



The Consumer Council

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116 Hollywood Road
Belfast
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**Carl Hashim
Gas Directorate
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED**

21 October 2011

Dear Carl,

Re: Consultation on the Phoenix Natural Gas Limited (PNG) Price Control Draft Proposals 2012-13. Our ref: PID 938

Introduction

The Consumer Council welcomes the opportunity to respond to this consultation.

The Consumer Council is an independent consumer organisation set up in legislation to safeguard the interests of Northern Ireland consumers, particularly the vulnerable and disadvantaged. We work to promote and protect consumer interest and bring about change to benefit consumers. Our aim is to make the consumer voice heard and make it count.

We represent consumers in the areas of transport, water and energy. We also have responsibility to educate consumers on their rights and responsibilities and to equip them with the skills they need to make good decisions about their money and manage it wisely.

Overview

With rising energy prices and growing levels of fuel poverty in Northern Ireland, it is essential that energy policy and regulation work to give consumers the best possible price.

Natural gas has an important role to play within Northern Ireland's energy infrastructure. Recent research from the Consumer Council has shown that it can play a role in reducing fuel poverty as its cost is

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considerably less than home heating oil. Our research shows that currently a natural gas customer in Northern Ireland will pay £925 per year less for their household energy bill compared to a household that uses home heating oil¹.

This Price Control is important, as it is an opportunity to review costs and look at means of further developing the uptake of gas within the PNG licence area.

We welcome the proposals that the Regulator has made and recognise that these could provide a real benefit to the consumer. However, we are concerned about the ratings release of 12 October from Fitch Ratings which states that some aspects of this consultation are ‘not considered to be good regulatory practice’. We would ask the Regulator to provide the Consumer Council with further reassurance that these comments will not raise the level of risk to all regulated utilities in Northern Ireland to a level that creates extra costs for consumers here.

Regulatory Model

Cost of Capital

According to the Regulators analysis PNG has been significantly de-risked’ and the company requires no further growth to recover its investment by 2046. We believe that the Regulator should therefore examine the Rate of Return it allows PNG and consider it against the rate Ofgem allows of 5.86 per cent².

Deferred Capex

The Consumer Council support the Regulator on its approach to dealing with deferred capex. This approach is in the consumers’ interest and is based on a sound principle that consumers should only pay for assets for which they receive a tangible benefit.

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Heating source	Heating cost	Electricity (3,300kWh pa)	Total Fuel Bill
Gas (Ave consumption 12,232kWh)	£601.21	£588.00	£1,189.21
Oil (Ave 500L x 5.25)	£1,526.37	£588.00	£2,114.37
Difference	£925.16	-	£925.16

Source: Power NI, Phoenix Natural Gas, firmus energy, Sutherland tables and Consumer Council

Note: Gas heating cost based on average between suppliers in Greater Belfast and Larne

² Ofgem- Gas Distribution Price Control Review Final Proposals. 3 December 2007

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Outperformance

We believe that the approach of the Regulator on outperformance is in the consumers' interests, as it provides a cost saving on bills to all consumers. It is also a sound and consistent regulatory principle that efficiency savings should be shared between the company and the consumer.

We are aware of the rating warning given by the credit agency, Fitch Ratings, which will remove one notch from the PNG credit rating. However, we consider that the benefit that PNG has received from the 'outperformance' sum has been earned on a Rate of Return that is above the industry standard. Furthermore, we believe that a review of the current PNG Rate of Return is necessary as there is sufficient profit within the company to ensure that there will be no threat to PNG's ability to raise finance in the future.

We also note the further comment of Fitch that the Regulators proposal is 'not considered by the agency to be good regulatory practice'. Such a view could arguably impact on the financing of regulated utilities in Northern Ireland. We would ask the Regulator to provide consumers with an assurance that its proposals will not compromise its purpose to protect the short and long term interests of consumers.

Opex

Advertising, Marketing and PR

We recognise the introduction of a results based allowance that provides an incentive for PNG to make new connections as an improvement on the previous system.

However, the gas market is sufficiently mature that we question why it is necessary for the consumer to pay for the advertising etc that will enable PNG to grow both its business and asset base. We believe that with a Rate of Return of 7.5 per cent, PNG is a profitable business and therefore can finance its own advertising, marketing and PR. In Great Britain, Ofgem does not allow network companies to charge customers for advertising, marketing and PR.

