

**THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION**  
**NOTICE UNDER ARTICLE 14(3) OF THE GAS (NORTHERN IRELAND) ORDER 1996 (AS AMENDED)**

**MODIFICATIONS PROPOSED TO PREMIER TRANSMISSION LTD'S CONVEYANCE LICENCE**

The Northern Ireland Authority for Utility Regulation (hereinafter referred to as the “**Authority**”) hereby gives notice under Article 14(3) of the Gas (Northern Ireland) Order 1996, (as amended) (the “**Order**”) as follows:

1. The Authority proposes to make modifications to the conveyance licence (the “**Licence**”) held by Premier Transmission Ltd. (the “**Licensee**”) under Article 8(1)(a) of the Order.
2. The proposed modifications are to reflect changes to Part 2A standard conditions of the Conveyance licence in order to accommodate the introduction of the daily capacity and reverse flow products. Modifications are also being proposed to the conveyance licences of the other transmission system operators (see notices published today).
3. Modifications are also proposed to condition 3.1 of the licence to ensure that revenue from daily capacity and reverse flow products is dealt with appropriately.
4. The modifications proposed are shown in redline or in strikethrough in the proposed revised version of Part 2A and Condition 3.1 as set out in Schedule 1 to this notice.
5. The reason for the proposed modifications is to address the issues set out in the European Commission’s Reasoned Opinion (Infringement 2009/2181) and dated 24 June 2010. The Modifications are part of a package of measures necessary to ensure compliance with the issues set out in the reasoned opinion. Further information on the tariffs for the new products are set out in the consultation published on the Utility Regulator website on 18 May 2012 under the title: “Consultation on Tariff Arrangements for Short Term Daily Capacity and Virtual Reverse Flow products in Northern Ireland”
6. Representations or objections with respect to the proposed modifications may be made on or before 18 June 2012 to:

Roisin McLaughlin  
Utility Regulator  
Queens House  
14 Queen Street  
Belfast  
BT1 6ED  
or by email to: [roisin.mclaughlin@uregni.gov.uk](mailto:roisin.mclaughlin@uregni.gov.uk)

and, where not withdrawn and made on or before the date stated above, will be considered by the Authority.

7. The Authority intends and prefers to publish all comments received to its consultations, but will consider facilitating those respondents who wish certain sections of their submission to remain confidential. Accordingly, respondents that so wish should submit these sections in an appendix that is clearly marked "Confidential", and explain why they believe such content should be so categorised.
  
8. The Authority has, pursuant to Article 14(4)(b) of the Order served a copy of this notice on the Licensee and sent a copy to the Department of Enterprise, Trade and Investment.

**Dated this 18 May 2012**

A handwritten signature in black ink that reads "Shane Lynch". The signature is written in a cursive style with a large initial 'S' and 'L'.

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

cc. Fiona Hepper, DETI

Paddy Larkin, Premier Transmission Ltd

## **SCHEDULE 1 – THE PROPOSED MODIFICATIONS**

### **Condition 2A.1 – Interpretation and Construction**

#### **2A.1.1 Definitions**

In Part 2A of this Licence, except where expressly stated to the contrary and unless the context otherwise requires, the following terms shall have the meanings ascribed to them below:

- “Actual Figures” means the Annual Exit Quantity and the Actual Firm Capacity figures to be provided by the Licensee to the Authority under Condition 2A.2.3.2(a);
- “Actual Firm Capacity” means the aggregate of GS Firm Capacity which has been held by Gas Suppliers in respect of a Gas Year and in respect of Exit Points on the Designated Network;
- “Actual Required Revenue” as the context requires, shall have the meaning ascribed to that term in the Special Conditions of this Licence or the meaning ascribed to it in the relevant licence of each Designated Pipe-line Operator;
- “Annual Exit Quantity” means the aggregate of all Gas Suppliers’ Exit Quantities in respect of a relevant Gas Year and in respect of Exit Points on the Designated Network;
- “Auxiliary Payment” means any sum (whether or not contingent) in addition to aggregate Monthly Postalised Payments which a PS Gas Supplier is committed to pay on an annual basis in respect of Minimum Quantity Value;
- “Business Day” means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business in Belfast;
- “Capacity Percentage” shall have the meaning ascribed to that term in Condition 2A.2.5.2(a);
- “Capacity Reconciliation” means a charge or a payment, as the context requires, made by the

