

Gas Network Extensions in Northern Ireland

Gas to the West: Applicant Information Pack

6 February 2014



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, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

The Northern Ireland Executive has agreed to provide, subject to State Aid approval, a subvention of up to £32.5m to support extending the natural gas network to the west. We will grant the necessary exclusive gas conveyance licence(s) by means of a competitive licence application process. DETI has separately consulted on amending the Gas (Application for Licences and Extensions) Regulations (Northern Ireland) 1996 and the associated assessment criteria.

Audience

Potential applicants for the high and low pressure licences in the area of the new network extension.

Consumer impact

Research conducted on behalf of DETI indicates that potentially 40,000 domestic and commercial customers will connect to the new gas network in the west. These customers will benefit from lower energy costs and society as a whole will benefit from lower carbon and other emissions.

CONTENTS

CONTENTS	4
<u>1 INTRODUCTION</u>	<u>1</u>
LICENCES TO BE GRANTED	1
PURPOSE OF THIS PAPER	2
LEGAL FRAMEWORK FOR THE LICENCE APPLICATION PROCESS	3
PREVIOUS REGULATORY DOCUMENTS RELATING TO THE LICENCE APPLICATION PROCESS ...	4
APPLICATION COSTS	5
<u>2 NORTHERN IRELAND EXECUTIVE GRANT FUNDING</u>	<u>6</u>
OVERVIEW.....	6
VERIFICATION OF GRANT CLAIMS	6
PROCUREMENT.....	7
SOCIAL CLAUSES	7
MONITORING.....	8
SUB-CONTRACTING	8
STATE AID.....	8
<u>3 OVERVIEW OF LICENCE CONDITIONS.....</u>	<u>9</u>
STANDARD CONDITIONS FOR GAS CONVEYANCE LICENCES	9
SPECIAL CONDITIONS IN THE HIGH PRESSURE LICENCE	12
SPECIAL CONDITIONS IN THE LOW PRESSURE LICENCE.....	15
<u>4 LICENCE APPLICATION PROCESS AND TIMETABLE.....</u>	<u>21</u>
OVERVIEW OF LICENCE APPLICATION PROCESS	22
OVERVIEW OF INFORMATION TO BE PROVIDED IN ACCORDANCE WITH THE PUBLISHED CRITERIA	23
CLARIFICATION QUESTIONS.....	31
EVALUATION OF APPLICATIONS	31
PUBLICATION OF NOTICE TO GRANT LICENCES AND LICENCE GRANT	32
TIMETABLE	33

1 INTRODUCTION

1.1. In January 2013 the Northern Ireland Executive agreed to provide a subvention of up to £32.5m to assist the extension of the Northern Ireland natural gas network to the towns of:

- Dungannon including Coalisland;
- Cookstown including Magherafelt;
- Enniskillen including Derrylin;
- Omagh; and
- Strabane.

1.2. The Northern Ireland Authority for Utility Regulation (the Utility Regulator), will be responsible for the grant of the necessary licences, under Article 8 of the Gas (Northern Ireland) Order 1996 (the 'Order'). The Department of Enterprise Trade and Investment ('DETI') are responsible for the published criteria against which licence applications must be judged.

Licences to be granted

1.3. We have published a Notice calling for applications for the available licences. This is available on our website.¹ Applications must be submitted by no later than 12 noon on 6 May 2014, and any application which is submitted later will be considered to be non-compliant with criterion 2.4 of the published criteria.

1.4. It is our intention to grant at approximately the same time two exclusive gas conveyance licences in respect of the same authorised area but in relation to different descriptions of conveyance activity:

- One will relate to high pressure assets needed for the distribution of gas to the designated towns
- One will relate to low pressure assets in the designated towns needed for the distribution of gas to individually connected supply points

¹ <http://www.uregni.gov.uk/>

- 1.5. If only one party applies then we would assess this application according to the existing award of licence process.

Purpose of this paper

- 1.6. The purpose of this paper is to provide potential applicants with the information they need in order to make an application for the licences available.
- 1.7. Therefore the chapters of the paper cover:
- Chapter 1 the Introduction sets out the licences that will be granted, the legal framework for the licence application process, background to the project including the preparatory work previously undertaken by the Utility Regulator.
 - Chapter 2 sets out information supplied by DETI in relation to the grant funding for the high pressure pipelines.
 - Chapter 3 summarises the main licence conditions that we envisage will be included in any high pressure conveyance licence and low pressure conveyance licence granted to the successful applicant(s). We have also outlined the regulatory treatment that we would propose to apply for the licensees.
 - Chapter 4 provides an overview of the licence application process including the documentation and information that must be submitted by applicants. In particular the workbook templates for cost data and the operational business plan which we are required to provide to applicants are explained. The steps we will take in the process, including when we will consult, and the overall timetable for the process are also set out.
 - Annexes to this document (these are all published alongside the Application Pack on our website):
 - Annex 1 - Disclaimer and notices
 - Annex 2 - Information on the DETI Grant Funding– Likely requirements in respect of social clauses
 - Annex 3 - Form of Application Reproduced from the Regulations
 - Annex 4 - Standard Licence conditions
 - Annex 5 - High Pressure Operational Business Plan template
 - Annex 6 - Low Pressure Operational Business Plan template
 - Annex 7 - High Pressure workbook notes
 - Annex 8 - Low Pressure workbook notes

- Annex 9 – High Pressure Data Input Workbook
- Annex 10 – Low Pressure Data Input Workbook

Legal Framework for the licence application process

- 1.8. The regulatory framework for the Northern Ireland gas industry is provided for in a number of instruments including primary legislation, secondary legislation, licences issued by the Utility Regulator, industry codes and technical standards. This includes but is not limited to.
- The Gas (NI) Order 1996;
 - The Energy (NI) Order 2003;
 - The EU Gas Directive (2009/73/EC);
 - The Gas(Applications for Licences and Extensions) Regulations (Northern Ireland) 1996 (the Application Regulations);
 - Transmission and Distribution Network Codes;
 - Transmission - Distribution System Operator Agreement;
 - Northern Ireland Network Operators Agreement; and
 - Gas Safety Management Regulations.
- 1.9. Within this framework the Utility Regulator exercises its powers in a manner consistent with its statutory duties under the Energy (Northern Ireland) Order 2003 (the 'Energy Order'). Our principal objective in carrying out our gas functions, as set out at Article 14(1) of the Energy Order, is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland, and to do so consistently with our fulfilment of the objectives set out at Article 40 of the Gas Directive.
- 1.10. We will run the licence application process in accordance with the Gas (Applications for Licences and Extensions) Regulations (Northern Ireland) 1996 (the Regulations) and the criteria for licence applications determined by the Department of Enterprise Trade and Investment ('DETI') (the Published Criteria).
- 1.11. A consolidated version of the Regulations is not yet available but the Regulations as they were originally made together with all subsequent amendments are available online from the National Archives. The relevant links are referenced below.² The Published Criteria are available on the DETI website.³

² <http://www.legislation.gov.uk/nisr/1996/447/contents/made>
<http://www.legislation.gov.uk/nisr/2010/326/contents/made>

- 1.12. We have developed the licence application process consistently with the revised Regulations and Published Criteria. It should be noted that the published criteria also apply to an application for an extension of an existing licence. Applicants which hold existing conveyance licences are entitled to apply for an extension. However, if the successful applicant is an existing licence holder we would anticipate that it would be appropriate to grant a new licence as the incorporation of the new licence obligations would require such very significant changes to an existing licence. For all practical purposes, applications for an extension will be treated in exactly the same manner as applications for a new licence.

