

# Notice and Consultation on Gas Supplier of Last Resort Licence Modifications

16 April 2018



# 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: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. 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, proportionate, accountable, and targeted

Be a united team

Be collaborative and cooperative

Be professional

Listen and explain

Make a difference

## **Abstract**

The purpose of this document is to set out for consultation the proposed modifications of all gas licences in order to introduce a requirement for all gas licence holders to comply with the Gas Supplier of Last Resort arrangements as agreed by industry.

## **Audience**

All gas licence holders, industry, consumers and statutory bodies.

## **Consumer impact**

This project delivers on the Consumer Protection Strategy Objective 3 which is to empower customers through education and transparency by putting in place arrangements for a Gas Supplier of Last Resort.

# Contents

Notice under Article 14(2) of the Gas (Northern Ireland) Order 1996 .....	4
<b>1. Introduction.....</b>	<b>7</b>
Purpose of consultation .....	7
Responding to this consultation.....	7
Next Steps.....	9
<b>2. High Pressure Conveyance Licences Modifications.....</b>	<b>10</b>
Proposed Changes.....	10
Reason and Effect.....	10
<b>3. Low Pressure Conveyance Licences Modifications.....</b>	<b>11</b>
Proposed Changes.....	11
Reason and Effect.....	11
<b>4. Gas Supply Licences Modifications.....</b>	<b>12</b>
Proposed Changes.....	12
Reason and Effect.....	13
<b>5. Annex.....</b>	<b>14</b>

# Notice under Article 14(2) of the Gas (Northern Ireland) Order 1996

In pursuance of its powers under Article 14(1) of the Gas (Northern Ireland) Order 1996 (as amended) (the 'Order') the Northern Ireland Authority for Utility Regulation (hereafter referred to as the Utility Regulator (UR)) hereby gives notice under Article 14(2) as follows:

1. The UR proposes to modify the gas conveyance licences held by:

- Belfast Gas Transmission Limited (BGTL)
- Premier Transmission Limited (PTL)
- West Transmission Limited (WTL)
- GNI (UK) Limited
- firmus energy (Distribution) Limited
- Phoenix Natural Gas Limited
- SGN Natural Gas Limited

2. The UR also proposes to modify the gas supply licences held by:

- SSE Airtricity Gas Supply (NI) Limited
- Firmus energy (Supply) Limited – Ten Towns
- Firmus energy (Supply) Limited – Greater Belfast Area
- Vayu Limited
- Electric Ireland
- Equo Energy
- Go Power
- Flogas Natural Gas Limited
- Energia
- Power NI Energy Limited
- SSE Airtricity Energy Supply (NI) Limited
- ONI Gas Limited
- SSE Energy Supply Limited
- Shell Energy Europe Limited
- Viridian Energy Limited
- Bord Gais Energy Limited
- AES Ballylumford Limited
- British Gas Trading Limited
- Coolkeeragh ESB Limited
- Power NI Energy Limited (formally NIE PLC)

3. The reasons for and effects of the modifications are explained in sections 2

to 4 of this document.

4. The proposed modifications are set out in Annexes A to C of this document.
5. The purpose of this notice is to bring the proposed modification to the attention of persons likely to be affected by it, and to invite representations or objections in connection thereto. In line with Article 14(3) of the Order, any representations or objections with respect to the proposed modification may be made on or before 12 noon on 16 May 2018 to:  
Seán Murphy  
Utility Regulator  
Queens House  
14 Queen Street  
Belfast BT1 6ER  
Email: [sean.murphy@uregni.gov.uk](mailto:sean.murphy@uregni.gov.uk)
6. The UR has, pursuant to Article 14(4) of the Order, served a copy of this notice on the licensees and sent a copy to the Department for Economy (DfE). The UR has also sent a copy of this notice to the Consumer Council for Northern Ireland (CCNI).
7. Dated this 16 April 2018.

## Glossary

BGTL	Belfast Gas Transmission Limited
CCNI	Consumer Council for Northern Ireland
DfE	Department for the Economy
DNO	Distribution Network Operator
FOIA	Freedom of Information Act 2000
NI	Northern Ireland
PTL	Premier Transmission Limited
SoLR	Supplier of Last Resort
UR	Utility Regulator
WTL	West Transmission Limited