Payment” Licensee to each of its Gas Suppliers in respect of the difference between the Forecast Postalised Capacity Charge and the Year-End Postalised Capacity Charge applied to a Gas Year;

“Commodity Percentage” shall have the meaning ascribed to that term in Condition 2A.2.5.1(a);

“Commodity Reconciliation Payment” means a charge or a payment as the context requires, made by the Licensee to each of its Gas Suppliers in respect of the difference between the Forecast Postalised Commodity Charge and the Year-End Postalised Commodity Charge applied to a Gas Year;

“Credit Committee” means the committee which is convened and operates in accordance with the Terms of Reference;

“Daily capacity”

means capacity (in kWh / day) which has been allocated for a duration of one Day on a firm basis in accordance with the provisions of the Network Code and / or the Network Code of any other Designated Pipe-line Operator (and, for the avoidance of doubt, shall not include any capacity which is allocated for a duration of other than one Day).

“Debt Entitlement” shall have the meaning ascribed to that term in Condition 2A.6.1.2(b);

“Debt Notice” means a notice issued by the PSA as contemplated by Condition 2A.4.3.1(f);

“Debt Notice Date” means the date on which the PSA shall issue the Debt Notice each month as contemplated by Condition 2A.4.3.1(f), being the eighth Business Day in the relevant month;

“Debt Payment” means a charge payable by a PS Gas Supplier in respect of PS Notified Debt as contemplated by Condition 2A.3.4 and as detailed in the applicable Debt Notice;

“Debt Repayment”	means a repayment payable to a PS Gas Supplier in respect of a Recovery as contemplated by Condition 2A.3.4.3(ii) and as detailed in the applicable Debt Notice;
“Designated Network”	means such part(s) of the Licensee’s network as is or are designated from time to time pursuant to the Designation Order;
“Designated Pipe-line Operator”	means a person licensed to convey gas under Article 8(1)(a) of the Order through the Postalised System, including the Licensee;
“Designated Pipe-line Operators Agreement”	shall have the meaning ascribed to that term in Condition 2A.6.2.1;
“Designation Date”	means the date specified in a Designation Order on which any part of the Licensee’s network shall be designated as postalised;
“Designation Order”	means an order made pursuant to Article 59 of the Energy (Northern Ireland) Order 2003 designating gas pipe-lines comprised within the Licensee’s network as being subject to a common tariff;
“Directions”	shall have the meaning ascribed to that term in Condition 2A.3.2;
“Distribution Business”	means, where applicable, a Separate Business of the Licensee which carries on the business of conveyance of gas through distribution pipe-lines and which, with the Authority’s consent, may hold Firm Capacity;
“Due Date”	means the date on which payment of an invoice in respect of any PS Transmission Payment falls due, being the tenth Business Day in the month next after the month in which the relevant invoice was issued and shall be stipulated in the Network Code;
“Exit”, “Exiting”	or forms thereof, refers to the offtaking of gas at an Exit Point;
“Exit Point”	means a point on the Designated Network at which gas is offtaken from the Designated Network by a Gas Supplier, which is not a Transit Point and which constitutes an Exit Point under the Network Code;