Previous Regulatory Documents Relating to the Licence Application Process

- 1.13. On the assumption that more than one party will apply for a licence in the new licensed area we initiated a process of discussion and consultation with industry in May 2012. This began with the publication of a discussion paper and a workshop with industry participants.⁴ The workshop presentations and a summary of the discussions at the workshop were subsequently published on our website.⁵
- 1.14. Taking into consideration the responses received to the discussion paper and the discussion at the workshop, we published a Consultation Paper in April 2013 which identified a series of questions relevant to the design of the licence application process and the award of licence process. From the responses received we anticipated that more than one party will apply for a licence in the new licensed area.
- 1.15. Accordingly, DETI also considered the responses to the April 2013 consultation paper in proposing amendments to the Regulations and the Published Criteria. These amendments were necessary in order to facilitate a competitive licence process. DETI consulted in July 2013 on changes to the Regulations and the Published Criteria. DETI's decision paper can be found on the DETI website.⁶
- 1.16. Our conclusions on the responses to the April consultation paper were published on 6 February.⁷

<http://www.legislation.gov.uk/nisr/2013/24/contents/made>

<http://www.legislation.gov.uk/nisr/2013/281/contents/made>

³ http://www.detini.gov.uk/gas_published_criteria.

⁴ <http://www.detini.gov.uk/deti-energy-index.htm>

⁵ http://www.uregni.gov.uk/gas/projects/gas_to_the_west_initiative/

⁶ http://www.detini.gov.uk/decision_paper_-_gas_applications_regulations_and_published_criteria.

⁷ <http://www.uregni.gov.uk/>

Application costs

- 1.17. As is the case currently, applicants will not be in a position to recover their costs and any expenditure is at their own risk. Existing licence holders will not receive an allowance for any such costs they may choose to incur. This will extend to the successful applicant who will not receive a specific allowance in their price control determination for application related costs.

- 1.18. The timetable for the licence application process is set out below in chapter 4.

2 NORTHERN IRELAND EXECUTIVE GRANT FUNDING

- 2.1. Responses to the April 2013 consultation indicated that further information on the grant funding available from the Executive would be helpful to applicants. This section sets out information supplied by DETI in relation to the grant funding for the high pressure pipelines. Further detail is found in annex 2.

Overview

- 2.2. At its meeting on 10 January 2013, the Northern Ireland Executive agreed to support extension of the natural gas network to main towns in the West and North-West by means of a subvention of up to £32.5million towards the cost of the new gas pipeline infrastructure. This will be contingent on DETI obtaining State Aid approval and the subvention is likely to be paid by means of grant payments to the licensee/ developer appointed by the Utility Regulator to provide the higher pressure gas pipelines connecting main towns in the West and North-West.
- 2.3. The Northern Ireland Executive decision to part fund the new gas infrastructure was made on the basis that Dungannon, Cookstown, Coalisland, Magherafelt, Omagh, Strabane, Enniskillen, and Derrylin would be connected to the high pressure gas network at an estimated infrastructure cost of £97.24m (December 2013 prices). Should actual costs exceed this, no additional grant funding will be payable, and if actual costs are lower and/ or not all towns are connected then the subvention will be reduced accordingly.

Verification of Grant Claims

- 2.4. Additionally, there will be specific requirements and governance arrangements established for payment of any grant support, including requirements in respect of record keeping by the licensee for supporting documentation relating to grant claims. Detailed requirements will be included in a "Letter of Offer" from DETI to the licensee.
- 2.5. Prior to the payment of grant claims, DETI will require written confirmation of project progress along with provision of original invoices and records to accompany claims, with detailed vouching of claims completed by Departmental officials. Grant payments will only be made for what will be noted in the Department's "Letter of Offer" as "qualifying expenditure". This is likely to focus on materials and actual

construction works rather than expenditure indirectly due to the project such as overhead costs.

Technical Verification

- 2.6. Payment of any grant will also be subject to satisfactory technical verification by a suitably qualified and experienced technical person / consultant engaged by the Department, for example in respect of assessing documentary evidence of design standards, completion of welding procedures to appropriate standards, materials specification, construction methods, and testing etc.

Procurement

- 2.7. Payment of grant will be subject to adherence by the developer/ licensee to the relevant EU Procurement Directives and /or UK Procurement Regulations. The primary objective of such legislative requirements is the achievement of best value for money, and the promotion of sustainable development which allows for the inclusion, as appropriate, of wider environmental, social and economic objectives.

Social clauses

- 2.8. The NI Executive's policy is that grant funding of the nature proposed should be subject to "social clauses". Grant funding will therefore be subject to specific social requirements around equality, sustainable development, health and safety, and social welfare. The standard social requirements which have been agreed by the Construction Industry Forum for Northern Ireland (CIFNI) include requirements to:
- encourage the economically inactive back into the work place
 - encourage training and skills development to build a sustainable industry
 - encourage management and professional skills development to build a sustainable industry
 - encourage training and skills development to build a sustainable industry
 - promote equality in the workplace
 - promote development of Essential Skills
 - promote Respect for People
 - promote best practice in Health and safety

- 2.9. More detail in respect of the likely Social Clause requirements is provided in Annex 2.

Monitoring

- 2.10. In respect of the grant funding, the submission of grant claims will have to include reporting on how the requirements of the "Letter of Offer" are being met, including in relation to any sustainability and other social clauses. Where "social clauses" are specified in respect of the proposed grant, provision of a "Sustainability Project Report(s)" will also be required from the developer/ licensee.

Sub-Contracting

- 2.11. There may also be requirements in relation to promotion of sub-contracting opportunities to smaller suppliers and service providers. All such conditions will be set out in the Department's "Letter of Offer" in respect of the grant funding.

State Aid

- 2.12. The grant assistance will be provided subject to DETI obtaining State Aid approval for the subvention. As it is not permissible to provide State Aid to a company that is the subject of a recovery order in respect of illegal state aid, grant funding will not be provided to a developer/ licensee in such circumstances. An example could be where a private company received government grant support which was not approved by the European Commission and who subsequently made a recovery order against the Member State and the company in respect of the illegal aid.

3 OVERVIEW OF LICENCE CONDITIONS

- 3.1. This section sets out the licence conditions that we would propose to include in any conveyance licences that are granted to the successful applicant(s) for the high pressure distribution of gas and the low pressure distribution of gas.
- 3.2. The standard licence conditions for gas conveyance licences are set out below and the successful applicant(s) should expect that these conditions will be included in their licence(s). The subsequent sections set out the special conditions for both high and low pressure conveyance licences that we would be minded to include.
- 3.3. Therefore applicants should assume for the purposes of their applications that these are the conditions that will apply to the licences when granted. However, in practice - in the light of submissions made by an applicant, representations received during consultation, or considerations identified by us during the application process - we may consider it requisite in all the circumstances relating to an individual applicant to make certain changes to these conditions so that they are appropriate for that case. The conditions are therefore subject to some necessary flexibility, which we shall exercise in the light of our duties at Article 14 of the Energy Order.