The cost of natural gas is considerably less than home heating oil and therefore it can play a significant role in helping to reduce the levels of fuel poverty here. It is the view of the Consumer Council that any incentives should be aimed at encouraging those households who use home heating oil and are in fuel poverty in the PNG licence area.

Network Maintenance

We are concerned that PNG currently do not operate an Asset Risk Register and that they are asking for an allowance to do so in the future. The consultation states that having a system such as PAS55 is best industry practice and in Great Britain customers are not expected to pay for such a system. The fact that PNG are asking for an allowance to introduce a system that could have saved the consumer money throughout the period of the previous two price controls is unsatisfactory.

The PAS55 would also provide a benefit to PNG, and we would strongly encourage the company to adopt it. However, consumers should not be paying the cost of it.

The consultation implies that the ten per cent reduction being applied to the PNG submission is a warning and does not represent the total savings that could have been made had an Asset Risk Register been in place. It appears that the consumer has lost out, and will continue to do so, throughout the period of this Price Control because of PNG's unwillingness to adopt PAS55. We would therefore expect the Utility Regulator to enforce PAS55, or ensure that the reduction in the current proposed allowance reflects as accurately as possible the ongoing loss to the consumer. The wasted costs should not be picked up by the consumer.

Entertainment

At a time when increasing numbers of consumers are struggling to pay their energy bills, the Consumer Council believes that it is inappropriate for consumers to be paying for entertainment such as seasonal events for PNG staff.

Entertainment is not the same as staff training and development which helps staff to individually and collectively run the business more efficiently.

IT

It is normal regulatory practice that when efficiencies are achieved within a price control period, the benefit is captured for the consumer and applied as the starting point for the following price control.

The Regulator has not done this in relation to IT. By granting the full request from PNG, the IT costs have increased from the last two

outturn figures to the proposed allowance, by 60 per cent. The increase is part explained by the possible costs of CAG, but the costs of CAG are currently unknown. The costs of CAG should only be applied when they are known and agreed, as otherwise the consumer is paying for costs that may never appear. Once the costs are known they should be recovered in instalments throughout the period of this and future price controls.

Infill

With rising fuel poverty levels, and an increasing cost difference between home heating oil and gas, the Consumer Council believes that more needs to be done to maximise the take up of gas within the PNG licence area. We believe that the Utility Regulator should require PNG to strategically plan how it will infill the areas and streets within its licence area, within the period of this and the next Price Control. PNG should also be obliged to commit to telling a customer when they will be able to connect them. This may require a licence modification.

Incentives for infill should be targeted at those households in fuel poverty and not by tenure.

Other issues

Acting in the consumers' interests

The PC12 Price Control proposals give significant and welcome cost savings to consumers.

The current average domestic energy bill in Northern Ireland for customers using natural gas is £1189³. The saving to customers of £25 per year that the Regulators proposals on returning the 'outperformance' will provide, represents two per cent of that bill. As energy prices continue to increase this percentage figure will decrease.

Whilst this saving on the bill is very welcome, we believe that the Utility Regulator should also consider if this money can be used to increase the use and accessibility of the gas network in the PNG licence area to reduce fuel poverty. It could do this by enabling and encouraging fuel poor households to move from the more expensive home heating oil to natural gas. For example the money could be used:

- As an incentive to help fuel poor households to convert to gas;
- To extend the network within the Phoenix Licence area to allow more homes to connect;

³ Power NI and a weighted average of Phoenix Natural Gas and firmus energy customers.

- To subsidise energy efficiency measures for fuel poor households.

The Consumer Council would be keen to discuss with the Utility Regulator how this could be taken forward.

Guaranteed Standards of Service

The Consumer Council recently responded to the Regulator's consultation on Guaranteed Standards of Service (GSS) in Gas. We recommended that consumer facing issues such as customer service standards and timescales on connections should be subject to penalties' and incentives within the price control. GSS are an effective method of acknowledging and addressing individual consumer complaints within the scope of the wider price control mechanism. We are disappointed that this has not been addressed and we ask for the Utility Regulator to implement them within this price control.

If you wish to discuss the attached in more detail, please do not hesitate to contact Richard Williams on 028 9067 4895 or by emailing rwilliams@consumercouncil.org.uk.

Yours sincerely



Richard Williams
Senior Consumer Affairs Officer