Effects on Competition (AEC) and detriment to microbusinesses in the GB market. They identified areas such as:

- limited engagement in the market or interest in switching;
- lack of small business tariff transparency;

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<sup>4</sup> <https://www.gov.uk/cma-cases/energy-market-investigation>

- margins earned generally on the microbusiness tariffs were higher than other markets such as domestic (justified by suppliers as being a more risky market); and
- margins being earned on the microbusiness default tariffs appeared to be much higher than the margins on acquisition and retention tariffs. In particular the margins on rollover tariffs (where a customer takes no action at the end of their contract) were higher.

## Purpose of Project

The UR is now beginning a project which will examine the areas where we can, in conjunction with stakeholders, identify where the small business energy market can be improved. Taking stakeholder views into account we will develop a set of potential measures for consultation which have the aim of enhancing the operation of the small businesses energy market.

As laid out in the Power NI SPC 17 decision paper, these measures may include, but not be limited to:

- Increased tariff transparency for small I&C customers. This may include, for example, a requirement on all suppliers to publish tariffs for these customers. This would mirror the final CMA proposal which requires all suppliers to publish their acquisition and retention tariffs for all small business customers.
- A duty on all suppliers to offer terms to a small I&C customer (similar to the duty to offer terms obligation for domestic customers in the current supply licences);
- A requirement on all suppliers that if deposits are required they must be at a reasonable level and potentially limiting the period for which they can be held;
- Suppliers being prohibited from rolling over contracts of existing customers;
- Consideration of the level of contract exit fees in the small I&C market;

- Investigation of the technical feasibility of offering a pre-payment solution to small business customers;
- Other measures that currently exist in the domestic market such as transparency of T&Cs with obligation to inform customers if their T&Cs changes, notification of price changes, notification of any fixed term contract periods coming to an end.

This 'Information Paper' constitutes formal external project commencement. The project will include the development of a consultation paper examining the potential measures which could be implemented. This is expected to be completed between June and August, followed by review of the consultation responses around November/December, followed by formulation of the decision paper in January 2018. It is anticipated that these enhancements will be mandatory measures and may require licence modifications. The licence modification process will likely commence following the publication of the final decision paper.

The project analysis will aim to:

- research the issues which are currently being experienced in the NI energy market by small business customers.
- identify, develop and critically analyse a set of potential measures for the NI market which can be implemented to help enhance the operation of the small business energy market.
- define each of these potential measures in detail.
- undertake stakeholder engagement in the development of these potential measures e.g. in the format of bilateral meetings and/or workshops.
- consider the measures implemented for microbusinesses as a result of the CMA review of the GB energy market and consider their relevance in the NI market context.
- Consider the logistical and regulatory policy implications of all measures (such as the requirement for licence modifications).

There will potentially be stakeholder workshops/bilateral meetings (pre consultation and post final report) dependent on interest. At this time we envisage that a final decision paper will be issued early 2018.

## Scope of the review

The project will cover the retail energy small business markets in both electricity and gas in NI. At present we retain a price control for some business customers in the gas market (< 2,500 therms in Belfast and < 25,000 therms in the 'Ten Towns'). There is no longer any price regulation in the small business electricity market. We will consult on how we define small businesses in both electricity and gas as part of the wider consultation.

## Timeline

Date	Milestone
<b>June 2017</b>	Stakeholder Roundtable Discussion
<b>June – August 2017</b>	Analysis and Formulation of Proposals
<b>September 2017</b>	Consultation Paper Issued
<b>November</b>	Potential Stakeholder Workshop (dependant on requirement)
<b>November – December 2017</b>	Review of responses and development of Decision paper
<b>January 2018</b>	Publication of final report following UR Board approval
<b>February 2018 Onwards</b>	Licence Modification Process