

## **NI Water Price Control, PC21: 2021-27**

### **NIE Networks' Comments on the Utility Regulator's Draft Determination published on 30 September 2020**

**16 December 2020**

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NIE Networks welcomes the opportunity to respond to the Utility Regulator's (UR) consultation on its draft determination in respect of the NI Water price control for the period 2021-2027. We limit our comments specifically to the UR's proposed treatment of business rates, because of the potential wider implications for network regulation precedent in Northern Ireland.

Please note that the absence of comment on any other issues should not be taken as an endorsement by NIE Networks of the UR's wider position in the draft determination.

#### **Business Rates**

NIE Networks' position is that rates costs should be treated as pass-through for the purposes of determining price control allowances. This is on the basis that rates liability is an uncontrollable cost for the company and therefore is unsuitable for incentive regulation. This position is consistent with the views NIE Networks has articulated to the UR previously, as well as being broadly consistent with established regulatory practice in GB.

When determining NIE Networks' current price control (RP6), the UR acknowledged the inherent uncertainty in forecasting what rates liability NIE Networks would face during RP6. Nevertheless, the UR set a fixed ex-ante allowance which has the effect of exposing both NIE Networks and electricity customers to potential loss (or gain) depending on whether rates costs ultimately outturn at more or less than the annual allowance. Furthermore for RP6, the UR also applied a productivity challenge to the rates allowance, which NIE Networks considers to be wholly inappropriate for a cost item that is uncontrollable.

NIE Networks is concerned that the UR continues to apply these principles in the NI Water PC21 draft determination, despite being inconsistent with established GB regulatory practice.

Both Ofgem and the Office of Rail and Road have recently confirmed that regulated companies have little or no influence over rates. Hence rates have been treated as full pass-through in various price controls in these sectors, sometimes with a condition that companies must demonstrate that they have taken reasonable actions to minimise costs. Other regulatory authorities including the Civil Aviation Authority and Ofwat (at PR19) have also set price controls that recognise that the companies they regulate have relatively little control over business rate costs. This position has been further endorsed by the Competition and Markets Authority (CMA) in its recent provisional determinations for the various PR19 referrals.

These regulatory determinations support the case for rates being subject to pass-through in the best interests of customers and companies alike. In this respect, the recent CMA provisional determination for PR19 is particularly noteworthy in terms of UK regulatory precedent. NIE Networks urges the UR to reconsider its position and instead align its approach on business rates with wider UK regulatory precedent which recognises that network companies have little or no influence over the cost of business rates, and should be treated as pass-through for the purposes of determining price control allowances.