# 1. Introduction

## Purpose of consultation

---

- 1.1 The [Gas \(Supplier of Last Resort\) Regulations \(Northern Ireland\) 2009](#) give the UR the power to appoint a SoLR where there is a failure of a gas supply company. This guiding principle has informed the UR's approach to developing the gas SoLR arrangements. The Regulations came into force to conform to EU Directive 2003/55/EC.
- 1.2 In March 2011 the UR published a consultation paper on SoLR requirements. This paper outlined the considerations and principles the UR deemed necessary for the selection and appointment of a SoLR at that time. The UR published a subsequent [decision paper](#) in June 2012. This decision paper outlined the key SoLR issues and the overall framework for developing the SoLR processes. However this did not include any detailed industry arrangements, procedures or the licence modifications needed to ensure those processes were followed.
- 1.3 The gas supplier forum has been used to develop and agree the necessary gas SoLR arrangements across the industry. The supplier forum is chaired by the UR and includes representatives from gas suppliers, the DNOs and CCNI.
- 1.4 Through the supplier forum the SoLR arrangements were drafted and agreed by representatives from all parties that will be followed if there is a SoLR event.
- 1.5 An information paper outlining the process and agreed industry principles has been published alongside this consultation. The information paper provides further details on the SoLR arrangements, as well as issues for future consideration.

## Responding to this consultation

---

- 1.6 We welcome industry and other stakeholder views and comments on the proposed licence modifications set out in this consultation paper.
- 1.7 The consultation period will close on 16 May 2018.
- 1.8 Responses to this consultation should be forwarded to reach the UR on or before 12pm on 16 May 2018 to:

Seán Murphy  
Utility Regulator  
Queens House  
14 Queen Street  
Belfast  
BT1 6ED  
Email: [sean.murphy@uregni.gov.uk](mailto:sean.murphy@uregni.gov.uk)

- 1.9 Your response to this consultation may be made public by the UR. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 1.10 Information provided in response to this consultation, including personal information may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things with obligations of confidence.
- 1.11 In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the UR.
- 1.12 This document is available in accessible formats. Please contact Seán Murphy on 0289031 6332 or [sean.murphy@uregni.gov.uk](mailto:sean.murphy@uregni.gov.uk) to request this.

### **Section 75 of the Northern Ireland Act 1998**

- 1.13 As a public authority, the UR has a number of obligations arising from Section 75 of the Northern Ireland Act 1998. These obligations concern the

promotion of equality of opportunity between:

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- men and women generally;
- persons with disability and persons without; and
- persons with dependants and persons without.

1.14 We must also have regard to the promotion of good relations between persons of different religious belief, political opinion or racial groups. In the development of our policies we also have a statutory duty to have due regard to the needs of vulnerable consumers i.e. individuals who are disabled or chronically sick, individuals of pensionable age, individuals with low incomes and, for electricity only, individuals residing in rural areas.

1.15 In order to assist with equality screening of the proposals contained within this consultation paper, we request that respondents provide any information or evidence in relation to the needs, experiences, issues and priorities for different groups which they feel is relevant to the implementation of any of the proposals.

1.16 We welcome any comments which respondents might have in relation to the overall equality impact of the proposals. In particular we would like to know our stakeholders' views on any areas of the consultation which may have an impact on the groups listed above, and if those impacts are likely to be positive in relation to equality of opportunity for energy consumers. In addition we are interested in receiving information on why and how we may refine the proposals if stakeholders consider that they do not currently meet the equality provisions.

## Next Steps

---

1.17 We will review the responses received on this consultation and give them due consideration in preparation for our decision on the licence modifications.

1.18 The effective date of the licence modifications will be at least 56 days after the publication of the licence modification decision, in line with the requirements of Article 14(10) of the Gas (Northern Ireland) Order 1996.

## 2. High Pressure Conveyance Licences Modifications

### Proposed Changes

---

- 2.1 We propose to amend the high pressure conveyance licences to insert a new condition to reflect the introduction of the gas SoLR arrangements.

Affected Licences	Condition
All gas high pressure conveyance licences: <ul style="list-style-type: none"><li>• Belfast Gas Transmission Ltd;</li><li>• Premier Transmission Ltd;</li><li>• West Transmission Ltd; and,</li><li>• GNI (UK) Ltd.</li></ul>	Introduction of Condition 2.1A

### Reason and Effect

---

- 2.2 The reason for the introduction of this proposed Condition is to ensure that all gas high pressure conveyance licensees comply with the established SoLR arrangements should a SoLR event materialise.
- 2.3 The effect of the implementation of this proposed Condition is that it ensures all gas high pressure conveyance licensees act in accordance with the gas SoLR arrangements as agreed by industry.
- 2.4 The introduction of the proposed licence condition and the finalisation of the gas SoLR arrangements ensures Northern Ireland (NI) gas customers maintain a continuity of gas supply, should a SoLR event be initiated.
- 2.5 The proposed new gas high pressure conveyance licence condition is outlined in Annex A of this paper.

# 3. Low Pressure Conveyance Licences Modifications

## Proposed Changes

---

3.1 We propose to amend the low pressure conveyance licences to insert a new condition to reflect the introduction of the Gas SoLR arrangements.

