

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:

Conveyance Licences:

BGE (UK)
Belfast Gas Transmission
Premier Transmission Ltd
Phoenix Natural Gas Ltd
Bord Gais Eireann - Firmus Energy (Distribution) Limited

Supply Licences:

BGE (NI) Supply (firmus Energy)
BGE (NI) Supply (firmus Energy)
ESB International Investments
British Gas Trading Ltd
Premier Power Ltd
Northern Ireland Electricity plc
Power & Gas Ventures Ltd
Viridian Energy Supply Ltd
VAYU Ltd
ONI Gas Ltd
ESBNI
Airtricity
Phoenix Supply Ltd

(“the licensees”) to include the following:

- 1) The modification of the entire condition named ‘Payment of Fees to the Authority’

Reasons and Effects

The current licence conditions contain a mixture of conditions on the treatment of licence fees. This has prevented the Authority from introducing a simplified licence fee methodology. We believe it is important that the licence fee methodology should be straight forward taking into consideration the structure of the gas market. The effect of this licence modification will allow the Authority to introduce new Principles which are attached.

The proposed amendments to each licence in respect of this modification are appended to this Notice and followed by the proposed licence fee methodology.

Representations or objections to the proposed modifications can be made before 30th March 2012 to Neil Bingham by way of post at The Utility Regulator, Queens House, 14 Queen Street, Belfast BT1 6ED or e-mail at neil.bingham@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 1st March 2012

Brian McHugh

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

Proposed Licence Conditions

Gas Conveyance Licence

Condition XX: Payment of Fees to the Authority

- In respect of each year, beginning on 1 April, during which the Licence is in force, the Licensee shall pay to the Authority a fee of the amount determined in accordance with this Condition (the licence fee).
- The Licensee shall pay to the Authority the licence fee for each year (the relevant year) within 30 days of the Authority giving notice to the Licensee of the amount due from the Licensee for the relevant year.
- For each relevant year, the licence fee shall be the total of:
 - (a) an amount that is the Relevant Contribution to the Estimated Costs of the Authority for the relevant year;
 - (b) an amount that is the Relevant Contribution to the Estimated Costs of the Consumer Council with regard to the exercise of its functions relating to gas consumers for the relevant year;
 - (c) an amount that is the Relevant Contribution to the Estimated Costs of the Competition Commission, in connection with any reference made to it in respect of the Licence or any other licence granted under Article 8(1)(a) of the Order, for the year immediately preceding the relevant year (the previous year); and
 - (d) an amount which is the difference (which may be a positive or negative amount), if any, between:
 - (i) the licence fee that would have been due from the Licensee for the previous year had such fee been calculated in relation to the actual costs of:
 - (A) the Authority for the previous year;

- (B) the Consumer Council with regard to the exercise of its functions relating to gas consumers for the previous year; and
- (C) the Competition Commission, in connection with references of the type referred to in sub-paragraph 3(c), for the year immediately preceding the previous year; and

(ii) the licence fee paid by the Licensee for the previous year,

provided that where the Licence is in force for only a part of the relevant year, the amount payable in respect of that year shall be a proportionate part of the licence fee due for the full year.

- Where:

- (a) the Estimated Costs of the Authority or of the Consumer Council are revised during the course of the relevant year (Revised Costs);
- (b) the Licensee has paid the licence fee for the relevant year; and
- (c) the Revised Costs would, had they applied to the calculation of the licence fee paid by the Licensee, have resulted in the calculation of a lower licence fee than that paid by the Licensee,

the Authority may, where it is reasonable for it to do so taking into consideration the timing of the Revised Costs and the provisions of paragraph 3(d), refund to the Licensee the difference between the amount of the licence fee paid by the Licensee and the amount of the lower licence fee referred to in paragraph 4(c) above.

- Where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph 2 above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending rate of an institution designated by the Authority for this purpose.
- In this Condition:

- “Estimated Costs”
- (i) in relation to the costs of the Authority, means the costs estimated by the Authority as likely to be its costs for the relevant year as calculated in accordance with the Principles;
 - (ii) in relation to the costs of the Consumer Council, means either:
 - (A) the costs notified to the Authority by the Consumer Council as its estimated costs for the relevant year as approved by the Department; or
 - (B) in the event that the Authority does not receive such notification by 31 July in the relevant year, the costs estimated by the Authority (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the relevant year) as likely to be the costs of the Consumer Council for the relevant year; and
 - (iii) in relation to the costs of the Competition Commission, means the costs estimated by the Authority following consultation with the Competition Commission as likely to be the costs of the Competition Commission for the previous year in connection with references of the type referred to in sub-paragraph 3(c) above.

