



Review of Supply Licences to Facilitate Retail Market Innovation

Call for Evidence
July 2021



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, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.



Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.



Our vision

To ensure value and sustainability in energy and water.



Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.



Abstract

The UK government has set a 'Net Zero' target for carbon emissions by 2050, which is a key driver of what is now commonly referred to as the energy transition. Locally, DfE is producing a new Energy Strategy focused on decarbonisation, but with consumer interests at the centre of that change. This transition to a low carbon future will transform how consumers use energy and engage with the energy industry.

UR aims to ensure that the retail market regulatory framework in place does not impede energy suppliers from developing innovative products to facilitate greater consumer engagement in the energy transition. UR believes that facilitating energy suppliers to innovate—whilst still ensuring high level of consumer protection—is to the long-term benefit of all energy consumers in NI.

Therefore, this paper constitutes the formal commencement of our 'Review of Supply Licences to Facilitate Retail Market Innovation' project where we aim to identify whether aspects of the existing supply licence framework inhibit or prevent suppliers from innovating. To start this project, we invite views from all stakeholders on the questions posed in this paper.

Audience

Electricity network and supply companies, gas network and supply companies, customers, consumer groups, industry participants, statutory bodies and the wider stakeholder body.

Consumer impact

This project intends to look at the supply licences of gas and electricity suppliers, and the aspects of the licence that may inhibit or prevent those suppliers from innovating. Therefore, there may be a direct impact on the service received by domestic consumers. UR will consider the impact of any changes on all consumers (particularly the vulnerable) and ensure there would remain a high level of protection. At this stage, this phase represents a Call for Evidence only.



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1. Introduction

- 1.1 The United Kingdom (UK) government has set a 'Net Zero' target for carbon emissions by 2050, which is key driver of what is now commonly referred to as the energy transition. This transition to a low carbon future will transform how consumers use energy and engage with the energy industry.
- 1.2 In UR's Corporate Strategy (2019-24), we stated that democratisation will increase the number of electricity suppliers and associated services, digitisation will drive increased consumer activity, and disruptive energy technologies (such as electric vehicles) will drive significant change.
- 1.3 For regulators, this will pose new governance challenges with the potential for novel market participants, business models, and products. We have previously stated that UR can be facilitator and an enabler, and that adapting to this change (such as through innovation and harnessing new technologies) will be a key strategic issue. Supporting consumer empowerment in this journey will be a UR priority.
- 1.4 Facilitating innovative projects will also assist in meeting EU Directive requirements in certain areas of the Clean Energy Package (2019/944), as well as the forthcoming new Energy Strategy for NI.
- 1.5 Whilst UR does not have specific duties with regard to promoting innovation, we believe that all consumers can share in the benefits that innovation provides; such as lower prices, new markets, and increased ranges of products more tailored to consumers' specific needs. We want to ensure the regulatory framework in place does not impede suppliers from developing innovative products to facilitate greater consumer engagement in the energy transition. UR believes that facilitating energy suppliers to innovate—whilst still ensuring high level of consumer protection—is to the long-term benefit of all energy consumers in NI.
- 1.6 Related to this anticipated step change in the NI energy retail market, there are associated considerations for various aspects of the wider market, such as our networks and the wholesale market. However, the scope of this paper is limited to innovation in the retail market, and therefore any required related or broader reviews will be managed within subsequent relevant work streams. Indeed, in the Forward Work Programme 2021-2022 UR has committed to review the adequacy of our legislative remit in the context of emerging industry requirements and change, which will provide a more fundamental review of UR's regulatory framework, powers, and duties.
- 1.7 Therefore, this review is limited to retail gas and electricity supply licences to identify whether aspects of the existing supply licences inhibit suppliers from



innovating.

