

Proposed Phoenix licence drafting for postalisation**Condition 2.3A: Postalisation Transmission Charges, Other Terms for the Transmission of Gas on the Postalisation Transmission Network and the provision of Postalisation Transmission Services****2.3A.1 Charges to be subject to Total Allowed Postalisation Transmission Revenue**

- (a) In respect of any period when a Designation Order is not in place in respect of the Postalisation Pipe-line, the Licensee shall, in setting its charges for the transmission of gas in the Postalisation Pipe-line during the Revenue Recovery Period, use its best endeavours to ensure that in each Gas Year the Total Postalisation Transmission Revenue shall not exceed the Total Allowed Postalisation Transmission Revenue for that year calculated in accordance with the Formula, in addition to observing the provisions of Condition 2.3A.9.
- (b) In respect of the Gas Year commencing on or after the Designation Date and each Gas Year or part of a Gas Year thereafter for so long as a Designation Order is and remains in force in respect of the Postalisation Pipe-line, the Licensee shall ensure that for each such Gas Year both:
- (i) its Forecast Required Revenue; and
 - (ii) its Actual Required Revenue,
- notified to the Authority and the PSA in accordance with Conditions 2.3A.1(d) and 2.3A.1(e) shall be the same as the Total Allowed Postalisation Transmission Revenue for that Gas Year.
- (c) For the avoidance of doubt, the Licensee's Forecast Required Revenue and Actual Required Revenue for the purposes of Part 2A of the Licence Document shall be the same amount; and both shall equal the Total Allowed Postalisation Transmission Revenue both during and after the Revenue Recovery Period.
- (d) No later than the first Business Day in July in any Gas Year commencing on or after the Designation Date the Licensee shall provide to the Authority its calculation of Forecast Required Revenue for the next Gas Year together with such explanations and information as may be reasonably necessary to permit the Authority to verify that the Forecast Required Revenue has been calculated in accordance with any

APPENDIX G:

Consultation draft 28 July 04

formula in place for the time being for the purposes of calculating Total Allowed Postalisation Transmission Revenue.

- (e) No later than the fifteenth Business Day in July in any such Gas Year referred to in sub-paragraph (d) the Licensee shall provide to the PSA its calculation of Forecast Required Revenue in respect of the next Gas Year.

2.3A.2 The Formula

The Total Allowed Postalisation Transmission Revenue for each Gas Year during the Revenue Recovery Period shall be calculated in accordance with the following formula:

$$ARR_t = (CRR + ORR_t) * RPI_t / RPI_0 + PA_t$$

where :

ARR_t = Total Allowed Postalisation Transmission Revenue in Gas Year t

CRR = Capital Asset Base Recovery, as determined pursuant to Condition 2.3A.3

ORR_t = Allowed Operating Expenditure in Gas Year t, as determined pursuant to Conditions 2.3A.4 and 2.3A.7

RPI_t = the estimate of the absolute value of the Retail Price Index to be published in respect of March of Gas Year t, as determined pursuant to Condition 2.3A.6

RPI₀ = the absolute value of the Retail Price Index published for March of 2004, being 184.6

PA_t = Postalisation Adjustment for Gas Year t, as determined pursuant to Condition 2.3A.5

2.3A.3 Capital Asset Base Recovery

$$CRR = \frac{OAV \times r}{(1+r) \times [1-(1+r)^{-N}]}$$

Where:

OAV = an amount to be determined by the Authority and notified to the Licensee in writing as being the appropriate asset value of the Postalisation Pipe-line as at 1st October 2004.

N = 12, being the number of Gas Years between October 2004 and the end of the Revenue Recovery Period.

r = agreed, pre-tax rate of return of 8.5%

2.3A.4 Allowed Operating Expenditure

Allowed Operating Expenditure for the purpose of this Condition and the determination of Total Allowed Postalisation Transmission Revenue in accordance with the Formula shall be the operating expenditure which the Authority deems necessary or appropriate for the development, construction, maintenance and operation of the Postalisation Transmission Network to provide Postalisation Transmission Services in an economically efficient and safe manner given forecast development and throughput and in accordance with established gas transmission pipe-line engineering and cost control principles, determined in accordance with the procedure set out in Condition 2.3A.7.

