

## **GAS MODIFICATION NOTICE**

### **Notice under Article 14 (3) of the Gas (Northern Ireland) Order 1996**

The Northern Ireland Authority for Utility Regulation (hereinafter referred to as “the Authority”) pursuant to Article 14(3) of the Gas (Northern Ireland) Order 1996 as amended (“the Order”), hereby gives notice as follows:

The Authority proposes to modify the licence granted under Article 8 of the Order (“the licence”) to **Bord Gais Eireann - Firmus Energy (Distribution) Limited** (“the licensee”) to include the following:

- 1) The modification of the information submission dates for the periodic review from 12 to 15 months (condition 4.4.7 (a));
- 2) The amendment of disapplication rules. (condition 4.4.14)

### **Reasons**

The reason for the increase in the periodic review is to align the price controls for both gas distribution licences.

The reason for the change in the disapplication section is to improve the clarity on this area of the license.

The proposed amendments to the licence in respect of these modifications are appended to this Notice.

Representations or objections to the proposed modifications can be made before 30<sup>th</sup> March 2012 to Paul Harland by way of post at The Utility Regulator, Queens House, 14 Queen Street, Belfast BT1 6ED or e-mail at paul.harland@uregni.gov.uk

The Authority intends and prefers to publish all comments received to its consultations, but will consider facilitating those respondents who wish certain sections of their submission to remain confidential. Accordingly, respondents that so wish should submit these sections in an appendix that is clearly marked “Confidential”, and explain why they believe such content to be so categorised.

The Authority has, pursuant to Article 14(4) (b) of the Order served a copy of this notice on the Licensee and sent a copy to the Department of Enterprise Trade and Investment.  
Dated this 1<sup>st</sup> March 2012

Brian McHugh  
For and on behalf of the Northern Ireland Authority for Utility Regulation

## Periodic Reviews Generally

- 4.4.6 The Authority will, at each Review, determine the Determination Values and the Designated Parameters that apply in those Formula Years  $t$  occurring during the period  $t = n+1$  to  $t = q$  (inclusive) for that Review.
- 4.4.7 The Licensee shall provide to the Authority the Best Available Values (calculated in accordance with Conditions 4.5 and 4.6) in respect of each Periodic Review, together with the Licensee's proposed Designated Parameters for that Review, by the earlier in time of:
- (a) the date occurring ~~12~~ 15 months prior to the end of each Formula Year  $t = n$ ;  
and
  - (b) the date occurring two months after the date on which the Authority has provided to the Licensee its proposed values for the Designated Parameters for that Review.
- 4.4.8 For each Special Review and in accordance with the timetable established by the Authority in accordance with Condition 4.7.6, the Licensee shall (to the extent directed to do so by the Authority in accordance with Condition 4.7.6) provide to the Authority Best Available Values for that Special Review (calculated in accordance with Conditions 4.5 and 4.6) and the Licensee's proposed Designated Parameters for that Special Review.
- 4.4.9 At the same time as it submits Best Available Values to the Authority in accordance with Condition 4.4.5(c), 4.4.7 or 4.4.8 (as applicable), the Licensee shall also provide such further accompanying information, evidence and other data with regard to the values submitted and the assumptions underlying the relevant estimates and forecasts as will be reasonably sufficient to enable the Authority to be satisfied that the Best Available Values have been provided on a proper and consistent basis. The Licensee shall thereafter provide the Authority with any further such information, evidence or other data requested by the Authority.
- 4.4.10 The Licensee acknowledges that the Authority may wish and/or be obliged to carry out consultations with regard to the Reviews and, in the exercise of its functions under the Order and the Energy Order, publish information relevant to such consultations. Where the Authority makes a "minded to" determination of the Determination Values and the Designated Parameters for a Review, the Licensee

shall, within 4 weeks of such “minded to” determination, respond to the Authority indicating whether or not such values would be acceptable if formally established as such.

4.4.11 The Authority will, at the conclusion of each Review and having considered any Best Available Values and proposed Designated Parameters submitted by the Licensee, determine the Determination Values and establish the Designated Parameters by notice in writing to the Licensee. Such Determination Values and Designated Parameters shall be established having regard to any information provided to the Authority and any representations made to the Authority, including those previously made by the Licensee, and in particular those made by the Licensee in respect of the:

- (a) Licensee’s aim of recovering accumulated under recoveries of revenue (as referred to in Condition 4.2.8) in good time and in any event by no later than the Formula Year 2034/5;
- (b) Licensee’s aim of recovering the costs it has incurred by way of Capital Expenditure during the period up to the end of Formula Year q by the end of that Formula Year, together with a rate of return on those costs; and
- (c) Licensee’s aim of recovering the costs it has incurred by way of Operating Expenditure during the period up to the end of Formula Year q by the end of that Formula Year.

4.4.12 Without prejudice to the Authority’s ability to modify Condition 4.9 in accordance with Article 14 of the Order, a notice given by the Authority under Condition 4.4.11 shall have effect as a modification of Condition 4.9 in which the Designated Parameters contained in the notice shall be substituted for the equivalent values previously established in that Condition.

## Disapplication

4.4.13 The Licensee may serve a written “disapplication notice” on the Authority at any time after 1 March 2006. The Licensee shall state in such disapplication notice the date from which the disapplication notice is to have effect (the “disapplication date”), provided that the disapplication date shall not be a date prior to the later of:

- (a) the date 6 months after the end of the Formula Year denoted by the Designated Parameter n applying at the date the disapplication notice was served; and
- (b) the date 18 months after the disapplication notice was served.

~~4.4.14~~ Following service of a disapplication notice under Condition 4.4.13, and unless the Licensee withdraws the disapplication notice, Conditions 4.2 and 4.3 shall, with effect from the relevant disapplication date, cease to have effect, unless by the disapplication date the Authority has made a reference to the Competition Commission under Article 15 of the Order. ~~—requiring the Competition Commission to investigate and report on whether the disapplication of Conditions 4.2 and 4.3 may be expected to operate against the public interest.~~

4.4.15 Where, in accordance with Condition 4.4.5(f) or Condition 4.4.14, Conditions 4.2 and 4.3 cease to have effect, the Licensee shall, in setting its Controlled Charges, no longer be restricted by this Part 4.