

**THE NORTHERN IRELAND AUTHORITY FOR UTILITY  
REGULATION**

**NOTICE UNDER ARTICLE 14(2) OF THE GAS (NORTHERN IRELAND)  
ORDER 1996**

**MODIFICATIONS PROPOSED TO FIRMUS ENERGY (SUPPLY) LTD'S  
GAS SUPPLY LICENCE**

The Northern Ireland Authority for Utility Regulation ('the Authority') proposes to modify the conditions of a licence in exercise of the powers conferred on it by Article 14(1) of the Gas (Northern Ireland) Order 1996 ("the Order").

In accordance with Article 14(2) of the Order the Authority gives notice as follows:

1. The Authority proposes to make modifications to the gas supply licence ("the Licence") held by firmus energy (Supply) Ltd ("the Licensee").
2. The proposed modifications are to Condition 2.4: Charges for Gas and Other Terms for the Supply of Gas. The modifications proposed are set out in Schedule 1 to this notice.
3. The effect of the proposed modification will be to alter the total amount of revenue that the Licensee can recover, in any relevant year commencing on or after 1 January 2023, in respect of its gas supply business.
4. The reasons for the proposed licence modifications are set out in the document entitled "Price Control for firmus energy (Supply) Ltd Final Determination", published 23 September 2022. The document can be accessed from the Authority's website at: [www.uregni.gov.uk](http://www.uregni.gov.uk)
5. Representation with respect to the proposed modifications may be made on or before 12 noon on 24 October 2022 to:

Daniel Squires  
Utility Regulator  
Queens House  
14 Queen Street  
Belfast  
BT1 6ED  
Tel: 028 9031 6338  
Email: [daniel.squires@uregni.gov.uk](mailto:daniel.squires@uregni.gov.uk)

6. The Authority has, pursuant to Article 14(4) of the Order, sent a copy of this notice to the Licensee, the Department for Economy and also to the General Consumer Council for Northern Ireland.

7. A copy of this notice and the proposed modifications can be obtained in hard copy form from the Authority by contacting Daniel Squires at the contact details above.

Dated this 23<sup>rd</sup> September 2022

A handwritten signature in black ink, appearing to read 'J. French', is written over a faint, light blue rectangular stamp.

**John French**

**For and on behalf of the Northern Ireland Authority for Utility Regulation**

<b>Cc: Irene McAllister</b>	<b>-</b>	<b>DfE</b>
<b>Niall Martindale</b>	<b>-</b>	<b>firmus energy supply Ltd</b>
<b>Raymond Gormley</b>	<b>-</b>	<b>Consumer Council for Northern Ireland</b>

## **Schedule 1**

### **Condition 2.4: Charges for Gas and Other Terms for the Supply of Gas**

#### **Part A – Control over Charges for Gas**

##### **2.4.1 Control over charges**

The Licensee shall take all reasonable steps to secure that in any Relevant Year the average price per unit of gas supplied by it to Regulated Premises shall not exceed the maximum price calculated in accordance with Condition 2.4.2.

##### **2.4.2 Calculation of the maximum average price**

The maximum average price per unit of gas supplied by the Licensee to Regulated Premises shall be calculated in accordance with the following formula:

$$P_{st} = G_t + U_t + S_t + M_t + E_t - K_{st}$$

where

$P_{st}$  means the maximum average price per unit of gas supplied by the Licensee to Regulated Premises in respect of Relevant Year t;

$G_t$  means the costs incurred in the purchase of gas in pence per unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t, derived by:

(a) aggregating:

- (i) the total amount approved by the Authority as payable by the Licensee to any person in respect of the quantity of gas purchased by the Licensee in Relevant Year t for the purposes of supplying gas to Regulated Premises (the 'wholesale purchase costs');
- (ii) the total amount payable by the Licensee to any person arranging for the transportation, through the national gas transmission system in Great Britain, of the gas supplied by the Licensee to Regulated Premises in Relevant Year, such amount calculated by reference to the charges set and published by the GB Operator; and