“Exit Quantity”	means the total quantity of gas, (measured in kWh) allocated to the Licensee’s relevant Gas Supplier in respect of an Exit Point within a certain period, or any applicable Minimum Quantity Value in respect of such period, if higher;
“Firm Capacity”	means, at any relevant time in respect of a Gas Supplier, capacity (in kWh/day) held at such time by such Gas Supplier on a firm basis in respect of an Exit Point in accordance with the provisions of the Network Code and in respect of a Gas Year (or any part thereof); except that if any Minimum Capacity Value in respect of such period and such Gas Supplier is greater than such held capacity then the Firm Capacity deemed to be held by such Gas Supplier shall be that Minimum Capacity Value <u>but shall not include Daily Capacity which is held in accordance with the Network Code</u> ;
“Forecast Annual Quantity”	shall have the meaning ascribed to that term in Condition 2A.2.3.1(a)(i);
“Forecast Figures”	shall mean such figures as are notified to the Authority under Condition 2A.2.3.1(a) as amended by any notice given by the Authority under Condition 2A.2.3.1(e), or such figures as are determined by the Authority under Condition 2A.2.3.1(g), as appropriate;
“Forecast Postalisation Formulae”	means the formulae set out in Condition 2A.2.5;
“Forecast Postalised Capacity Charge”	means a charge in respect of each kWh/day of Initial Firm Capacity held by the Licensee’s Gas Suppliers in respect of an Exit Point in a Gas Year which shall be calculated in accordance with Condition 2A.2.5.2;
“Forecast Postalised Charges”	means a Forecast Postalised Commodity Charge and a Forecast Postalised Capacity Charge;
“Forecast Postalised Commodity Charge”	means a charge in respect of each kWh of gas allocated to the Licensee’s Gas Suppliers for Exit from the Designated Network in a Gas Year which shall be calculated in accordance with Condition

2A.2.5.1;

- “Forecast Required Revenue” as the context requires, shall have the meaning ascribed to that term in the Special Conditions of this Licence;
- “Forecast Supplier Quantity” means the quantity of gas which a Gas Supplier forecasts it will Exit from the Designated Network in a given period, provided that, if in relation to a Gas Supplier such quantity is less than any applicable Minimum Quantity Value, the Forecast Supplier Quantity in relation to such Gas Supplier shall be such Minimum Quantity Value;
- “Gas Supplier” means any person authorised by licence under Article 8 of the Order or by exemption under Article 7 of the Order to supply gas, (including the Licensee as so authorised or exempted) and who is entitled to Exit gas from the Designated Network or any person who is not so authorised, but with the Authority’s consent either: (i) holds Firm Capacity; or (ii) is entitled to Exit gas from the Designated Network as if it were a Gas Supplier, but shall not include the Licensee if and to the extent that it is providing balancing gas in respect of any part of the Postalised System;
- “Gas Year” means the period of time beginning at 06:00 hours on 01 October in any calendar year and ending at 06:00 hours on 01 October in the next succeeding calendar year;
- “GS Annual Exit Quantity” shall have the meaning ascribed to that term in Condition 2A.2.6.3(b);
- “GS Firm Capacity” means the Firm Capacity held by a Gas Supplier in respect of all Exit Points on the Designated Network in a Gas Year multiplied in each case by the aggregate number of months in respect of which such Firm Capacity is held in such Gas Year and divided by 12
- “Initial Firm Capacity” means the total of all Firm Capacity held by the Licensee’s Gas Suppliers in respect of a Gas Year as at the last Business Day of June preceding such Gas Year except the Gas Year commencing 01 October 2004 where Initial Firm Capacity shall mean the total of all

Firm Capacity (in kWh/day) in respect of a Gas Year, such figure to be determined by the Authority no later than 30 September 2004;

- “Invoice Date” means the tenth Business Day in a month;
- “kWh” means 3,600,000 joules as defined in ISO 1000-1981(E);
- “LIBOR” means the sterling London Interbank Offered Rate as published in the Financial Times from time to time;
- “MDQ” means the maximum quantity of gas which may be offtaken from an Exit Point by a Gas Supplier in any day in respect of the Firm Capacity held by that Gas Supplier under the Network Code;
- “Minimum Capacity Value” means any minimum quantum of capacity (in kWh/day) in respect of which a PS Gas Supplier is obliged under contract to the Licensee or to any other Designated Pipe-line Operator to pay transmission charges in respect of a Gas Year;
- “Minimum Quantity Value” means any minimum quantity of gas (in kWh) in respect of which a PS Gas Supplier is obliged under contract to the Licensee or to any other Designated Pipe-line Operator to pay transmission charges in respect of a Gas Year or part thereof;
- “Monthly Debt Payment Entitlement” means the entitlement of a Designated Pipe-line Operator in respect of the Net Debt Position in a month, calculated in accordance with Condition 2A.6.1.2(b);
- “Monthly Distribution” has the meaning ascribed in Condition 2A.6.1.4,
- “Monthly Entitlements” means Monthly Postalised Entitlements and Monthly Debt Payment Entitlements;
- “Monthly Postalised Capacity Payment” means an amount to be invoiced monthly by the Licensee to each of its Gas Suppliers in accordance with Condition 2A.2.5.2(b);
- “Monthly Postalised Commodity Payment” means an amount to be invoiced monthly by the Licensee to each of its Gas Suppliers in accordance with Condition 2A.2.5.1(b);