Standard Conditions for Gas Conveyance Licences

- 3.4. This section sets out the standard conditions for gas conveyance licences which will be applicable to the conveyance licences to be issued. It should be noted that not all the standard conditions currently apply (or apply without modification) in every conveyance licence. Whether or not a particular condition applies depends on the nature of the activity undertaken by the licensee – whether high pressure or low pressure – and the extent to which European Directive obligations apply to that licensee. For example the current high pressure licences include conditions to give effect to European obligations on transmission system operators (e.g. conditions 2.21 to 2.24). These would not be necessary in either licence granted at the end of the current process and so we would intend to modify the standard conditions on the grant of the licences to switch these off.
- 3.5. The table below illustrates which conditions currently apply in the high pressure licences and which apply in the low pressure licences. The text of the conditions is published alongside this pack as annex 4 and reflects the conditions in the existing gas conveyance licences.

- 3.6. The Part 2A conditions set out below will be included in the high pressure licence once the Department has designated the high pressure assets as forming part of the Northern Ireland postalised system. Designation means that the allowed revenue derived from the licence will be collected by means of the Northern Ireland postalised tariff meaning that all gas consumers in Northern Ireland will be responsible for funding these assets. Applicants should assume that the high pressure assets will be postalised.
- 3.7. The Regulations allow the applicant to request modifications to the standard licence conditions. The standard conditions may be modified by the Authority on grant if deemed appropriate.
- 3.8. The revenue conditions of the high pressure and low pressure licences will be special conditions and not standard conditions. See 3.2 and 3.3 below for more details.

Table 1: Standard Conditions of Conveyance Licences

Part 1: General Conditions Applicable to the Licence Holder	High Pressure Licence	Low Pressure Licence
Condition 1.1: Interpretation and Construction	✓	✓
Condition 1.2: Separate Accounts for Separate Businesses	✓	✓
Condition 1.3: Provision of information to the Authority	✓	✓
Condition 1.4: Consultation with the General Consumer Council	✓	✓
Condition 1.5: Restriction on Use and Disclosure of Certain information	✓	✓
Condition 1.6: Powers of Entry	✓	✓
Condition 1.7: Authorisation of Persons	✓	✓
Condition 1.8: Exercise of Powers of Entry	✓	✓
Condition 1.9: Modifications	✓	✓
Condition 1.10: Assignment of Licences	✓	✓
Condition 1.11: Transfer of Business	✓	✓
Condition 1.12: Disposal of Relevant Assets	✓	✓
Condition 1.13: Payment of Fees to the Authority	✓	✓
Condition 1.14: Notices	✓	✓
Condition 1.15: Independence of the Licensee	✓	
Condition 1.16: Independence of the Licensee		✓
Condition 1.17: Business Separation Compliance Plan		✓
Condition 1.18: Systems to Facilitate Change of Supplier		✓
Condition 1.19: Prohibition of Discrimination in provision of services		✓
Condition 1.20: Provision of Information to Gas Suppliers		✓
Part 2: Conditions Applicable to the Conveyance of Gas by the Licence Holder	High Pressure Licence	Low Pressure Licence
Condition 2.1: Territorial Scope	✓	✓

Condition 2.2: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services	✓	✓
Condition 2.3: Connection Charges and Obligation to permit a Connection	✓	✓
Condition 2.4: Network Code	✓	✓
Condition 2.5: Compliance with System Operator Agreements	✓	✓
Condition 2.6: Conduct of Transportation Business	✓	✓
Condition 2.7: Provision of information to a relevant gas licence holder	✓	✓
Condition 2.8: Emergency Services and Obligations	✓	✓
Condition 2.9: Maintenance of Records	✓	✓
Condition 2.10: Powers of Licensee under Article 13 of the Order	✓	✓
Condition 2.11: Network Forecasts	✓	✓
Condition 2.12: Provision and Return of Meters		✓
Condition 2.13: Distribution Marketing Code		✓
Condition 2.14: Complaints Handling Procedure		✓
Condition 2.15: Consumer Information Code		✓
Condition 2.16: Preparation, Revision of and Compliance with Codes of Practice		✓
Condition 2.17: Terms and Conditions of Gas Contracts with Domestic Consumers		✓
Condition 2.18: Standards of Performance		✓
Condition 2.19: Capacity Booking		✓
Condition 2.20: Provision and Return of Meters	✓	
Condition 2.21: Cross Border Capacity	✓	
Condition 2.22: Regional Co-operation	✓	
Condition 2.23: Competition and Effective Functioning of the Market	✓	
Condition 2.24: Transmission System Operator	✓	
Part 2A: Standard Conditions Applicable to the Conveyance of gas by Designated pipe-line operators	High Pressure Licence	Low Pressure Licence
Condition 2A.1: Interpretation and Construction	✓	
Condition 2A.2: Postalisation Charges	✓	
Condition 2A.3: Recovery of PS Non-Payments	✓	
Condition 2A.4: The Postalisation System Administrator	✓	
Condition 2A.5: The Trustee	✓	
Condition 2A.6: Distributions from the PoT Account and Designated Pipe-Line Operators Agreement	✓	
Condition 2A.7: New Licence Requirements relating to the Network Code	✓	

Special Conditions in the High Pressure Licence

- 3.9. As well as standard conditions there are a number of special conditions which will be included in the licence. Again it is important that applicants have a clear understanding of the licence which they are applying for and we have set out below our intentions as to the conditions that we would propose to include in these licences on their grant. As well as licence conditions we have also set out the regulatory treatment that we propose will apply in related areas. Applicants should assume that the positions set out below will be reflected in the final licence conditions, and we will assess applications on that basis in accordance with the Published Criteria.
- 3.10. This section focuses on the key areas which will be of most interest to applicants.
- 3.11. However there may be other special conditions not included here which will be required in the final licence, following our consideration of the circumstances of individual applicants and the representations received on consultation.

Capital expenditure licence conditions

- 3.12. The licence conditions applicable to capital expenditure will be based on providing an incentive to the licensee to outperform forecast capex allowances that we set in advance of construction. Therefore the licensee will be taking on an element of risk with respect to capex as we view them as best placed to manage this. Given that the capex in this project is almost exclusively undertaken in the first years, capital expenditure allowances will be determined by a process similar to that set out in the BGE (UK) licence (see condition 2.2.2).
- 3.13. We intend that these allowances will also be subject to a pain gain sharing mechanism. The fundamental concept inherent in the pain/gain mechanism is that if the licensee under spends on their forecast capital expenditure costs they will give some of this back to customers on the understanding that if the company overspends on its forecast, customers will underwrite some of the overspend. The sharing factor will be 35 % and symmetrical, i.e. if the licensee under spends they will give 35% of the under spend back, and customers will underwrite 35% of any overspend.
- 3.14. Capital allowances for a number of activities will be treated as uncontrollable with the allowance equalling actual expenditure, so long as this is efficiently incurred. The activities we will treat in this way are: construction archaeology, planning conditions and stock up gas and any other categories we may determine as appropriate for this treatment having regard to all of the circumstances. The licence holder will be required to demonstrate to the Utility Regulator that these costs have been incurred in an efficient and effective way and we will reserve the right to disallow costs which it judges have not been so incurred.
- 3.15. The capex will be depreciated over 40 years from the date of completion.
- 3.16. In relation to the timing of the setting of capex allowances we plan to do so after materials have been purchased and after the construction tender has been completed in line with previous high pressure pipelines projects.