- (iii) the total amount allowed in respect of the Licensee's cost of credit for Relevant Year t which shall be calculated by multiplying the allowed amount in pence per unit of gas supplied for Relevant Year t (set out in Table A below and expressed in October 20~~21~~<sup>18</sup> prices which are to be indexed by ~~CPIHRPI~~ for the Relevant Year t) by the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t; and
- (b) dividing the total aggregated amount calculated under paragraph (a) by the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t;

**TABLE A**

Allowed cost of credit	Relevant Year t Equals			
	Year commencing 1 January 20 <del>23</del> <sup>20</sup>	Year commencing 1 January 20 <del>24</del> <sup>21</sup>	Year commencing 1 January 20 <del>25</del> <sup>22</sup> and each subsequent Relevant Year	<u>Year commencing 1 January 2026 and each subsequent Relevant Year</u>
Pence per unit of gas	0.0198	0.0192	0.0187	0.0182

$U_t$  means the allowed transmission and distribution costs, in pence per unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t, derived by:

- (a) aggregating the total amount of charges payable by the Licensee (measured on an accruals basis), in Relevant Year t, to any person for the transportation, through any transmission and/or distribution system of any Network Operator, of the gas supplied to premises by the Licensee in

Relevant Year t, calculated by reference to the charges set and published by each relevant Network Operator;

(b) determining, in accordance with a methodology approved by the Authority, the amount of the charges calculated in accordance with (a) which is attributable to the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t; and

(c) dividing the amount determined pursuant to paragraph (b) by the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t;

$S_t$  means the allowed operating charge in pence per unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t derived by dividing the amount set out for the Relevant Year t in Table B below by the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t;

**TABLE B**

Allowed Operating Charge	Relevant Year t Equals			
	Year commencing 1 January 202 <del>30</del>	Year commencing 1 January 202 <del>41</del>	Year commencing 1 January 202 <del>52</del> <del>and each subsequent Relevant Year</del>	<u>Year commencing 1 January 2026 and each subsequent Relevant Year</u>
Amount	£2,884,000	£3,045,000	£3,250,000	£3,354,000

$M_t$  means the applicable margin to be applied to each unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t and calculated in accordance with the following formula:

$$M_t = ((G_t + U_t + S_t + E_t + K_{st})/0.98) - (G_t + U_t + S_t + E_t + K_{st})$$

$E_t$  means the additional amount allowed in pence per unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t in respect of the costs of the Licensee relating to the matters referred to in Condition 2.4.3 below and derived by:

- (a) aggregating the amount(s) determined by the Authority, in respect of a claim made to it by the Licensee, as the amount(s) to be allowed for Relevant Year t in respect of costs incurred by the Licensee in respect of such matters; and
- (b) dividing the resulting amount by the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t; and

$K_{st}$  means a correction factor (which may be a positive or negative value) in pence per unit of gas supplied by the Licensee to Regulated Premises, where  $K_{st}$  for each Relevant Year t shall be derived using the following formula:

$$K_{st} = \frac{(R_{St-1} - (P_{t-1} \times Q_{st-1}))}{Q_{st}}$$

where:

$R_{St-1}$  means the Regulated Supply Revenue in Relevant Year t-1;

$P_{t-1}$  means the maximum average price per unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t-1, save that in calculating  $P_{t-1}$ :

$S_{t-1}$  means the allowed operating charge in pence per unit of gas supplied by the Licensee to Regulated Premises in Relevant Year t-1 derived by dividing the Final Amount by the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t-1,

where:

"Final Amount" means the amount determined by the Authority, and notified to the Licensee, having taken into account any adjustment (to the amount otherwise set out in Table B for that Relevant Year t -1) resulting from:

- (a) the reconciliation process undertaken by the Authority for ascertaining the difference (if any) between (i) the Licensee's estimated costs (as reflected in the amount set out in Table B), and (ii) the Licensee's actual costs, in respect of those costs (and only those costs) which are, as stated in paragraph 9.3 of the Final Determination, to be subject to such a reconciliation process; and
- (b) any revised apportionment, as determined by the Authority in accordance with the principles set out in paragraph 6.8 of the Final Determination, of the Licensee's total costs between (i) the business of the Licensee relating to the supply of gas to Regulated Premises, and (ii) the business of the Licensee relating to the supply of gas to all other premises (excluding Regulated Premises);

$Q_{st-1}$  means the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t-1; and

$Q_{st}$  means the quantity of gas supplied by the Licensee to Regulated Premises in Relevant Year t.