Affected Licences	Condition
All gas low pressure conveyance licences: <ul style="list-style-type: none"><li>• Phoenix Natural Gas Ltd;</li><li>• firmus energy Distribution Ltd; and,</li><li>• SGN Natural Gas Ltd.</li></ul>	Introduction of Condition 2.1A

## Reason and Effect

---

3.2 The reason for the introduction of this proposed Condition is to ensure that all gas low pressure conveyance licensees comply with the established SoLR arrangements should a SoLR event materialise.

3.3 The effect of the implementation of this proposed Condition is that it ensures all gas low pressure conveyance licensees act in accordance with the gas SoLR arrangements as agreed by industry.

3.4 The introduction of the proposed licence condition and the finalisation of the gas SoLR arrangements ensures NI gas customers maintain a continuity of gas supply, should a SoLR event be initiated.

3.5 The proposed new gas low pressure conveyance licence condition is outlined in Annex B of this paper.

# 4. Gas Supply Licences

## Modifications

### Proposed Changes

---

4.1 We propose to amend all gas supply licences to insert two new conditions to reflect the introduction of the Gas SoLR arrangements. The proposed Condition 2.1(a) outlines the requirements for all gas suppliers to comply with the relevant SoLR arrangements. The proposed Condition 2.1(b) outlines details pertaining to the Last Resort Supply Direction which would be issued by the UR to a defaulting gas supplier in a SoLR event.

Affected Licences	Condition
<p>All gas supply licences:</p> <ul style="list-style-type: none"> <li>• SSE Airtricity Gas Supply (NI) Ltd</li> <li>• firmus energy (Supply) Ltd - Ten Towns</li> <li>• firmus energy (Supply) Ltd - Greater Belfast Area</li> <li>• Vayu Limited</li> <li>• Electric Ireland</li> <li>• Equo energy</li> <li>• Go Power</li> <li>• Flogas Natural Gas Limited</li> <li>• Energia</li> <li>• Power NI Energy Limited</li> <li>• SSE Airtricity Energy Supply (NI) Ltd</li> <li>• ONI Gas Limited</li> <li>• SSE Energy Supply Limited</li> <li>• Shell Energy Europe Limited</li> <li>• Viridian Energy Limited</li> <li>• Bord Gais Energy Ltd</li> <li>• AES Ballylumford Limited</li> </ul>	<p>Introduction of Condition 2.1A and Condition 2.1B.</p>

<ul style="list-style-type: none"> <li>• British Gas Trading Limited</li> <li>• Coolkeeragh ESB Limited</li> <li>• Power NI Energy Limited (formally NIE plc).</li> </ul>	
---	--

## Reason and Effect

---

- 4.2 The reason for the introduction of these proposed Conditions is to ensure that all gas supply licensees comply with the established SoLR arrangements should a SoLR event materialise.
- 4.3 The effect of the implementation of these proposed Conditions is that it ensures all gas supply licensees act in accordance with the gas SoLR arrangements as agreed by industry.
- 4.4 The introduction of these proposed licence Conditions and the finalisation of the gas SoLR arrangements ensures NI gas customers maintain a continuity of gas supply, should a SoLR event be initiated.
- 4.5 The reason for the introduction of the Last Resort Supply Direction condition 2.1(b) is to ensure that all gas supply licensees are aware of the detailed processes should a SoLR event take place.
- 4.6 The effect of the implementation of the proposed Last Resort Supply Direction Condition is that it gives gas supply licensees clarity on the UR processes, with issuing a Last Resort Supply Direction and the responsibility of the gas supply licensee.
- 4.7 The proposed new gas supply licence conditions are outlined in Annex C of this paper.

# Annex A: Proposed Modifications to the High Pressure Conveyance Licences.

## Condition 2.1A: Supplier of Last Resort

1. Following the issue of a Last Resort Supply Direction, the Licensee shall (and shall procure that its Agents or Sub-contractors shall) use all reasonable endeavours to comply with any relevant arrangements that have been prepared and maintained by Gas Industry Representatives and approved by the Authority (that are in place from time to time) and that outline the processes that should be followed both in the initiation of, during and after the circumstances following the issue of a Last Resort Supply Direction.

2. In this Condition:

<b>Agent or Sub-contractor</b>	means any person directly or indirectly authorised to represent the Licensee.
<b>Gas Industry Representatives</b>	means representatives from gas suppliers, distribution system operators, transmission system operators and also the Consumer Council for Northern Ireland.
<b>Last Resort Supply Direction</b>	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Order.