- 3.17. As there will be no revenue recovery mechanism during the period when the pipeline is being constructed those costs allowed will be capitalised and included in the opening asset value. The interest rate used will be LIBOR+ 0.5%.⁸

Operating Expenditure

- 3.18. As we set out in the conclusions paper we have concluded that the most appropriate approach to the application process is to allow applicants to apply for a licence on the basis of opex pass through or on the basis of a standard revenue cap approach to opex.

Operating Expenditure – Revenue Cap Licence Conditions

- 3.19. The licence conditions applicable to operating expenditure in the case of a revenue cap form of control will facilitate a periodic price control review of opex in line with best regulatory practice. We would expect to base the opex conditions of the successful applicant on the existing opex conditions in the BGE(UK) licence condition 2.2.4.
- 3.20. Opex costs will be allowed from the first operational commencement date of the pipeline. All costs in advance of that should be included in the application (see the high pressure workbook notes published alongside the Application Pack as annex 7).

Uncontrollable operating expenditure

- 3.21. Licence fees to the Utility Regulator and Business Rates will be pass through items. We expect the licence holder to demonstrate that there has been adequate challenge on business rate assessments to justify the allowance of full pass through of business rates.

Reopeners

- 3.22. We have previously set out certain opex costs in price control decisions which are subject to further allowances. This mechanism has been previously used for large projects e.g. CAG, with a great degree of uncertainty at the time of price control decision. If there are any such projects in future we may apply a similar mechanism which will be set out transparently in the price control decision.
- 3.23. Additionally we would intend to allow a re-opener if opex costs differ from allowances by 15% or more and there will be a condition to deal with Unforeseen Opex costs. This is similar to the approach outlined in conditions 2.2.4 (i) and (j) of the BGE (UK) licence. The reopener would be implemented in the year after the 15% figure was triggered.

⁸ The one year LIBOR rate will be used.

Operating Expenditure - Operating Cost Pass Through Licence Conditions

- 3.24. Where the application is on the basis of operating cost pass through form of control there is no regular price control and costs are passed on to customers. The licence will include a shadow price control in line with the conditions in PTL licence condition 3.1.6 (b).
- 3.25. In addition we have set out in the high pressure workbook notes the need for anyone requesting an opex cost pass through approach to include the costs of establishing arrangements to protect customers from inappropriate behaviour. We also expect this to be fully set out in the operational business plan of anyone making such an application. We expect that the importance of protecting consumers under this model will require licence conditions.
- 3.26. One possible approach to protecting customers is through corporate governance arrangements. Customers of PTL and BGTL are protected through licence conditions and these may be required as part of the licence if this is the approach applicants propose. The PTL conditions are set out in 3.2 and 3.3 of its licence.

Cost of Capital

- 3.27. There are two approaches to how we have dealt with the cost of capital in current licences. We have periodic reviews where the cost of capital is reset regularly and we have a cost of capital which is fixed over a longer period of time e.g. this was done through long term debt in the PTL and BGTL licences.
- 3.28. The licence will facilitate both of these. It will include a process for periodic price reviews. It will also include a condition to facilitate the licensee requesting that the cost of capital is locked in for a longer period of time and avoid the need for periodic price reviews.
- 3.29. It is our intention that the cost of capital will equal as far as reasonable the costs revealed by the competitive process. This will particularly apply in the first price control period. In setting the cost of capital at future reviews we would expect to apply the CAPM model.
- 3.30. For the purposes of this competition, the WACC will be treated as pre tax. However we will review the treatment of tax will at each price control review in line with best regulatory practice.

Other Areas

Appeal of Price Reviews

- 3.31. In relation to periodic price reviews⁹ the licence will have a mechanism which will allow reference to be made to the Competition and Markets Authority (CMA) in line

⁹ In Northern Ireland the norm is to hold a price review every five years but the licence will be flexible.

with standard UK regulatory practice, where the licensee disputes the proposed price control. We note that DETI has consulted on the mechanism for making references to CMA and we will take this into account in finalising the licence.¹⁰

Indexation

- 3.32. RPI will be used to index allowed costs and revenue in each year.

Territorial Scope and Exclusivity licence conditions

- 3.33. Territorial Scope will be the area of the high pressure pipeline and exclusivity will apply for five years.

Conveyance Charges

- 3.34. The licence will include reference to arrangements when designation is not in place as well as conditions to comply with postalisation processes.

Reasonable and Prudent Operator (RPO)

- 3.35. The licence will include obligations to act as an RPO and maintain the network for its economic engineering life.
- 3.36. We have consulted on rationalising system operation for the high pressure pipelines in Northern Ireland, with the result that the system operators are working to implement a single code, single IT system, single system operator team, and a single control room to manage gas flows on the high pressure system. There will be licence obligations to ensure cooperation with the delivery of single system operation.

Special Conditions in the Low Pressure Licence

Capital expenditure

- 3.37. The licence will include conditions for us to set allowances for capital expenditure activities through periodic price control reviews in line with standard regulatory price control process.
- 3.38. As there will be no revenue recovery mechanism during the period before first operational commencement date (FOCD)¹¹ those costs allowed will be capitalised and included in the opening asset value. The interest rate used will be LIBOR + 0.5%.¹²
- 3.39. We would plan to set capital expenditure levels to meet development plan, volume and connection obligations.

¹⁰ http://www.detini.gov.uk/consultation_on_legislative_proposals_for_energy_licence_mod....pdf

¹¹ This means the date when gas first flows on a commercial basis through the pipeline.

¹² The one year LIBOR rate will be used.

Uncertainty mechanism

- 3.40. Both Phoenix and firmus have a number of items that are adjusted by an “uncertainty mechanism” and we intend this to be applied to the new licensee. The approach to the uncertainty mechanism is set out in our GD14 determination¹³ and some examples that we expect to implement include:
- an adjustment for actual against allowed Traffic Management Act related costs;
 - connection capex costs driven by number of connections made by category; and
 - meter installation capex costs driven by number of meters installed per category.

Rolling incentive mechanisms

- 3.41. To encourage efficiency measures, and at the same time ensure that customers also benefit from licence holder efficiencies, it is our intention to allow for capex (and opex) rolling mechanisms.
- 3.42. Our intention is to allow licence holders to retain capex (and opex) outperformance for five years and thereafter return this to customers. This enables licence holders to receive a cost of capital return and depreciation on outperformance for five years. Conversely for overspends, providing there is not clear evidence of inefficient spend, the licence holder would only be liable to fund five years cost of capital and depreciation on the overspend and thereafter the overspend would be added to the TRV.

