

Consultation on Licence Modifications to Power NI Supply Price Control 2026-2029 Final Determination

Power NI Response

23 May 2025

Executive Summary

Power NI notes the Utility Regulator's (UR) Consultation on modifications to Power NI's licence regarding the Supply Price Control 2025. Power NI recognises that the Supply Price Control is of fundamental importance to the Utility Regulator vis-a-vie its statutory duty to protect consumers and promote electricity retail competition; and to Power NI in ensuring that it is able to finance the operation of the business, compete in a liberalised market, maintain customer service levels and prepare for the energy transition.

Power NI has engaged with the UR's Team for a considerable time over the course of the Price Control discussions and has provided substantial volumes of data and supporting rationale. Since the last full control was completed, both the market and the Power NI business has changed significantly; therefore, the context is entirely different, and it was fundamentally important that the UR recognised this in reaching a Final Determination; unfortunately, that has not been the case.

a. Margin Level

As repeatedly articulated and detailed in Power NI's response to the Draft Determination the UR has failed to provide both an appropriate level, and appropriate structure, of margin for Power NI. The two key elements which have not been appropriately recognised are the inherent risk faced by Power NI and the recognition of the required capital.

i. Inherent Risk Increase

While not replaying the entire argument again, in not recognising the arguments put forward by Power NI in relation to the risk faced by the business the UR have put forward a position that Power NI is faced by the same degree of risk as in 2012/13 despite the advent of the new Integrated Single Electricity Market (ISEM) trading arrangements, the cessation of the counterbalancing Power Procurement Business (PPB), the effects of the energy crisis and the ongoing sustained increase and volatility of wholesale electricity prices. Risks in the Northern Ireland market have increased substantially since 2013 from a combination of the above-mentioned changes in the ISEM, higher and more volatile energy prices, bad debt risk, increased competition and the general entanglement of energy prices and the economy. In addition, Power NI faces risks that GB suppliers do not face such as supplier of last resort risk, foreign exchange risk and proxy hedging risks. To conclude that the difference in risk between GB and NI is substantially more than the risk facing Power NI in 2025 and compared to 2013 remains implausible.

ii. Capital Requirement Recognition

The second element of the margin calculation which the UR did not recognise was the element of Power NI's capital requirement that it accesses due to its position in Energia Group. As the UR is aware an important element of the triangulation (3 lenses) approach described in the

KPMG Report 'Reviewing margins in regulated retail supply' was the standalone viewpoint. Power NI strongly believes that this element is entirely consistent with the UR's statutory duties to ensure that Power NI is financeable; and is in line with the licence conditions placed on Power NI not to be in receipt of a cross subsidy while having sufficient resources available to meet its regulatory and market duties.

It is important to state that Power NI believe the UR should have considered what a normal rate of return is for an efficient supplier, or in terms used in Great Britain; aligned to what a rate of return for a notional supplier is. This, in Power NI's view, will give a proxy for a reasonable rate of return which Energia Group would secure for providing facilities to Power NI and ensures that Power NI is financeable both in the immediate and longer term and is not reliant on the support of /cross subsidy from a Group, which Power NI's licence explicitly disallows.

b. Operating Cost Review

i. Disallowances

Power NI remains of the belief that the full operational costs submitted were an accurate and fair estimate of the required expenditure necessary for the Power NI business to meet its obligations and maintain its service levels. Power NI remains disappointed with the disallowances identified by the UR.

ii. Performance Incentivisation

The amendment in relation to the opex allowance introduces a cost sharing mechanism, has not been a core feature of any previous price control. While it has been justified as a counterbalance to uncertainty and acting as a protection to both the consumer and Power NI, the UR have not described or provided any insight as to the assessment undertaken when effectively removing the principle of incentive-based regulation which has been the foundation of price controls since privatisation.

Incentive based regulation and the ability to retain savings and requirement to manage upward price risk brings significant benefits to consumers over the medium term. Incentive based regulation, by definition, provides an incentive upon the price-controlled company to actively seek and implement efficiencies to operate below allowances. These savings are retained by the company until rebased by the UR at the next control. On the converse, the strict nature of the allowance incentivises the company to manage cost escalation risk as the company bears the full consequence. This in turn protects consumers as these costs cannot be passed on and must be managed.

