

Viridian Energy Supply Ltd

(Trading as “Energia”)

Energia House,
62 New Forge Lane
Belfast BT9 5NF

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Mr. Kevin Shiels
Northern Ireland Authority for Energy Regulation
6th Floor, Brookmount Buildings,
42 Fountain Street
Belfast BT1 5EE.

Ref: The Proposed Acquisition of East Surrey Holdings plc by Kellen Acquisitions Limited – Implications for Phoenix Natural Gas Limited – A Consultation paper by the Northern Ireland Authority for Energy Regulation – May 2005.

Dear Kevin,

As a potential entrant into the retail gas market in Northern Ireland, and as an entity who to date has participated actively in discussions in relation to changes to the operations of the NI Gas Market, Energia need comfort in relation to the Supply activities of Phoenix Natural Gas not being unduly favoured in comparison to other suppliers, and need comfort in relation to the fully open, transparent, and non-discriminatory Third party access (TPA) arrangements to NI gas pipeline systems. From the analysis work Energia have performed to date on publicly available information Energia are extremely concerned that many of the costs one would generally attribute to a supply type business (e.g. manpower, customer services, billing, marketing (publicity) etc) have found their way into the Phoenix distribution tariffs. It appears that only circa £2m of operating costs are attributed to the Supply business, and in our view this is not representative of the costs of billing, customer service, customer acquisition, advertising and marketing which may be being apportioned by Phoenix in favour of the Distribution business.

Such an activity would in effect make it virtually impossible for any other supplier to compete with Phoenix Supply as it would be paying for some of Phoenix Supply’s costs through its gas use-of-system charges (transportation tariffs). In the interests of fair, open and transparent competition, Energia requests the Authority to investigate these costs again and to take action if required so as to give assurances to all existing and potential gas market participants that Phoenix Supply are competing equally with other suppliers and do not have any favourable arrangements to other suppliers. Adjustment to the allowed distribution costs would naturally have an impact on the distribution allowed revenues and returns.

Under Condition 1.3 of Phoenix Natural Gas’s combined Licence for the Conveyance and Supply of Natural Gas in Northern Ireland PNG are obliged to produce separate sets of accounts (P&L statement, statement of net assets, balance sheet and cash flow statements) for each of its “Separate Business” activities (3 activities being transmission, distribution and supply). Under Conditions 1.3.4 and 1.3.5 Phoenix is obliged to advise the Authority of the basis of the charges and apportionment it uses in each of its separate sets of account. Energia argues that such separate

accounting information and such information relating to the basis of the charges and apportionment should be made available to the gas industry in NI to remove genuine concerns in this regard.

The consultation paper refers to the requirement under the Directive (EU Directive 2003/55/EC) requiring PNG to separate both legally and managerially the Transmission business from the distribution and supply businesses. Energia would ask OFREG to confirm this has occurred and advise the management structure in each and the legal entity performing each role.

Trusting these comments will assist NIAER in its deliberation. If the Authority has any queries in relation to any point raised in this submission Energia would be happy to meet with the Authority for discussions.

Yours sincerely,

Derek Russell

Derek Russell
Commercial Development Manager
Energia