Operating expenditure

- 3.43. The licence will allow the setting of opex through a periodic price control review.
- 3.44. As set out in the Conclusions paper we believe that a direct link between the cost information revealed in the application and the allowances provided in subsequent price controls will act as a powerful incentive to ensure that applicants reveal realistic cost information and that some link should be maintained beyond the first price control period. In particular we would not be minded to accept requests for increased allowances as a consequence of changes in the structure of costs or changes in the allocation of costs from parent or holding companies. However, we will consider requests for different allowances where these are the result of unforeseen significant changes in the market since the application was submitted.
- 3.45. We recognise that, over the passage of time, it is likely to become less feasible to continue to directly link allowances to the application. When allowances are set at periodic reviews we will take account of the latest information and any changes in circumstances, and will not continue to link them to the application if that would cause them to be inappropriate in all the circumstances prevailing at the relevant

¹³http://www.uregni.gov.uk/publications/gd14_price_control_for_gas_distribution_networks_final_determination

time. To mitigate this issue we will increasingly rely on the cost drivers and other relevant factors identified in the applicant's operational business plan.

Uncontrollable operating expenditure

- 3.46. Licence fees to the Utility Regulator will be pass through.

Uncertainty mechanism

- 3.47. As set out above under capex, a number of items are adjusted by an "uncertainty mechanism" and we intend this to be applied to the new licensee. An example that we expect to implement would include a marketing incentive linked to the number of domestic connections made to cover advertising, marketing and PR costs.

Reopeners

- 3.48. It is our intention to minimise the likelihood of re-openers between the periodic price reviews. However we would intend to allow a re-opener if opex differed by more than 15% in any one year from forecast. The reopener would be implemented in the year after the 15% figure was triggered. A reopener for capital expenditure is not needed as an uncertainty mechanism will be used.

Rolling incentive mechanisms

- 3.49. See capex section above

Other Areas

Price cap regulatory model in the early years

- 3.50. The Conclusions paper sets out our thoughts on using a price control or revenue cap model for the low pressure licence
- 3.51. We intend to deliver the benefits of both models by including licence conditions relevant to a price cap in the early years of the licence to incentivise the rapid development of gas connections. There will also be a condition allowing us to switch to revenue cap regulation for the remainder of the licence period so that the licence holder is not subject to the risk of demand variation. At this point we consider ten years an appropriate period for a price cap to apply but will continue to keep this under review.

Profiling adjustment

- 3.52. We also intend to use a '*profiling adjustment*' to defer the recovery of some of the costs of developing the network for recovery in later years. This will require similar conditions to PNGL and firmus licences.
- 3.53. The profiling adjustment works by deferring revenue from the early years and smoothing the tariff charged to customers across the recovery period. The licence holder will have a *depreciated asset value (DAV)* which from part of the *total regulated value (TRV)* which would include the profiling adjustment, that is the amount of revenue deferred.

- 3.54. The profiling adjustment will require the effective capitalisation of operating expenditure. We consider that the profile adjustment should be in place for 40 years with capitalised operating expenditure receiving the same rate of return as capital expenditure.
- 3.55. Any undepreciated assets at the end of the 40 year recovery period will be recovered in line with standard regulatory practice.

Under recovery

- 3.56. We expect the licence holder to set prices each year broadly in line with allowances set out at each price control. We do not wish the licensee to have any incentive to build up under recoveries. Consequently we plan to put in place a mechanism which would roll forward under recoveries at Libor + 2%¹⁴ with a mechanism to allow this rate to be reset at the periodic price review.
- 3.57. There will also be an overall constraint (designated as the *supplemental constraint* in firmus's licence) that will limit the amount of under recovery the licensee can recover in any year.

Cost of Capital

- 3.58. The licence will include a process for periodic price reviews of the cost of capital.
- 3.59. It is our intention that the cost of capital will equal as far as reasonable the costs revealed by the competitive process. This will particularly apply in the first price control period. In setting the cost of capital at future reviews we would expect to apply the CAPM model.
- 3.60. For the purposes of this competition, the WACC will be treated as pre tax. However we will review the treatment of tax will at each price control review in line with best regulatory practice.

Appeal of Price Reviews

- 3.61. In relation to periodic price reviews¹⁵ the licence will have a mechanism which will allow reference to be made to the CMA in line with standard UK regulatory practice. We note that DETI has consulted on the mechanism for making references to CMA and we will take this into account in finalising the licence.¹⁶

Indexation

- 3.62. RPI will be used to index allowed costs and revenue in each year.

Volumes and Development Plan

- 3.63. The licence will have a development plan which will require the licensee to convey gas in all towns in the licence area and pass the properties set out in the FMA

¹⁴ The one year LIBOR rate will be used.

¹⁵ In Northern Ireland the norm is to hold a price review every five years but the licence will be flexible.

¹⁶ http://www.detini.gov.uk/consultation_on_legislative_proposals_for_energy_licence_mod....pdf

study. The low pressure workbook, Capital Expenditure worksheet, sets out the number of supply points in each town that the successful applicant will be expected to connect in each year of the period being considered. In addition the Consumption and Revenue worksheet sets out the volume of consumption that is assumed to derive from these connections. This data is derived from the FMA study. We intend that this pattern of volumes and connections will be used to set the first and future price controls.

- 3.64. However, if there are significant changes in expected supply points/consumption patterns between the licence application process and the setting of the first price control we will consider if these need to be reflected in the development plan and price control values.
- 3.65. We would intend to allow a re-opener if volumes differed by more than 15% in any one year from forecast. The reopener would be implemented in the year after the 15% figure was triggered.

Territorial Scope and Exclusivity licence conditions

- 3.66. Territorial Scope will be based on the relevant towns and exclusivity will apply for twenty years.
- 3.67. For the avoidance of doubt there will be no supply exclusivity linked to the conveyance licence.

Common Branding

- 3.68. There will be a licence condition obliging the licensee to co-operate in delivering a common branding approach in relation to promoting gas in NI.

Common Tariff

- 3.69. There will be a licence condition obliging the licensee to co-operate in delivering a common low pressure network tariff in NI.

Reasonable and Prudent Operator (RPO)

- 3.70. The licence will include obligations to act as an RPO and maintain the network for its economic engineering life.

Cost Reporting

- 3.71. There will be a condition to oblige the licensee to co-operate with cost reporting, In addition all business plan submissions for periodic price reviews will be required 18 months before the implementation date.

Network Code

- 3.72. There will be an obligation to work with other GDNs to produce a single low pressure network code for NI and a consistent switching system and processes.

Connections Policy

- 3.73. We set out in our April 2013 consultation some initial views on how the gas industry connection policy may evolve in future. In particular we highlighted the need to ensure the risk of stranded assets was properly dealt with. We continue to view changes to the policy as necessary and will further consider the potential options highlighted in our April 2013 consultation in a full review in due course.