The dilution of the incentive-based regulation principle with the proposed introduction of a cost sharing mechanism therefore reduces the incentive for Power NI to find further efficiencies as the majority of any such savings are immediately captured by the UR therefore providing much lesser incentive. On the converse the incentive to manage cost escalations are also removed as the majority of costs can be passed on to customers.

Power NI remains of the view that the UR have not fully considered these consequences and have applied a principle from network based or monopoly organisations, who are typically subject to 7-year price controls, to a retail business operating in a competitive landscape; it will be counterproductive in terms of consumer protection and removes the current incentive-based regulatory mechanism which has been effective both in Northern Ireland and other jurisdictions.

c. Structure and Form of Price Control

Power NI remains of the view that a 4-year control is an appropriate time horizon and welcomes the UR including a margin calculation floor in the Final Determination.

d. Conclusion

Power NI remains disappointed with the outcome of the SPC25 process. The conclusion reached adopts a position broadly similar to the last full price control review and does not recognise the fundamentally increased risks faced by the business nor adequately recognise the support received from the wider Energia Group.

The process of review adopted a line by line, bottom-up assessment of all aspects of the business and in Power NI's view did not adequately recognise the broader context within which the business operates. Power NI notes that there will be further engagement in relation to aspects such as the operation of the Gt term and Power NI remain committed to working constructively with the UR.

Legal Drafting

Noting that the consultation on licence amendments seek to give effect to the Final Determination and through that lens Power NI have reviewed the wording and would highlight the following areas:

Definitions within the St Term

- In the definitions relates to the St term there is a reference to “hedged” which is very generic and unclear.
- There are references to the “price of energy” and other references to the “price of electricity” it would be worthwhile to explicitly define so as to avoid any confusions as to the costs associated with the purchases of energy from the various markets e.g. DAM and forward hedging and the total cost which would include capacity and imperfections etc.
- The reference to “actual power costs” should be changed to “actual energy costs”
- “DAM” is probably supposed to identify the “day-ahead market” but this term is currently undefined.
- In defining the determination of customer numbers it would be helpful if the current drafting was amended such it clarifies the number of supply customers shall be calculated “~~on~~ *as at the end of 30 September in relevant year t*”.

Definitions within the MSt Term

- KSt: states forecast values are replaced by actual amounts allowed under the licence through the KSt term of the licence. To clarify the KSt during a tariff change will include estimates relating to 13 months of market resettlement.

Definitions within the MFt Term

- Both the energy price and hedged energy price could be defined terms.
- Average rate of energy price hedged in the year should be defined as the average of the actual costs incurred during year t in relation to volumes hedged through a combination of perfect and proxy hedges divided by the volumes hedged during year t.
- Average price of energy in the DAM in a quarter should be defined as the demand weighted actual DAM costs paid in a quarter divided by the volume traded in the DAM in the corresponding quarter.

General

- t: references in 3.9 to modify the definition of “relevant year t” to replace the date of 1 Apr 14 with 1 Apr 15. To avoid confusion, “relevant year t-1” should be defined separately outside of “relevant year t”. Power NI note, however, the updates have been correctly made in Schedule 1, Annex 2, 1.1

Definitions within the Gt Term

- Within the definitions of the Gt Term the UR has highlighted “In the event that Power NI’s circumstances were to change, due to a change of ownership or any other reasons, and the business were to face a different market reality” amendments can be facilitated via the Gt Term. Power NI would like to engage further with the UR to understand what the UR’s expectation is in relation to this aspect and what can be facilitated.

Gt Cost of Credit Mechanism

The draft mechanism proposed by the UR fails to consider the cost of cash facilities available and not utilised. The current drafting only covers the cost of cash facilities utilised and therefore an amendment is required.

Definitions within the Et Term

Power NI welcomes the addition of two new Et terms aimed to support both the imminent Smart Metering Programme in Northern Ireland and the requirement for digital transformation required to support the broader energy transition, customer demand and technological advancements. Et Terms have been a feature of Power NI’s licence and it is well understood that the terms allow for only actual incurred costs in areas which are uncontrollable or unknown at the time of setting a control.

i. Smart Metering Programme

The Smart Metering Programme represents a fundamental change to the operation of the retail electricity market in Northern Ireland. Lessons can be learned from other jurisdictions in relation to how the programme delivers for customers. A key aspect of the programme will be the need for early engagement with suppliers into how to design the end deliverable. The programme is therefore much more than an IT project, it will require up and down stream developments, design engagement, piloting and extensive communication programmes.