2.3A.5 Postalisation Adjustment

The Postalisation Adjustment for the purposes of the determination of Total Allowed Postalisation Transmission Revenue in Gas Year t will be an allowance (which could be positive or negative) comprised of the sum of the amounts set out in Conditions 2.3A.5(a) to 2.3A.5(c) inclusive together with any other amounts deemed by the Authority to be necessary or appropriate, to be determined in accordance with the procedure set out in Condition 2.3A.5(d):-

- (a) costs associated with the PSA and trustee;
- (b) amounts due in respect of Commodity Reconciliation Payments, calculated according to the following formula:-

$$UNRPT_{t-2} \times (1+RE)^{1.5} \times \frac{CPI_t}{CPI_{t-2}} \times \left[\frac{ARR_L^{t-2}}{PS \text{ ARR}^{t-2}} \right]$$

where, for the purposes of this Condition 2.3A.5:-

UNRPT_{t-2} = unrecovered postalisation payments as calculated by the PSA in respect of Gas Year_{t-2}.

CPI_t = the forecast of the absolute value of the Consumer Prices Index for the Gas Year t, as set out in the edition of the Bank of England Inflation Report published in May of the previous Gas Year or where no such forecast is published, such other forecast as the Authority

may after consultation with the Licensee determine to be appropriate in the circumstances.

CPI_{t-2} = the absolute value of the General Index of Consumer Prices –All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) for the Gas Year $t-2$, or if such index is no longer published such comparable alternative as the Authority deems appropriate;

ARR_{t-2} = in respect of Gas Year $t-2$, the Licensee’s Actual Required Revenue, which shall be equal to its Total Allowed Postalisation Transmission Revenue as determined in accordance with the Formula

$PS\ ARR_{t-2}$ = in respect of Gas Year $t-2$, the sum of the Actual Required Revenues (as defined in their respective licences) of all Designated Pipe-line Operators in respect of such Gas Year

RE = the applicable interest rate calculated as the one-year LIBOR rate, as published on the 10th Business Day of June in Gas Year $t-1$, plus 2% minus CPI_t ;

(c) such amount as the Authority may deem appropriate in respect of costs incurred by the Licensee in connection with approved activities in relation to the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland.

(d) (i) No later than 1 June in each Gas Year, the Licensee shall submit to the Authority a proposed figure for the Postalisation Adjustment, together with any information it feels necessary to justify that figure.

(ii) If the Authority, following verification and consideration of such additional information as may be submitted by the Licensee, approves the Licensee’s proposed Postalisation Adjustment, then the figure submitted by the Licensee pursuant to Condition 2.3A.5(d)(i) shall be the Postalisation Adjustment for the purposes of determining Total Allowed Postalisation Transmission Revenue.

APPENDIX G:

Consultation draft 28 July 04

- (iii) If the Authority, following verification and consideration of such additional information as may be submitted by the Licensee, considers that the Licensee's proposed figure should be approved subject to modification, then the figure submitted by the Licensee pursuant to Condition 2.3A.5(d)(i), as modified in the manner notified to the Licensee by the Authority following consultation with the Licensee, shall be the Postalisation Adjustment for the purposes of determining Total Allowed Postalisation Transmission Revenue.

2.3A.6 Retail Price Index

RPI_t = the estimate of the absolute value of the Retail Price Index to be published for Gas Year t , as set out in the May edition of the Bank of England Inflation Report of the previous Gas Year, or where no such forecast is published, such other forecast as the Authority may after consultation with the Licensee determine to be appropriate in the circumstances.

2.3A.7 Allowed Operating Expenditure Calculation

- (a) In respect of the Gas Years beginning on 01 October 2004, 01 October 2005 and 01 October 2006 the Allowed Operating Expenditure shall be as follows: *[- to be confirmed with Phoenix].*
- (b) The Licensee shall not later than 12 months before the commencement of each Review Period submit a forecast of annual operating expenditure for each Formula Year of that Review Period.

The Review Periods shall be:

- (i) the period from the commencement of the Gas Year beginning on 01 October 2007 until the expiry of the Gas Year beginning on 01 October 2011; and
 - (ii) the period from the commencement of the Gas Year beginning on 01 October 2012 until the expiry of the Gas Year beginning on 01 October 2015.
- (c) If, in respect of a particular Review Period, the Authority, following verification, approves the forecast of annual operating expenditure submitted under Condition 2.3A.7(b) above, the forecast annual operating expenditure for each Gas Year

APPENDIX G:**Consultation draft 28 July 04**

comprised in such Review Period shall be the Allowed Operating Expenditure for such Gas Year.