# Annex B: Proposed Modifications to the Low Pressure Conveyance Licences

## Condition 2.1A: Supplier of Last Resort

1. Following the issue of a Last Resort Supply Direction, the Licensee shall (and shall procure that its Agents or Sub-contractors shall) use all reasonable endeavours to comply with any relevant arrangements that have been prepared and maintained by Gas Industry Representatives and approved by the Authority (that are in place from time to time) and that outline the processes that should be followed both in the initiation of, during and after the circumstances following the issue of a Last Resort Supply Direction.

2. In this Condition:

<b>Agent or Sub-contractor</b>	means any person directly or indirectly authorised to represent the Licensee.
<b>Gas Industry Representatives</b>	means representatives from gas suppliers, distribution system operators, transmission system operators and also the Consumer Council for Northern Ireland.
<b>Last Resort Supply Direction</b>	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Order.

# Annex C: Proposed Modifications to all gas supply Licences

## Condition 2.1A: Supplier of Last Resort

1. Following the issue of a Last Resort Supply Direction, the Licensee shall (and shall procure that its Agents or Sub-contractors shall) use all reasonable endeavours to comply with any relevant arrangements that have been prepared and maintained by Gas Industry Representatives and approved by the Authority (that are in place from time to time) and that outline the processes that should be followed both in the initiation of, during and after the circumstances following the issue of a Last Resort Supply Direction.

2. In this Condition:

<b>Agent or Sub-contractor</b>	means any person directly or indirectly authorised to represent the Licensee.
<b>Gas Industry Representatives</b>	means representatives from gas suppliers, distribution system operators, transmission system operators and also the Consumer Council for Northern Ireland (previously, the General Consumer Council for Northern Ireland).

### **Condition 2.1B: Last Resort Supply Direction**

- 1 The Authority may give a Last Resort Supply Direction to the Licensee if it considers that:
  - (a) circumstances have arisen that would entitle it to revoke the gas supply licence of a gas supplier other than the Licensee (for this Condition only, the **other supplier**); and
  - (b) the Licensee could comply with the Last Resort Supply Direction without significantly prejudicing its ability:
    - (i) to continue to supply gas to its consumers' premises; and
    - (ii) to fulfil its contractual obligations for the supply of gas.
- 2 The Last Resort Supply Direction will:
  - (a) have effect on and from the date on which and the time at which the other supplier's gas supply licence is revoked; and
  - (b) stop having effect on and from a date, specified in the Last Resort Supply Direction, that is up to six months after the date upon which the Last Resort Supply Direction has effect.
- 3 The Licensee shall, subject to paragraph 4, comply with a Last Resort Supply Direction.
- 4 The Licensee is not required to comply with a Last Resort Supply Direction in respect of premises to which it would not be required to supply gas because of any of the exceptions set out in sub-paragraphs 4(a), (b) and (c) of Condition 2.17A.
- 5 Within a reasonable period of time after receiving a Last Resort Supply Direction, the Licensee must send a copy of a notice to each of the premises specified or described in the Last Resort Supply Direction to inform the consumer:
  - (a) that the other supplier stopped supplying gas to the premises with effect on and from the date upon which the Last Resort Supply Direction had effect;
  - (b) that the Licensee began to supply gas to the premises with effect on and from the date upon which the Last Resort Supply Direction had effect;

- (c) that the Licensee is supplying gas to the consumer's premises under a Deemed Contract;
  - (d) that the consumer may enter into a Contract with the Licensee or any other gas supplier under which gas will be supplied to the premises; and
  - (e) of the charges for the supply of gas that the Licensee may charge the consumer while supplying him under the Last Resort Supply Direction.
- 6 The Licensee's charges for the supply of gas to the premises specified or described in the Last Resort Supply Direction must not exceed an amount that may be expected, in total, approximately to equal the Licensee's reasonable costs of supply (including, where appropriate, the costs of purchasing gas at short notice) and a reasonable profit.
  - 7 If the Licensee purchases gas to comply with a Last Resort Supply Direction, it must take all reasonable steps to do so as economically as possible in all the circumstances of the case.
  - 8 The Licensee shall, so far as is reasonably practicable, give the Authority at least five days' notice of any increase in the charges for the supply of gas to premises to be supplied with gas by it in accordance with a Last Resort Supply Direction.
  - 9 Where, within five days of the receipt by the Authority of the notice referred to in paragraph 8, the Authority determines that the charges proposed by the Licensee would be likely to cause hardship to domestic consumers, it may issue a direction to the Licensee requiring it to ensure that its charges for the supply of gas do not exceed those specified in the direction as being appropriate in order to avoid or mitigate such hardship.
  - 10 The Licensee shall comply with any direction issued by the Authority under paragraph 9, but shall not be required by that direction to set its charges for the supply of gas at a level less than that applicable to the supply by it under Deemed Contracts of comparable Domestic Premises otherwise than in accordance with a Last Resort Supply Direction.