A Retail Market in Transition

- 1.8 The Department for the Economy (DfE) is also developing a new Energy Strategy to facilitate the energy transition in NI. The UR is committed to supporting DfE in developing and implementing this strategy and there will be a need for us to be flexible in reflecting the evolving legislative and strategic landscape in our regulation of retail markets. Relevant aspects such as consumer protection, consumer empowerment, retail market regulation, etc., will be impacted by the new energy strategy and by the industry changes coming about because of the strategy and the energy transition more widely.
- 1.9 This energy transition will likely be a gradual process over the coming years. However, we believe that that should not hinder possible incremental improvements that can be achieved in the short-term outside of, or alongside, this transition.
- 1.10 In its consultation on policy options for the new Energy Strategy, DfE states that NI must redefine the relationship that consumers have with energy in order to be seen not just as a cost but also an opportunity to directly address climate change. It was also suggested that opportunities could become available for consumers to play a much greater role in the energy system than ever before. For those who are unable or unwilling to participate, there will be appropriate protections put in place.
- 1.11 In that regard, the UR acknowledges that retail market arrangements at least have the potential to produce suboptimal outcomes in relation to innovation. Evidence from Ofgem's Innovation Link¹ suggested that the regulatory framework might constrain companies' ambitions or force them to move more slowly than they could. Existing arrangements can prevent potential new entrants with disruptive business models from entering the market.
- 1.12 UR believes that the regulation of energy suppliers, and specifically their supply licences, must be adequately structured and responsive in order to benefit from the opportunities provided as we transition to an increasingly smart and connected energy market.

Innovation in the UK Energy Market

- 1.13 In the consultation on policy options for the new Energy Strategy, DfE suggested NI might be on the path to an energy system that is increasingly

¹ Ofgem's Innovation Link offers support on energy regulation to businesses looking to introduce innovative or significantly different propositions to the energy sector.



decentralised. In such a system, flexibility will play a key role and a strong consumer involvement will be required in order to help shape this system and obtain the benefits. However, this customer involvement will be driven by the availability of the right products, business models, and data; which is why supplier innovation is likely to play a central role.

- 1.14 In GB, Ofgem has implemented infrastructure to promote innovation in recent years, with the regulator putting in place a ‘regulatory sandbox’ that offers innovators the opportunity to run a trial where some market rules may be temporarily removed. Each trial runs for a set period with a limited number of customers, and has explicit learning objectives to test the viability of the model. At the end of the trial, all rules will apply as normal, and the innovator will report what it has learnt and Ofgem considers the results during future policy development.
- 1.15 As a result of the changing retail landscape in GB, in June 2019² there were around 6 million gas and 4 million electricity customer accounts on ‘agile’ tariffs. These tariffs offer varying rates during pre-determined periods throughout the day, with one supplier also offering a tariff with prices changing every thirty minutes to reflect variable wholesale prices.
- 1.16 These agile tariffs are supported in part by the installation of smart meters in GB, which represents another difference with the NI market. BEIS has reported³ that as of March 2021 44% of all meters in GB were smart or advanced meters. However, DfE has committed to conducting a cost benefit analysis of smart meters in NI as part of its early Energy Strategy outworking.
- 1.17 Suppliers in NI are also beginning to tailor their offerings in recognition of the evolving market landscape, with one electricity supplier currently registering interest in an Electric Vehicle Tariff⁴. The case study below also outlines an ongoing trial addressing Demand Side Response (DSR) for Economy 7 domestic customers.

²

https://www.ofgem.gov.uk/system/files/docs/2019/11/20191030_state_of_energy_market_revised.pdf

³

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/988831/Q1_2021_Smart_Meters_Statistics_Report.pdf

⁴ <https://powerni.co.uk/plan-prices/plans/electric/#ecointerest>



Case Study: SPIRE 2 - RULET

Ulster University and Northern Ireland Housing Executive (NIHE) collaborate on the SPIRE 2 - RULET (Rural-Led Energy Transition) initiative to seek to reduce or eliminate the risk of low-income households being left behind in the transition to clean, smart, integrated energy systems.

As a member of the project, one supplier proposed testing new and innovative DSR solutions and products on a small selection of its Economy 7 customer base. This would help:

- understand and assess customer appetite and motivation for demand response products;
- develop and refine demand response products through learning and adaptation from customer experiences; and
- help understand the drivers for consumer choice in relation to electricity supply services.