- (d) If, in respect of a particular Review Period, the Authority, following verification and consideration of such further information as may be submitted by the Licensee, considers that the Licensee's forecast should be approved subject to modification, the forecast annual operating expenditure for each Gas Year comprised in such Review Period and as set out in the Licensee's forecast (as modified in the manner notified to the Licensee by the Authority) shall, subject to subsequent adjustment in accordance with Condition 2.3A.7(i) below, be the Allowed Operating Expenditure for such Gas Year.
- (e) The Allowed Operational Expenditure in respect of the second Review Period will be adjusted for any forecasting errors in the Licensee's estimate of CPI_t in respect of the first Review Period.
- (f) The Licensee shall, within 6 months after the end of each Gas Year, submit to the Authority a statement, certified by its auditors as being accurate, detailing the actual operating expenditure incurred by the Licensee during such Gas Year in the development, construction, maintenance and operation of the Postalisation Transmission Network.
- (g) The Licensee shall promptly provide such information or explanation and access to documents and records as the Authority reasonably requires for the purpose of verifying the forecast annual operating expenditure figures provided by the Licensee in accordance with Condition 2.3A.7(b).
- (h) Any decision made by the Authority under Condition 2.3A.7(c) or Condition 2.3A.7(d) shall be notified to the Licensee in writing (together with, in the case of a decision made by the Authority pursuant to Condition 2.3A.7(d), details of the modifications made by the Authority and the reasons for them).
- (i) In the event that the Authority makes a decision under Condition 2.3A.7(d) (in this Condition 2.3A.7(i), the "Decision"):-
 - (i) the Decision shall not have effect for 28 days commencing with the date of the notice of the Decision;

APPENDIX G:

Consultation draft 28 July 04

- (ii) the Licensee may within 28 days of the date of the notice of the Decision request the Authority by written notice to the Authority (a "disapplication notice"), not to apply the provisions of Condition 2.3A.7(d), in which event the Decision shall not apply;
- (iii) unless within one month of the date of the disapplication notice the Authority makes a reference to the Competition Commission under Article 15 of the Order relating in whole or part to a modification of Condition 2.3A.7, then:
 - (aa) the Allowed Operating Expenditure determined by the Authority under Condition 2.3A.7(d) will continue not to be applied after that period has passed; and
 - (bb) the Allowed Operating Expenditure in relation to any Gas Year falling within the disputed Review Period for the purposes of the calculation set out in Condition 2.3A.2 shall be the same as that for the most recent Gas Year in respect of which the value of Allowed Operating Expenditure was not disputed by the Licensee under this Condition 2.3A.7(i);
- (iv) in the event of such a reference to the Competition Commission under Condition 2.3A.7(i)(iii), and if the Competition Commission finds that the continuation of this Condition 2.3A.7 without modification operates or may be expected to operate against the public interest, then until the Licence Document shall be modified in accordance with the Order as a result of that reference and any findings by the Competition Commission then the Allowed Operating Expenditure in relation to any Gas Year falling within the disputed Review Period for the purposes of the calculation set out in Condition 2.3A.2 shall be the same as that for the most recent Gas Year in respect of which the value of Allowed Operating Expenditure was not disputed by the Licensee under this Condition 2.3A.7(i).

2.3A.8 Allowed revenue after expiry of Revenue Recovery Period

- (a) Not less than 12 months prior to the expiry of the Revenue Recovery Period the Licensee shall submit to the Authority:

APPENDIX G:

Consultation draft 28 July 04

- (i) a proposal as to the formula to be used for calculation of Total Allowed Postalisation Transmission Revenue following the end of the Revenue Recovery Period (the “Proposed Formula”); and
- (ii) a forecast of the amount of Total Allowed Postalisation Transmission Revenue for the five Gas Years immediately following the expiry of the Revenue Recovery Period (the “Forecast”);

which comply with the basis of calculation set out in Condition 2.3A.8(d).

- (b) The Licensee shall promptly provide such further information or explanation and access to documents and records as the Authority reasonably requires for the purpose of verifying that the Proposed Formula and the Forecast submitted to it by the Licensee comply with the principles set out in Condition 2.3A.8(d).
- (c) The Authority may, following review of the Proposed Formula and the Forecast, by written notice (including, where approval has been given by the Authority pursuant to Condition 2.3A.8(c)(ii), details of the amendments made by the Authority and the reasons for them) to the Licensee:
 - (i) approve the Proposed Formula and the Forecast; or
 - (ii) approve the Proposed Formula and the Forecast with such amendments as it deems necessary or appropriate to ensure compliance with the basis of calculation set out in Condition 2.3A.8(d).
- (d) The Licensee shall draw up the Proposed Formula and the Forecast in accordance with such arrangements as shall have been approved by the Authority having regard to the principle that the Licensee shall be entitled to receive by way of Postalisation Transmission Charges:
 - (i) the costs incurred by the Licensee deemed necessary or appropriate by the Authority in administering, maintaining and operating the Postalisation Transmission Network; and
 - (ii) the costs incurred by the Licensee deemed necessary or appropriate by the Authority from time to time to expand, reinforce and renew the Postalisation Transmission Network together with an appropriate return on those costs as agreed between the Authority and the Licensee.