4 LICENCE APPLICATION PROCESS AND TIMETABLE

- 4.1. This section provides an overview of the licence application process as set out in the Gas (Applications for Licences and Extensions) Regulations (NI) 1996 and the Published Criteria. It includes the documentation and information that must be submitted by applicants.
- 4.2. However, this chapter is a summary only. It is designed to be helpful to applicants as a short guide to the relevant provisions, but is not intended to be comprehensive or to provide advice. For an authoritative statement of the requirements that are applicable to their applications, applicants must also refer to the Gas (Applications for Licences and Extensions) Regulations (NI) 1996 and the three subsequent sets of amending Regulations (the 'Regulations'), and to the Published Criteria, links to which were provided in the Legal Framework section of the Introduction to this paper.
- 4.3. The Published Criteria require us to provide applicants with a Data Input workbook for the submission of cost information. Separate workbooks have been provided for the high pressure and low pressure application processes together with accompanying explanatory notes. This section provides a summary of the Data Input Workbooks provided and what must be included in each. The workbooks are provided in Excel format and are available together with explanatory notes from our website.
- 4.4. In addition the Published Criteria require the Utility Regulator to provide an Operational Business Plan template to applicants. Separate templates have been provided for the high pressure and low pressure application processes. This section provides a summary of the Operational Business Plan Templates. The templates are contained in annexes 5 and 6.
- 4.5. The steps we will take in the process, including when we will consult, and the overall timetable for the process are also set out.

Overview of Licence Application Process

- 4.6. The licence application process is set out in the Gas (Applications for Licences and Extensions) Regulations (NI) 1996¹⁷. The form of the application includes Schedule 1 and Schedule 2 which should be completed by the applicant. The Schedules are set out in Annex 3. The following summaries the process the applicants should follow in applying for a licence:
- I. An application should be in the format and contain the particulars, specified in Schedule 1 of the regulation. (See Section 3.1 – Schedule I)
 - II. An application for a gas conveyance licence, or for an extension, shall be accompanied by the documents and other particulars specified in Part I of Schedule 2 of the Regulations. (See Section 3.2 – Schedule II)
 - III. Applications should be signed and dated by or on behalf of the applicant, providing the confirmations required in Schedule 1 of the Regulations and stating, where signed on behalf of the applicant, the capacity in which the signatory does so
 - IV. Applications should be emailed through by 12 noon on the 6th May 2014 to the following email address gastothewest@uregni.gov.uk and three hard copies sent to:

Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
 - V. A notice containing a copy of the application (Schedule 1) should be published by the applicant:—
 - (a) in the Belfast Gazette; and
 - (b) in the newspaper or newspapers in each part of the area to which the application relates. Therefore:
 - Dungannon including Coalisland
 - Cookstown including Magherafelt
 - Enniskillen including Derrylin
 - Omagh; and
 - Strabane.
 - VI. Where, in relation to any application, a map forms part of the documents and particulars to accompany the application, each notice shall state that a copy of that map is available for inspection by the public at the

¹⁷ <http://www.legislation.gov.uk/nisr/1996/447/contents/made>

Utility Regulator, Queens House, Queens Street, Belfast, between 10.00 am and 4.00 pm on any working day.

- VII. The applicant should within 14 days from making the application publish a copy of the application in the prescribed manner.
- VIII. The fee payable with an application for a gas conveyance licence shall be £2,000.¹⁸ Any fees payable under this regulation shall be paid when the application to which it relates is lodged.

Overview of information to be provided in accordance with the published criteria

- 4.7. The published criteria for gas licence application and applications for consent to construct major pipe-lines, gas storage or LNG facilities are set out at <http://www.detini.gov.uk/deti-energy-index.htm>

The general criteria

- 4.8. Any applicant who wishes to apply for the licences available must meet each of the general criteria in section two of the Published Criteria. These cover the provision of information; the constitution of an applicant; an applicant's ability to demonstrate that they are fit and proper and that an applicant have or will have the adequate resources to commence regulated activities under the licence.

Specific criteria

- 4.9. As indicated in chapter one, we intend to grant two exclusive gas conveyance licences. Therefore in addition to meeting the general criteria in section 2, applicants must also meet the criteria set out in Section 3. There are two specific criterion in section 3 – 'Financial Resources and Standing' and 'Best Value'.

Financial Resources and Standing

- 4.10. Applicants must demonstrate that they have the 'Financial resources and Standing' to undertake the activities required by the licence.
- 4.11. Paragraph 3.9 and 3.10 in the criteria sets out how an applicant must demonstrate that it has the resources and financial standing to undertake the activities which would be the subject of obligations set out in any conditions which the Authority indicates it would propose to include in the licence (or extension of licence) if it were granted.

¹⁸ Note that this is the fee per application, if two applications are made the fee will be £4000 (2x£2000).

- 4.12. An applicant is to be treated as having met this criterion if it demonstrates to the satisfaction of the Authority that it has, or can obtain, access to financial resources at least equal to 120% of the amount of capital that is specified by the Authority as the minimum amount that is required, in the Authority's option, to be available to the holder of the licence.
- 4.13. The minimum amount is £97.24 million for the high pressure pipeline (at December 2013 prices), and for the lower pressure gas distribution networks the minimum amount is £60million (£50m for first 10 years plus £10million for profile adjustment revenues allowed but not yet collected). Applicants' responses to the financial resources and standing criterion should be answered with reference to the amount of capital.
- 4.14. The following is a list of some of the categories of information and evidence that applicants might provide for the purposes of demonstrating that they meet the Financial Resources and Standing criteria. It is intended as an indication of what we might expect to see, but is neither an exhaustive list nor an indication that the Utility Regulator would regard any particular category of information or evidence, in any individual case, as sufficient to demonstrate that the criterion is met.

I. Debt Finance

- a proven track record of investing in infrastructure businesses;
- the name and type of new gas network for which the finance was raised;
- the amount of finance raised, and when it was raised;
- role of the applicant in raising finance;
- details on the form of finance raised including, but not limited to the following:
 - the form of finance raised, including the nature of the providers of the debt finance, the term of the debt and the identified sources of repayment;
 - the timescale for the successful issue of such finance; and
 - details of any equity provision.
- A comfort letter from one or more acceptable independent financial institution(s) which states their willingness to provide debt finance to the relevant new gas network being provided.

II. Equity Finance

- A proven track record of raising equity finance, including but not limited to:

- the name and type of new gas network for which the finance was raised;
 - the amount of finance raised, and when it was raised;
 - role of the applicant in raising finance;
 - details on the form of finance raised including, but not limited to the following:
 - the form of finance raised,
 - the timescale for the successful issue of such finance
 - A comfort letter from one or more entities holding at least an investment grade credit rating which states their willingness to provide equity finance to the relevant new gas network.
- III. Where the applicant proposes to fund the new gas network using corporate finance, the applicant could provide evidence to demonstrate that the net assets of the applicant are at least equal to 100% of the amount of that corporate finance. The net assets should be consistent with the latest audited accounts and/or adjusted for any significant changes since that balance sheet date.
- IV. Where the applicant proposes to fund the new gas network using external finance, identify the proposed debt and equity split.

