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21 October 2011

Dear Carl

PHOENIX NATURAL GAS – AUGUST 2011 PRICE CONTROL CONSULTATION PAPER

We refer to the consultation paper entitled “Phoenix Natural Gas Limited (PNG) price control draft proposals 2012-13” published by the Utility Regulator (UR) in August 2011.

NIE notes with serious concern the UR’s proposal to retrospectively adjust PNG’s Total Regulatory Value (TRV) which was agreed in 2006. Our concerns arise because the integrity of a company’s regulatory asset value (whether it relates to gas, water or electricity) is critical to the integrity of the entire regulatory regime. Arbitrary adjustments conflict with good regulatory practice which promotes consistency, predictability and transparency in regulatory decision making. Such adjustments are contrary to the interests of customers because they increase the perceptions of regulatory risk held by the providers of capital, thereby increasing the cost of financing regulated investments.

In the case of PNG’s equity investors, we would expect that any expropriation of part of their investment and the uncertainty that would be created by the prospect that their remaining investment could be subject to further regulatory action into the future, would make them extremely wary of investing in Northern Ireland. Furthermore, we believe the proposal would also increase PNG’s cost of raising debt finance; indeed, Fitch have already highlighted their concerns in a “ratings watch negative” statement for PNG’s debt published on 12 October 2011.

With our recent experience in raising bond finance, we cannot emphasise too strongly that maintaining the link to GB precedent in respect of the regulatory model is crucially important to support investor confidence. This is especially critical at a



time of extreme economic uncertainty and when investors are not short of uses for their funds, since government targets are driving large increases in utility infrastructure investment in the UK and globally. It is in this environment that regulated companies in Northern Ireland need to be able to compete successfully for both equity and debt funds. Their ability to do so would be put at risk if the UR's proposal for PNG was implemented.

Yours sincerely



ASHLEY BOGGS
Head of Regulatory Affairs

L 111021 PNGL Draft Proposals