- (e) In the event that the Authority gives its approval under Condition 2.3A.8(c)(ii) (in this Condition 2.3A.8(e), the "Approval"):-
- (i) the Approval shall not have effect for 28 days commencing with the date of the notice of the Approval;
 - (ii) the Licensee may within 28 days of the date of the notice of the Approval request the Authority by written notice to the Authority (a "disapplication notice"), not to apply the provisions of Condition 2.3A.8(c)(ii), in which event the Approval shall not apply;
 - (iii) unless within three months of the date of the disapplication notice the Authority makes a reference to the Competition Commission under Article 15 of the Order relating in whole or part to a modification of Condition 2.3A.8, then:
 - (aa) the Proposed Formula and the Forecast (in the form in which they were approved by the Authority under Condition 2.3A.8(c)(ii)) will continue not to be applied after that period has passed; and
 - (bb) the Proposed Formula and the Forecast (in the form originally proposed by the Licensee under Condition 2.3A.8(a)) shall apply as if approved by the Authority pursuant to 2.3A.8(c)(i);
 - (iv) in the event of such a reference to the Competition Commission under Condition 2.3A.8(e)(iii), and if the Competition Commission finds that the continuation of this Condition 2.3A.8 without modification operates or may be expected to operate against the public interest, then until the Licence Document shall be modified in accordance with the Order as a result of that reference and any findings by the Competition Commission then the Proposed Formula and the Forecast (in the form originally proposed by the Licensee under Condition 2.3A.8(a)) shall apply as if approved by the Authority pursuant to 2.3A.8(c)(i).

2.3A.9 Determination of charges on the Undesignated Network

In respect of any Gas Year, to the extent that a Designation Order is not in force in relation to the any section of the licensee network, the Licensee shall be subject to the provisions of this Condition.

(a) Licensee to establish methods

The Licensee shall establish the methods and principles on which transmission Charges shall be determined for gas suppliers wishing and entitled (or entitled within the Gas Year in respect of which the methods and principles shall be determined for the next following Gas Year) to use the un-designated Transmission Network and, provided the Authority's approval has been obtained in accordance with Condition 2.3A.9(b), the Licensee shall publish the same in accordance with Condition 2.3A.9(c).

(b) Authority's approval required for Undesignated transmission Charges and other terms for the transmission of gas in the Transmission Network

The Authority's approval in writing is required for undesignated Transmission Charges and other terms for the transmission of gas in the Transmission Network (the "Undesignated Terms").

No later than 20 Business Days before it intends to publish its statement under Condition 2.3A.9(c) the Licensee shall notify the Authority of the contents of that statement, and seek the approval of the Authority of the Undesignated Terms to be included in the statement. The Licensee shall:

- (i) provide the Authority with such information and access to documents and records as will enable the Authority to be reasonably satisfied that the methodology, principles and effect of the Undesignated Transmission Charges are consistent with the terms of this Condition 2.3A, including without limitation Condition 2.3A.1(a) and any arrangements made pursuant to Condition 2.3A.8 where appropriate;
- (ii) provide the Authority with an explanation of the other terms for transmission of gas in the Transmission Network set out in the statement.

APPENDIX G:

Consultation draft 28 July 04

The Authority may require such changes to the Undesignated Terms as it thinks desirable or necessary before giving its approval. The Authority shall notify the Licensee of its approval of the Undesignated Terms in writing.

(c) Publication of Undesignated Terms

The Licensee shall for each Gas Year publish a statement of:

- (i) its transmission charging methodology for the use of the Transmission Network by gas suppliers for such Gas Year, by which any such gas supplier may reasonably be able to calculate applicable Undesignated Transmission Charges; and
- (ii) its other terms for the use of the Transmission Network by gas suppliers (and in relation to the Network Code by reference to the Network Code);

in such manner as will secure adequate publicity for it and the Licensee shall send a copy of any such statement to any person who requests a copy and subject to Condition 2.3A.10 such statement shall clearly distinguish cases and classes of cases of gas supplier for whom the transmission charging methodology may result in differing Undesignated Transmission Charges.