Best Value

- 4.15. Applicants must also meet the Best Value criterion.¹⁹ In effect an applicant must have made the application which represents best value for gas consumers in Northern Ireland. The circumstances wherein an application will represent Best Value are set out in sections 3.12 and 3.13. Best value is scored as set out in section 3.14 of the Published Criteria.
- 4.16. We have indicated in section 1.4 above its intention to grant two exclusive gas conveyance licences. Consequently applications are made for a Related Licence as provided for in 3.3 of the Published Criteria. This means that applications for the available licences will be paired so as to establish the combination of applications (Application Pair)²⁰ with the highest overall score, and the concept of Best Value will be interpreted accordingly as indicated in those Criteria.
- 4.17. Applicants should note that paragraph 6, Schedule 1 of the Regulations facilitates an application for one of the licences available (e.g. for the high pressure licence) to indicate that it is connected to an application for the other available licence (the low pressure licence) in which case these applications can only be connected to

¹⁹ Section 3.11

²⁰ See 3.4 of the Published Criteria.

each other and scored in combination. Applications not connected in this way can be paired in any combination in order to assess the best overall combination of scores.

- 4.18. Section 3.14 (a) requires us to specify a maximum number of marks that can be obtained by any application. The maximum number of marks available to be obtained by any Application is 100.
- 4.19. Section 3.14(b) specifies that marks are awarded in three categories in the following proportions:
- Applicant Determined Costs 50%;
 - Operational Business Plan 40%;
 - Innovation and Technology Transfer 10%;
- 4.20. The marking process will result in a score that will facilitate ranking of the bids and enable determination of the application which represents Best Value for gas consumers.
- 4.21. The Published Criteria require that Applicant Determined Costs are assessed and calculated in accordance with a Data Input workbook which must be provided by the Utility Regulator and completed by the applicant.²¹ We have provided separate workbooks for the high pressure and low pressure conveyance licences and explanatory notes to each workbook. The workbooks and workbook notes are published separately alongside this application pack. We have provided a brief explanation of the data input workbook below.
- 4.22. In accordance with section 3.17 of the Published Criteria we have also provided an Operational Business Plan template to applicants which must be completed. Separate templates are available for the high and low pressure conveyance licences (annexes 5 and 6). The Operational Business Plan templates are explained below.

Applicant Determined Costs and workbooks

- 4.23. Criteria 3.15 sets out the applicant determined costs criteria. As set out above we have provided two Data Input Workbooks to be completed by the applicant i.e. a high pressure workbook and a low pressure workbook together with workbook notes.
- 4.24. All data should be supplied on the basis of April 2014 prices this includes capital, operating and financing costs. All cost data should be expressed in £m and to three decimal places only.

²¹ Section 3.15 of the Published Criteria.

High Pressure Workbook

- 4.25. We have made significant changes to the high pressure workbook since the April 2013 consultation, in particular applications will be allowed on the basis of different regulatory models and thus different risk profiles. Consequently, the WACC of applicants with differing regulatory models will need to be adjusted to allow them to be compared on a consistent basis. Also opex will not be competed on. This is explained more fully together with our proposals for the WACC adjustment in a consultation paper published alongside this document.²²
- 4.26. The high pressure workbook fixes a number of capital expenditure lines such that these items are not competed on. These include materials and construction works, wayleaves and land acquisition, site investigation and commissioning. Design and project management and contingency as well as 'other costs' will be determined by the applicant. The high pressure workbook is published along this document together with the associated notes.
- 4.27. Operating expenditure costs will not be competed on. However, the applicant's operational business plan should detail how the applicant will deliver the efficient operation of the high pressure pipelines.
- 4.28. WACC is required to be completed for each of the 40 years. For those applicants proposing an operating cost pass through model we propose to apply the risk adjustment factor by adding it to the pre-tax WACC in the workbook. See the paper 'Gas Network Extensions: Approach to Comparing Licence Extensions.'
- 4.29. When calculating the net present value of payments made by consumers over the 40 year period the workbook is based on the following.
- A social discount rate of 3.5%
 - Annual interest and principal payments based on the weighted average cost of capital in that year such that the closing asset value in year 40 is zero

Low Pressure Workbook

- 4.30. We have made some changes to the low pressure workbook since the April 2013 consultation; in particular applicants will be required to indicate operating cost data and the (real pre-tax) rate of return they will require to own and operate the low pressure network over the first 10 years of the project only and not 40 years as consulted on. We will then profile both the operating cost data and the WACC data forward to populate years 11-40. Also the cost lines in the workbook have changed to line up with the GD14 Determination. The changes made and the reasons for them are explained in the conclusions paper principally under question 9 and the treatment of cost.

²² See the paper 'Gas Network Extensions: Approach to Comparing Licence Extensions.'

- 4.31. The workbook sets out the cost information which must be revealed in the competition. Capital expenditure costs are hardwired into the workbook and are not required to be revealed by the applicant. For years 11 to 40 the average weighted average cost of capital in years 1 to 10 will apply.
- 4.32. Most operating expenditure will be competed on. Operating cost data must be provided for the first ten years only. In subsequent years the pattern of operating expenditure in years 11 to 40 reflects experience from existing distribution networks in Northern Ireland. For year 11 the average operating expenditure for years 1 to 10, excluding mobilisation will be uplifted by 15%. For years 12 to 40 the previous year's operating expenditure will be uplifted using a set of growth rates set out in the workbook.
- 4.33. When calculating the net present value of payments made by consumers over the 40 year period the workbook is based on the following.
- A social discount rate of 3.5%
 - Straight line depreciation of assets
 - An average depreciation period of 35 years for all assets
 - A simplified profile adjustment mechanism
- 4.34. Applicants should use the goal seek function to set a low pressure tariff which results in a zero closing balance in year 40 of the profile adjustment.
- 4.35. In developing their estimates of future operating expenditure and the risk associated with the price cap form of control applicants should assume the pattern of connections and volumes set out in the workbook. The capital expenditure worksheet, sets out the number of supply points in each town that the successful applicant will be expected to connect in each year of the period being considered. In addition the Consumption and Revenue worksheet sets out the volume of consumption that is assumed to derive from these connections. The development plan set out in the workbook is based on the fat model in which the network is designed so as to maximise domestic connections.²³
- 4.36. We intend to provide a domestic incentive for owner occupiers in the area of the network extension, and the value of this incentive which is anticipated to last for no more than ten years, has been hard wired into the workbook. No incentive payments for non-owner occupier connections have been included in the workbook. However if an applicant believe that in order for them to meet the target for industrial and commercial connections they will require funding for financial incentives they have an opportunity to include such costs in the Operating Expenditure worksheet. They should also explain in their operational business plan how such payments would facilitate connections by non-owner occupier supply points. Only if the successful applicant has included such incentives in their application will these be funded by price control allowances.

²³ See p.68-69 (para. 9.11) of the April 2013 Consultation paper.