#### 2.4.3 Matters in respect of which additional amounts may be allowed for $E_t$

The Licensee may make a claim to the Authority in respect of, and the Authority may determine whether to allow (in whole or in part), the following costs (in each case to the extent that they are not recovered under any other part of the licence or under any other Energy Licence):

- (a) any reasonable and efficient costs incurred (or to be incurred) by the Licensee in Relevant Year t to comply with any mandatory roll out of smart meters in Northern Ireland;

- (b) any reasonable and efficient costs incurred (or to be incurred) by the Licensee in Relevant Year t to comply with any new or modified Conditions of the licence which are made in consequence of the Authority's project described in the document entitled 'Consumer Protection Programme - Final Decisions Paper', as published by the Authority in April 2019;
- (c) any reasonable and efficient costs incurred (or to be incurred) by the Licensee in Relevant Year t to comply with the requirements of the Directive (or to comply with any requirements which implement the Directive);
- (d) any reasonable and efficient costs incurred (or to be incurred) by the Licensee in Relevant Year t to comply with the requirements of Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (or to comply with any requirements which implement that directive);
- (e) any reasonable and efficient costs incurred by the Licensee in Relevant Year t as a result of a UR review of the governance arrangements relating to gas metering.

#### 2.4.4 Statement of charges for the supply of gas

The Authority may direct:

- (a) the Licensee to provide it with a statement of the charges being made or proposed to be made by the Licensee for the supply of gas to consumers at Regulated Premises; and
- (b) in relation to charges which are proposed to be made, the Licensee to observe a minimum period before these charges may be introduced from its receipt of the statement.

#### 2.4.5 Publication of statement of charges for the supply of gas

The Licensee shall comply with any direction given by the Authority to publish in such manner as determined by the Authority the statement prepared by the Licensee



under Condition 2.4.4 so as to give adequate publicity to the matters contained in that statement.

## **Part B – Disapplication of this Condition**

### **2.4.6 Duration of this Condition**

This Condition 2.4 shall apply so long as this Licence continues in force, but shall cease to have effect (in whole or in part, as the case may be) if the Licensee delivers to the Authority a request (a **Disapplication Request**) made in accordance with Condition 2.4.8 and:

- (a) the Authority agrees in writing to the request; or
- (b) the application of this Condition (or any part of it) is terminated by a notice (a **Disapplication Notice**) given by the Licensee in accordance with Condition 2.4.9 and not withdrawn.

### **2.4.7 Disapplication Date**

Except where the Authority otherwise agrees, no disapplication following delivery of a Disapplication Request pursuant to Condition 2.4.8 shall have effect earlier than the date (the **Disapplication Date**) which is the later of:

- (a) the date occurring 18 months after delivery of the Disapplication Request; and
- (ii) 31 December 202~~6~~<sup>2</sup>.

### **2.4.8 Disapplication Request**

A Disapplication Request pursuant to this Condition 2.4.8 shall:

- (a) be in writing addressed to the Authority;
- (b) specify this Condition or any part of it to which the request relates; and
- (c) state the date from which the Licensee wishes the Authority to agree that this Condition or the specified part of it shall cease to have effect.

### **2.4.9 Disapplication Notice**

A Disapplication Notice pursuant to this Condition 2.4.9:

- (a) may be given in the circumstances described in either Condition 2.4.10 or Condition 2.4.11; and
- (b) may be withdrawn by the Licensee at any time prior to the Disapplication Date;
- (b) where it is given, shall:
  - (i) be in writing addressed to the Authority;
  - (ii) specify this Condition, or any part of it (which shall comprise only such part as was specified in the Disapplication Request) to which the notice relates; and
  - (iii) state the date from which the Licensee wishes the notice to take effect, which shall not be earlier than the Disapplication Date.