2.3.A.10 Charging for the transmission of gas in the Postalisation Transmission Network and prohibition on undue discrimination

- (a) Subject to the provisions of Part 2A of this Licence Document the Licensee shall, unless the Authority otherwise consents, not charge for the transmission of gas in the Postalisation Transmission Network during any Gas Year or apply other terms for the transmission of gas in the Postalisation Transmission Network on any basis other than contained in its statement of Postalisation Transmission Charges published under Condition 2A.2.7 or, where applicable, Condition 2.3A.9(c) in respect of that Gas Year;
- (b) The Licensee shall not show any undue preference towards or undue discrimination against any gas supplier or case or classes of cases of gas supplier in the Postalisation Transmission Charges made or other terms for the transmission of gas applied in relation to the Postalisation Transmission Network; and

APPENDIX G:

Consultation draft 28 July 04

(c) Within 28 days of receiving a request for the quotation of Postalisation Transmission Charges for specified Postalisation Transmission Services by a gas supplier, the Licensee shall provide the gas supplier with a specific statement of the Postalisation Transmission Charges and other terms for the transmission of gas applicable to the Postalisation Transmission Services for which the gas supplier requested a quotation;

and for the purposes of this Condition 2.3A.10(c) and the Licensee’s obligation to provide a specific statement of Postalisation Transmission Charges, a request for the quotation of Postalisation Transmission Charges for specified Postalisation Transmission Services shall be treated as such if it is in such form as the Licensee can reasonably be expected to provide a specific statement of Postalisation Transmission Charges in return.

2.3A.11 Requirements relating to forecasts and estimates

The Licensee shall in submitting any forecasts or estimates required to be submitted under this Condition 2.3A use all reasonable endeavours to ensure that it provides the best forecasts or estimates based on the most comprehensive, current information obtainable at the time of submission.

2.3A.12 Powers of inspection

Without prejudice to the other provisions of the Licence Document, the Authority shall be entitled on reasonable prior notice to inspect those records of the Licensee reasonably sufficient to enable him to satisfy himself as to matters falling within the subject of this Condition.

2.3A.13 Additional Definitions

For the purposes of this Condition 2.3A:

“Actual Required Revenue” In relation to the Licensee shall mean the Licensee’s Total Allowed Postalisation Transmission Revenue calculated in accordance with the Formula and in respect of any other Designated Pipe-line Operator shall have the meaning given in that Designated Pipe-line Operator’s licence;

“Allowed Operating shall have the meaning given to it in Condition 2.3A.4;

“Business Day”	means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business in Belfast;
“Commodity Reconciliation Payment”	shall have the meaning given to it in Part 2A of this Licence Document;
“Consumer Prices Index”	means the Harmonised Index of Consumer Prices, referred to as the Consumer Prices Index in all publications of the Office of National Statistics from 10 December 2003, published from time to time by the Office of National Statistics;
“Designated Pipe-line Operator”	shall have the meaning given to it in Part 2A of this Licence Document;
“Designation Date”	shall have the meaning given to it in Part 2A of this Licence Document;
“Designation Order”	shall have the meaning given to it in Part 2A of this Licence Document;
“Forecast Required Revenue”	shall mean the Licensee’s Total Allowed Postalisation Transmission Revenue calculated in accordance with the Formula;
“Formula”	means the formula set out in Condition 2.3A.2;
“Gas Year”	shall have the meaning given to it in Part 2A of this Licence Document;
“LIBOR”	shall have the meaning given to it in Part 2A of this Licence Document;
“Postalisation Pipe-line”	means the pipe-line referred to in the Designation Order
“Postalisation Transmission Charge”	means a charge made by the Licensee for the transmission of gas in the Postalisation Transmission Network;
“Postalisation	means that part of the Network used for the transmission of gas

APPENDIX G:**Consultation draft 28 July 04**

“Transmission Network”	through the Postalisation Pipe-line;
“Postalisation Transmission Services”	means all services provided by the Licensee of conveying gas in the Postalisation Transmission Network;
“Postalised System”	shall have the meaning given to it in Part 2A of this Licence Document;
“PSA”	shall have the meaning given to it in Part 2A of this Licence Document;
“Remaining RRP”	shall have the meaning given to it in Condition 2.3A.8(a);
“Retail Price Index”	shall have the meaning given to it in Condition 2.3.15;
“Revenue Recovery Period”	means the period commencing on the date of the Grant and ending at 06:00 hours on 01 October 2016;
“Review Period”	means a period identified as a Review Period in Condition 2.3A.7(b);
“Total Allowed Postalisation Transmission Revenue”	means the maximum amount which the Licensee is permitted to recover through Postalisation Transmission Charges in any Gas Year (to be calculated in accordance with the Formula until the end of the Revenue Recovery Period);
“Total Postalisation Transmission Revenue”	means the total Postalisation Transmission Charge revenue received by the Licensee in any Gas Year;
“transmission”	means the conveyance of gas by transmission pipe-line;
“Undesignated Terms”	shall have the meaning given in Condition 2.3A.9.