Operational Business plan

- 4.37. As set out above, the Published Criteria require the Utility Regulator to provide an Operational Business Plan template to applicants. This section provides a summary of the Operational Business Plan Template.
- 4.38. The purpose of the operational business plan is to demonstrate through a coherent statement of intentions how the applicant will deliver efficient operation of the high pressure or low pressure system, as represented in the workbook, in a manner that is compliant with relevant obligations to all stakeholders.
- 4.39. The operational business plan templates are set out in Annexes 5 and 6 and each has 10 sections:
- 1) Business plan overview
 - 2) Organisation
 - 3) Mobilisation
 - 4) Governance
 - 5) Technical
 - 6) Procurement
 - 7) Business development
 - 8) Operational cost forecasts/Operational Costs
 - 9) Capital Expenditure Costs
 - 10) Finance Costs
- 4.40. If you consider there is anything else you would like to add that has not been included in the template and is relevant to the application please feel free to do so.
- 4.41. The applicant should state the basis on which its application has been prepared. i.e. a cost pass through model or a revenue cap model.
- 4.42. No limit has been placed on the size of the Operational Business Plan elements of the submission. However, we would encourage applicants to limit their submission to one hundred pages where possible.
- 4.43. Section 3.17 of the Published Criteria specifies the matters that we must have regard to when attributing marks to the operational business plan element of an application.
- 4.44. Section 3.17(a) illustrates that an applicant's Operational Business Plan must set out how it will meet its licensed responsibilities including for example skills and experience of key staff and others on whom the applicant intends to rely.
- 4.45. From section 3.17(b) it can be seen that The Operational Business Plan must explain how all the data supplied in the applicant's completed workbook was derived (therefore in respect of both cost data and WACC). 3.17(b) (i-vi) sets out what the description should cover, e.g. the robustness of any assumptions made by the applicant and the use of evidence that is verifiable from its previous experience.

Consequently if the applicant wishes to append an Excel spreadsheet to the Operational Business Plan to explain how the numbers input into the workbook were derived it may do so. The workbooks do not contain a specific line for efficiency improvements; we have instead assumed that efficiency improvements will be built into all the cost forecasts input into the workbooks. Applicants should therefore set out and explain their efficiency improvement plan with reference to the data supplied in the workbooks.

- 4.46. Sections 3.19 and 3.20 of the published criteria contain matters which pertain to building and operating either the high pressure or low pressure pipelines. The operational business plan for the high pressure pipelines should include all the matters specified in 3.19 and the operational business plan for the low pressure pipelines all the matters specified in 3.20. In relation to the high pressure network, section 3.19 includes the timely delivery of the high pressure network and for the low pressure network, section 3.20 includes the ability of the applicant to maximise the number of connections.
- 4.47. For the purposes of the completing the operational business plan template all applicants for the high pressure conveyance licence should assume that they will be responsible for system operation jointly with the other high pressure licence holders.

Innovation and Technology Transfer

- 4.48. The purpose of the innovation and technology transfer criteria is to demonstrate how the application will achieve innovation and technology transfer.
- 4.49. No template is available for this criterion; therefore the applicant should decide what information to provide in support of how the application meets this criterion. Section 3.21 specifies the matters that we must have regard to when attributing marks to the innovation and technology transfer element of an application.

Scoring of the Operational Business Plan

- 4.38. Applicants will be scored against each of the topic areas for each category using the following classifications:

High:

- Comprehensive and credible response that is consistent with good engineering and operational practice; and demonstrates a systemic approach.
- Where relevant, activity cost build up is detailed, drivers are specified and the rationale is justified.
- All other factors set out in 3.17-3.20 of the published criteria (e.g. skills and experience, management of resources, timeliness) are as appropriate systematically detailed and explained with reference to the activities in the business plan

Medium:

- Relative importance of the issue is identified; response is limited in detail and/or quality.
- Linkage from the business plan statements to the activity cost build up is tenuous/unclear in some areas.
- Where relevant, activity cost build up largely but not fully justified.
- All other factors set out in 3.17-3.20 of the published criteria are as appropriate largely detailed and explained but not fully justified with reference to the activities in the business plan

Low:

- Issue identified with minimum acceptable information provided by way of response.
- Where relevant, activity cost build up is limited in detail and/or justification.
- Limited detail or justification of the factors set out in 3.17-3.20 of the published criteria with reference to the activities in the business plan

Nil:

- No information provided in relation to the issue.

Clarification Questions

- 4.39. Applicants may ask clarification questions during the three month application period, and where they have such questions are encouraged to raise them as early as possible. These should be submitted to gastothewest@uregni.gov.uk. Our intention is that all such questions will be published on the Utility Regulator website (www.uregni.gov.uk) on a non-attributable basis, together with its answers to them.
- 4.40. We will publish any other corrections and clarifications identified (in respect of any aspect of the application pack) on the Utility Regulator website.

Evaluation of Applications

- 4.41. Once applications are submitted we will evaluate them in order to select the licence application which best meets the criteria. The Utility Regulator will be required to evaluate the applications against the criteria²⁴ published by DETI (under Article 9(7B) of the Gas Order). Once the application is received the Utility Regulator will undertake a completeness/compliance check of the information received in order to identify any missing data. If this check identifies any omission(s) in the information

²⁴ http://www.detini.gov.uk/gas_published_criteria.

required to be provided, we will notify the applicant, who will be given a short period of time (to be notified by Utility Regulator) in which to rectify the omission(s). In this event, the Utility Regulator will only commence evaluation of the application following receipt of the required information. If the applicant does not provide the information requested it will fail to meet criteria 2.4. The Utility Regulator reserves the right not to consider any required information that has not been provided by the stipulated deadline.

Publication of Notice to Grant Licences and Licence Grant

- 4.42. The Notice calling for applications for the available licences (Notice of Interest) was published on the 6 February 2014. Licence applications should be submitted by 6th May 2014. As explained above in 4.6 applicants must also publish a notice containing a copy of their application.
- 4.43. Once we have considered the applications and any public responses to the notices published by Applicants we will carry out a public consultation on our provisional conclusions on criteria assessment.
- 4.44. Before we may grant each of the licences, we must publish notice of our intention to do so and consult on it for at least 28 days (Article 8(4) of the Gas Order).
- 4.45. Following this consultation we will consider the views of any interested parties, and the outcome of any review that has been requested, before making a final decision on the granting of a licence.
- 4.46. We will have regard to any representations received as to the licence to be granted, and make any modifications to the draft conditions of that licence if appropriate.
- 4.47. Where we determine to grant each licence we will publish a notice of the fact that it has done so for the purposes of Article 8(6) of the Gas Order.

Timetable

4.48. The table below sets out the currently intended timetable for delivering the competition phase of the process.

Activity	Party	Dates
Notice of Interest Published	UR	6 th Feb 2014
Preparation of Licence Applications	Applicant	6 th Feb to 6 th May 2014
Submission of licence application	Applicant	By 6 th May 2014
Consideration of licence applications and public responses to notice published by the Applicant	UR	6 th May into June 2014
Consultation on preferred applicant and reserve applicant	UR	June/July 2014
Consider licence responses	UR	July/August 2014
Public Consultation on final licence conditions	UR	September 2014
Final Licence(s) Granted	UR	October 2014

4.49. We reserves the right to vary (including by adding to) the activities and dates set out in this timetable at its discretion. Any such variation will be communicated via the Utility Regulator website.