



**Decision Paper on the designation of a relevant point
on the South North pipeline under Gas Regulation
(EC) No 715/2009**

6 April 2012

1. Introduction

- 1.1. This paper follows the *Consultation on Regulation (EC) 1775/2005 infringement action*, (“the consultation paper”) published on 8th March 2012. The consultation paper set out the areas of non-compliance and outlined work that was underway between the Utility Regulator and Transmission System Operators (TSOs) to satisfy the infringement action.
- 1.2. One particular area of non-compliance was the requirement to designate a relevant point on the South North (SN) pipeline. The consultation paper proposed that Gormanston is designated as the location of the relevant point. An alternative option was also discussed where the border between the two jurisdictions could be designated as a relevant point on the SN pipeline.
- 1.3. This paper provides a decision on the requirement to designate a relevant point on the SN pipeline. The other areas of non-compliance discussed in the consultation paper will be progressed in future consultations. An updated timetable for industry consultation relating to the work necessary to meet the infringement is set out below.

2. Background

- 2.1. The European Commission referred the UK and Ireland to the European Court of Justice on 26 January 2012 for a failure to fulfill certain obligations under Regulation (EC) 715/2009, which replaced Regulation (EC) 1775/2005 on 3 March 2011. Earlier in June 2010 the Commission issued a reasoned opinion to the UK for non-implementation of certain aspects of Regulation (EC) 1775/2005. These requirements were to be fulfilled as part of the CAG project by 1 October 2012 but this deadline will not now be met.¹
- 2.2. The two Departments have jointly requested that the Utility Regulator and the Commission for Energy Regulation (CER) in Ireland urgently focus their resources, and the resources of the system operators, on ensuring immediate compliance with the Gas Regulation in the EU Second Package in their respective jurisdictions.

¹ See Common Arrangements for Gas (CAG) Industry Update published on 2/2/12 on the Utility Regulator website.

2.3. The Utility Regulator is progressing a work programme with the TSOs to meet the infringement and a timetable for consultation with industry has been published separately.

3. Responses

3.1. We asked for responses on whether the relevant point to be designated on the SN pipeline should be Gormanston or at the border between the two jurisdictions.

3.2. We received 6 responses from:

- Power NI Energy - Power Procurement Business
- MEL
- Endessa Ireland
- Phoenix Natural Gas Ltd.
- Gaslink/BGE(UK)/Bord Gais Networks
- AES Ballylumford Power Ltd and AES Kilroot Power Ltd

3.3. The CER is conducting an equivalent consultation paper for Ireland which also issued on 8 March. Both regulators have exchanged all responses they have received.

3.4. The responses are published in full alongside this document therefore only a brief summary is provided below.

3.5. MEL and PB Power were clearly in favour of designating Gormanston as the relevant point. MEL stated that Gormanston is the point which fulfils the criteria of the legislation. Furthermore they stated that Regulation (EC) 715/2009 is clear about the definition of a 'relevant point' which avoids the need for interpretation of its underlying objectives. Consequently, MEL stated that ignoring the criteria for a relevant point as included in the Regulation would constitute a non-complaint solution and would increase the risk of further infringement by the EU. In summary MEL saw no reason why Gormanston should not be considered the relevant point. PPB stated that it would appear rational for the relevant point on the SNP to be at Gormanston since this is interface between the networks and TSO control. They also noted that there is no infrastructure at the border and the precedent established by the designation of Moffat as the relevant point.

- 3.6. Endessa favoured the border from the point of view of pragmatism, avoiding regulatory duplication and considering that CAG will be implemented in the coming years. They also stated that the border would allow shippers in Ireland to deliver gas to customers within Ireland using only the Gaslink code of operations and that the installation of metering equipment could be addressed if required in the future.
- 3.7. Phoenix Natural Gas Ltd. (PNG) stated that given the limited time that industry has been given to consider the issue that the RAs had failed to provide sufficient information to allow respondents to make a proper response. Phoenix believe that either solution would bring about EU compliance but did not address the legal definition of a 'relevant point.' Overall their response concluded that NI would not necessarily experience the same benefits as Irish shippers from designating the jurisdictional border as the relevant point.
- 3.8. Gaslink/BGE(UK)/Bord Gais Networks submitted a joint response to the UR and to CER. It stated that any solution adopted should be workable and transparent for shippers and should be fully compliant with the requirement for EU legislation and should not introduce the risk of further infringement in either jurisdiction. It also stated that the location of the relevant point could be accommodated at either Gormanston or the border. Consequently, BGE's response did not advocate one location over another but instead set out the pros and cons of each option.
- 3.9. AES stated that to comment fully they would like to see and understand the full cost benefit analysis for both proposed locations and the full implications of such to SNIP and SNP Shippers. Consequently, they did not express a view as to whether the point should be Gormanston or the border.

4. Decision

- 4.1. Our decision is to designate Gormanston as the relevant point.
- 4.2. As the designation of a relevant point on the SN pipeline affects both jurisdictions, we have also engaged with the CER in our decision process.
- 4.3. In arriving at this decision we have considered the responses received to the consultation and also the definition of the relevant point set out in Regulation

715/2009. It is clear that Gormanston is the point at which the networks of the two TSOs connect and consequently, where two balancing zones connect. The Utility Regulator's decision to designate Gormanston as the relevant point on the SN pipeline is consistent with the requirements of the regulation. This decision is also consistent with the precedent established in Scotland for the designation of relevant points at Moffat and Twynholm.

4.4. We will continue to engage directly with CER to ensure resolution of the EU infringements by both jurisdictions and in the event of connections to the South-North pipeline from within the Irish jurisdiction.

5. Timetable and industry engagement

5.1. There is an imperative to meet the infringement as soon as possible in order to avoid potential fines. Consequently, all concerned are working to implement the outstanding areas of the infringement by 1 July 2012.

5.2. All the respondents expressed concern at the short timescales for consultation. We acknowledge the tight timescales for consultation on all aspects of the infringement work. However, given the urgency to achieve compliance longer consultation periods are not possible.

5.3. An updated timetable for industry consultation relating to other work necessary to meet the infringement is set out below.

5.4. We will continue to use the Northern Ireland EU code group as a forum for discussion as proposals are developed.

5.5. We would also refer you to a number of other papers related to the infringement work also published today (6 April):

- Decision paper on NI Daily Capacity Products: High Level Business Rules
- Consultation on the high level business rules for the Introduction of South North Entry Point to BGE(NI) Network: Physical Forward Flow
- Consultation on the high level business rules for the Northern Ireland virtual reverse flow product

5.6. The consultation papers will all be presented for discussion to the industry at the next EU code forum on 24th April.

Table 1: Timetable for industry engagement on the infringement work

Timetable for Consultation		
UR industry consultation on work to meet the infringement	UR	Complete
Consultation on the business rules for: <ul style="list-style-type: none"> • short term products • VRF and SNP entry point 	UR	Complete Consultation open and ends 30 April
Tariff and licence mods for consultation	UR	30 April (ends 28 May)
Consultation on code drafting <ul style="list-style-type: none"> - Short term - VRF and entry point 	TSOs	30 April (ends 21 May) 18 May (ends 1 June)
Decisions published		
Decisions on business rules <ul style="list-style-type: none"> - Short term - VRF and entry point 	UR	Complete 3 May 2012
Decisions on tariff and licence mods	UR	1 June 2012
Decisions code drafting <ul style="list-style-type: none"> - Short term - VRF and entry point 	UR	28 May 2012 7 June 2012
Go-live		1 July 12 (short term capacity booking window to open later that month)