However, Condition 14 of the electricity supply licence prohibits any licensee in a dominant position in the supply market from showing any undue preference or exercising undue discrimination to any person (or class of persons), which would apply in this case. Therefore, under condition 14 it is likely that the supplier would be prohibited from performing trials on segments of its Economy 7 customer base. This is because the trial would not be open to all the supplier's Economy 7 customers and there would be no objective justification as to why certain customers were included/excluded.

On 4th February 2021, UR issued a direction to the supplier, as is permitted under paragraph 9 of Condition 14 of the electricity supply licence. This stated that the licensee is relieved from its obligations under paragraphs 2, 3 and 4 of Condition 14 of the licence in respect of the supply of electricity to only those domestic customers that participate in two specified trials.

- 1.18 The case study above provides an example of one of the many innovative projects being planned or discussed by stakeholders, both within the NI energy market and the industry beyond. However, it also serves as an instance where the supply licence can act as a barrier to innovation, with the supplier in this circumstance requiring a formal direction from the UR before continuing. It is the aim of this project to identify where the supply licence presents such 'barriers' (which may be in place for valid reasons) and to consider whether any amendments are possible or appropriate, whilst still ensuring a high level of customer protection.



Purpose of Project

- 1.19 This paper constitutes the formal commencement of our ‘Review of Supply Licences to Facilitate Retail Market Innovation’ project (as included in the UR 21/22 FWP). The project will aim to:
- Identify whether aspects of the existing supply licence framework inhibit or prevent suppliers from innovating;
 - Should changes to the supply licences be required, develop and critically analyse these potential changes in consultation with the energy market stakeholders and consumer representative bodies;
 - Consider the impact of any changes on all consumers—particularly the vulnerable—and ensure there would remain a high level of protection;
 - Consider the logistical and regulatory policy implications of all changes (such as the requirement for licence modifications or legal/regulatory issues); and
 - Implement any changes (such as through licence modifications) where UR consider it appropriate and in line with its statutory duties.

Scope of the Review

- 1.20 This project looks specifically at the supply licences of gas and electricity suppliers, and the aspects of the licence that may inhibit or prevent those suppliers from innovating.
- 1.21 Whilst there may be barriers to retail market innovation beyond supply licences, any such issues will be considered out of scope for this phase of this project. We anticipate such issues better addressed in the broader market wide approach to the energy transition founded on the eventual strategy priorities and policy frameworks determined by DfE in their new Energy Strategy for NI.
- 1.22 However, we have included one exploratory question (Q5) in the Call for Evidence that will help inform future work streams that may focus more generally on the energy transition.



2. Call for Evidence

2.1 The UR invites views from all stakeholders on the following questions:

Q1. Are the gas and electricity supply licences currently fit for purpose in relation to the facilitation of innovation in the retail market? This could include perceived issues around:

- a) pursuing new and disruptive business models*
- b) performing customer trials*
- c) the uptake of smart appliances*
- d) any other relevant activities*

Q2. If not, what sections of the licence need amended, and why? What types of innovations could be made with such changes? What impact would this have on consumers, including the vulnerable?

Q3. Do you think any required changes to the licence are urgent, or with the forthcoming energy transition is it more prudent to first see how the policy framework and energy market evolves?

Q4. Do gas and electricity supply licences currently provide sufficient customer protection when considering the potential for new business models or products? This could be related to the protection those customers who:

- a) choose to engage with new business models or products; or*
- b) do not or cannot engage, and therefore are unable avail of the benefits of a more flexible energy system*

Q5. What wider / more general considerations should UR be aware of in relation to the facilitation of innovation and responding to the energy market transition?



Responding

- 2.2 All responses will be treated as confidential. Any information published will be aggregated to market level. Responses to this request for evidence should be forwarded to reach the UR on or before 4pm on 31 August 2021 to:

Colin Magee
The Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Email: Colin.Magee@uregni.gov.uk

- 2.3 As a public body and non-ministerial government department, the UR is required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential. It is therefore important that respondents take account of this and in particular, if asking the Authority to treat responses as confidential, should specify why they consider the information in question should be treated as such.
- 2.4 This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact the Utility Regulator's office, which will be happy to assist.