#### 2.4.10 Circumstances of Disapplication (1)

The circumstances described in this Condition 2.4.10 are that, by the beginning of the period of six months which will end with the Disapplication Date, the Authority has not in response to the Disapplication Request published a decision under Article 14(8) of the Order to modify:

- (a) this Condition 2.4, or any part of it to which the request relates; or
- (b) this Part B of this Condition 2.4, so as to remove the right of the Licensee to give to the Authority a Disapplication Notice in respect of the relevant Disapplication Request.

#### 2.4.11 Circumstances of Disapplication (2)

The circumstances described in this Condition 2.4.11 are that:

- (a) by the beginning of the period of six months which will end with the Disapplication Date, the Authority has in response to the Disapplication Request published a decision of a type referred to in Condition 2.4.10;

- (b) the Licensee has exercised its right to appeal to the CMA against that decision in accordance with Article 14B of the Order;
- (c) the CMA has, in respect of the provisions to which the Disapplication Request relates:
  - (i) quashed the decision of the Authority under Article 14E(2)(a) of the Order; and
  - (ii) neither remitted the matter back to the Authority under Article 14E(2)(b) of the Order nor substituted its own decision for that of the Authority under Article 14E(2)(c) of the Order; and
- (d) no more than 30 days has elapsed since the date on which the CMA quashed the decision of the Authority.

#### 2.4.12 Scope of Disapplication

A Disapplication Request or Disapplication Notice served under this Part B of this Condition 2.4 may be served in respect of a specified geographic area.

### **Part C – Definitions**

#### 2.4.13 Definitions and Interpretation

For the purposes of this Condition, 'unit' means a kilowatt hour.

In this Condition:

<b>CMA</b>	means the Competition and Markets Authority.
<b>Energy Licence</b>	means a licence held by the Licensee and granted or treated as granted under Article 8 of the Order or Article 10 of the Electricity (Northern Ireland) Order 1992.
<b>Final Determination</b>	means the document entitled 'Price Control for firmus energy (Supply) Ltd 202 <del>30</del> -202 <del>62</del> ', as published by

the Authority on the 23<sup>rd</sup> September 2022~~19~~.

**GB Operator**

means National Grid Gas plc in its capacity as the person authorised, by a licence granted or treated as granted under section 7 of the Gas Act 1986, or any successor company.

**Regulated Premises**

means premises supplied by the Licensee in the Ten Towns Area at which the normal annual consumption of gas is reasonably expected not to exceed 73,200 kilowatt hours but shall, at the request of the consumer at the premises, exclude any such premises where:

- (a) the Licensee supplies gas to other premises owned or occupied by that consumer in the Ten Towns Area; and
- (b) the normal annual consumption of gas, aggregated for all premises which are:
  - (i) owned or occupied by the consumer in the Ten Towns Area; and
  - (ii) supplied by the Licensee,is reasonably expected to exceed 73,200 kilowatt hours.

**Regulated Supply Revenue**

means the total revenue (measured on an accruals basis) derived from the Licensee's gas supply charges for the supply of gas to Regulated Premises, after deduction of value added tax (if any) and any other taxes based directly on the amounts so derived.

**Relevant Year**

means any financial year commencing on or after 1 January 2023~~0~~.

**Relevant Year t**

means that Relevant Year for the purposes of which any calculation falls to be made; and 'Relevant Year t – 1' means the Relevant Year preceding Relevant Year t and similar expressions shall be construed accordingly.

**CPIHRPI**

means the Consumer Prices Index including owner occupiers' housing costs (2015 = 100)~~Retail Price Index (1987 = 100)~~ published or determined with respect to January in Relevant Year t.

**Ten Towns Area**

has the meaning given to it in Schedule 1 of the licence.