Power NI is committed to proactively engaging with the wide range of stakeholders involved with Smart Metering to enable as successful a deliverable as possible in the interests of all customers. It is important that the drafting of the required Et Term therefore allows for Power NI’s active engagement with the overall Smart Metering programme, utilising its knowledge and experience to help shape and design the deliverable and not be limited to recovery of post design implementation costs.

The current proposed drafting states that the costs must be “*clearly in pursuit of a Ministerial policy decision*”. This reference, as well as the use of “clearly”, may entail a higher scrutiny of the UR in respect to the costs relating to the Smart Metering Plan. In addition, it is not clear what the consequence of the plan not being clearly in pursuit of the decision would be, and whether the whole costs would be disallowed or just any that were not reasonably incurred clearly in pursuit. Power NI would request that “clearly” is deleted and replaced with “reasonably” as this aligns with other Et Terms and allows for the broader engagement with the Smart Metering Programme.

It would also be helpful if the UR could provide some clarity on what the Utility Regulator would consider “*sufficiently material and [...] justified*” and what information they expect to receive in respect to these costs. Power NI is committed to transparency and working with the UR through this programme however holds the expectation that reasonable costs incurred and not allowed elsewhere would be recoverable.

It is also important that the UR recognise that the Department of Economy Policy Paper in relation to Smart Metering indicated SMEs would be included, therefore this will need factored into cost considerations and allowances.

ii. Digital Engine

Power NI welcomes the recognition by the UR that the Digital Engine Project is a wrapper that aims to expand Power NI’s digital customer facing solutions, billing solutions, energy transition related products and customer facing engagement. This area is rapidly evolving and Power NI welcomes the UR’s use of terms such as “reasonable costs”. This rapidly changing nature will require the UR to be flexible in its approach and recognise that there is likely to be changes in focus and delivery schedule.

iii. Other Et Terms

Power NI note through a broader review of the licence that costs in relation to Power NI acting as the Supplier of Last Resort can and have been allowed under License Condition 23. An explicit Et Term should in the interests of transparency and to aid the flow of the licence conditions reference reasonably incurred low levels of cost as approved under License Condition 23 so as to allow for inclusion in the updated Annex 2 formulae. This would allow for the management of costs associated with smaller SoLR events, noting that larger SoLR cost events would be recovered via the PSO mechanism.

Licence Conditions Formula

Power NI note what it believes to be a number of drafting errors in some of the formula and take this opportunity to highlight such to the UR team:

- MFt formula: Power NI believes that consistent with provided information the “average number of customers served used by Power NI in its assessment of margin” should read 572,225.
- MPEt formula: appears to be missing an “or” statement. It may assist in the setting out of this element for the different options to be set out as 3 or statements i.e. reworded to state the Maximum of a or b or c. With a. being the average rate of energy price hedged; b. being the highest average price in the DAM for the relevant year.....; c. £90 per MW hour
- CSt formula: At (b) should be excluded from the At calculation as this will ultimately be an agreed disallowance and therefore should not form part of any cost sharing mechanism. The calculation to derive a cost per customer using Power NI’s billing system is agreed as a step following the upgrade of the billing system and therefore should not be included as part of the cost sharing formula.
- CSt formula: EXt has been included in the calculation for allowances to be compared against actual costs, with AOt including actual costs in respect of EXt. Power NI believe that EXt should be removed from the sharing mechanism on this basis that EXt allowances and costs are the same and costs will not deviate from allowances. Likewise, AOt should not include all EXt costs and should only include allowances with a subsequent disallowance. Whilst the UR had been of the view that the inclusion or exclusion of EXt in allowances and costs would not have an impact on the output of the formula, Power NI do not agree that this is in fact the case.
- At formula: All Et costs should not be included in the disallowance calculation as the Et cost components (such as billing upgrade costs) have a disallowance applied from the outset (i.e. at the time cost recovery is agreed), therefore, to include in this calculation would result in double disallowances.