“Principles”	means the principles determined by the Authority for the purposes of this Condition generally, following consultation with the Licensee and with others likely to be affected by the application of such principles and as notified to the Licensee in writing.
“Relevant Contribution”	means, in respect of the Estimated Costs, the level of contribution to those costs applicable, whether by way of a specified amount or a stated proportion, to the Licensee as determined under or in accordance with the Principles.

Gas Supply Licence

Condition xx.x: Payment of Fees to the Authority

- In respect of each year, beginning on 1 April, during which the Licence is in force, the Licensee shall pay to the Authority a fee of the amount determined in accordance with this Condition (the **licence fee**).
- The Licensee shall pay to the Authority the licence fee for each year (the **relevant year**) within 30 days of the Authority giving notice to the Licensee of the amount due from the Licensee for the relevant year.
- For each relevant year, the licence fee shall be the total of:
 - (a) an amount that is the Relevant Contribution to the Estimated Costs of the Authority for the relevant year;
 - (b) an amount that is the Relevant Contribution to the Estimated Costs of the Consumer Council with regard to the exercise of its functions relating to gas consumers for the relevant year;
 - (c) an amount that is the Relevant Contribution to the Estimated Costs of the Competition Commission, in connection with any reference made to it in respect of the Licence or any other licence granted under Article 8(1)(c) of the Order, for the year immediately preceding the relevant year (the **previous year**); and
 - (d) an amount which is the difference (which may be a positive or negative amount), if any, between:
 - (i) the licence fee that would have been due from the Licensee for the previous year had such fee been calculated in relation to the actual costs of:
 - (A) the Authority for the previous year;
 - (B) the Consumer Council with regard to the exercise of its functions relating to gas consumers for the previous year; and
 - (C) the Competition Commission, in connection with references of the type referred to in sub-paragraph 3(c), for the year immediately preceding the previous year; and
 - (ii) the licence fee paid by the Licensee for the previous year,

provided that where the Licence is in force for only a part of the relevant year, the amount payable in respect of that year shall be a proportionate part of the licence fee due for the full year.

- Where:
 - (a) the Estimated Costs of the Authority or of the Consumer Council are revised during the course of the relevant year (**Revised Costs**);
 - (b) the Licensee has paid the licence fee for the relevant year; and
 - (c) the Revised Costs would, had they applied to the calculation of the licence fee paid by the Licensee, have resulted in the calculation of a lower licence fee than that paid by the Licensee,

the Authority may, where it is reasonable for it to do so taking into consideration the timing of the Revised Costs and the provisions of paragraph 3(d), refund to the Licensee the difference between the amount of the licence fee paid by the Licensee and the amount of the lower licence fee referred to in paragraph 4(c) above.

- Where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph 2 above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending rate of an institution designated by the Authority for this purpose.

- In this Condition:

- “Estimated Costs”
- (i) in relation to the costs of the Authority, means the costs estimated by the Authority as likely to be its costs for the relevant year as calculated in accordance with the Principles;
 - (ii) in relation to the costs of the Consumer Council, means either:
 - (A) the costs notified to the Authority by the Consumer Council as its estimated costs for the relevant year as approved by the Department; or
 - (B) in the event that the Authority does not receive such notification by 31 July in

the relevant year, the costs estimated by the Authority (having regard to any estimate of such costs in any forward work programme published by the Consumer Council in respect of the relevant year) as likely to be the costs of the Consumer Council for the relevant year; and

- (iii) in relation to the costs of the Competition Commission, means the costs estimated by the Authority following consultation with the Competition Commission as likely to be the costs of the Competition Commission for the previous year in connection with references of the type referred to in sub-paragraph 3(c) above.

“Principles”

means the principles determined by the Authority for the purposes of this Condition generally, following consultation with the Licensee and with others likely to be affected by the application of such principles and as notified to the Licensee in writing.

“Relevant Contribution”

means, in respect of the Estimated Costs, the level of contribution to those costs applicable, whether by way of a specified amount or a stated proportion, to the Licensee as determined under or in accordance with the Principles.

Proposed Principles for Gas Licence Fees

Supply Licence

Supply licence holders will pay a fixed fee of £1,500 (2012 real) that will increase annually based upon the Retail Price Index (RPI)).

Conveyance Transmission Licence

The remaining licence fee net of the fixed supply charges will be apportioned between the conveyance licence holders who participate in transmission activities on the basis of their share of the total forecast volumes transmitted in that year.

Conveyance Distribution Licence

Conveyance licence holders who participate in distribution activities will fund the Consumer Council's (CC) costs associated with gas issues. The total fee raised will be apportioned by distribution licence holders based upon their share of the total forecast gas volumes distributed in that year.