“Monthly Postalised Entitlement”	means the entitlement of a Designated Pipe-line Operator in respect of Monthly Postalised Payments and any Auxillary Payment payable into the PoT Account in a month, calculated in accordance with Condition 2A.6.1.2(a)(i);
“Monthly Postalised Payments”	means Monthly Postalised Commodity Payments and Monthly Postalised Capacity Payments;
“Net Debt Position”	means a balance calculated in respect of a month with reference to PS Notified Debt and Recoveries in accordance with Condition 2A.3.4.3 and in respect of which a Debt Payment or Debt Repayment may be made;
“Non Payment Month”	means a month in which a relevant PS Non-Payment occurred;
“Postalised Charges”	means the Forecast Postalised Charges and/or the Year-End Postalised Charges as the case may be;
“Postalised System” or “PS”	means the system comprising all gas pipe-lines designated as being subject to a common tariff pursuant to all orders made pursuant to Article 59 of the Energy (Northern Ireland) Order 2003 in force at such time;
“PoT Account”	shall have the meaning ascribed to that term in Condition 2A.5.3.1(a);
“Primary DPO”	means the Designated Pipe-line Operator holding a licence to convey gas in respect of a part of the Postalised System on which the PS Gas Supplier is entitled to exit gas;
“PSA”	shall have the meaning ascribed to that term in Condition 2A.4.1.1;
“PS Actual Required Revenue (PSARR)”	means, in respect of a Gas Year, the sum of all Actual Required Revenues in respect of such Gas Year;
“PSA Agreement”	shall have the meaning ascribed to that term in Condition 2A.4.1.1;
“PSA Functions”	shall have the meaning ascribed to that term in Condition 2A.4.3.1;
“PS Actual Firm Capacity”	shall have the meaning ascribed to that term in Condition 2A.2.6.2;

“PS Annual Exit Quantity”	shall have the meaning ascribed to that term in Condition 2A.2.6.1;
“PS Forecast Annual Quantity”	shall have the meaning ascribed to that term in Condition 2A.2.5.1;
“PS Forecast Required Revenue (PSFRR)”	means in respect of a Gas Year the sum of all Forecast Required Revenues as such term is defined in each Respective Licence in respect of all Designated Pipe-line Operators in respect of such Gas Year;
“PS Gas Supplier”	means any person who is entitled to exit gas from the Postalised System;
“PS Initial Firm Capacity”	shall have the meaning ascribed to that term in Condition 2A.2.5.2;
“PS Non-Payment”	means: <ul style="list-style-type: none"> <li>(i) the failure of a PS Gas Supplier to pay into the PoT Account all or part of the PS Transmission Payments due from it by the Due Date, or the clawback by an administrator or liquidator of the amount of any payment (or part of such payment) made into the PoT Account by a PS Gas Supplier in respect of a PS Transmission Payment; or</li> <li>(ii) the amount of PS Transmission Payments which the relevant PS Gas Supplier has failed to pay or the amount which is subject to clawback by an administrator or liquidator</li> </ul> as the context requires but shall not apply to any sums due under the Network Code upon termination of a PS Gas Supplier’s Accession Agreement in respect of periods after the date of termination;
“PS Notified Debt”	means, at any time, the aggregate of PS Non-Payments, excluding any VAT element, which are at that time or were prior to that time the subject of a notification by a Designated Pipe-line Operator to the PSA as contemplated in Condition 2A.3.4.1 of such Designated Pipe-line Operator’s licence;

“PS Transmission Payments”	means any amount payable by a PS Gas Supplier in respect of the provision of gas conveyance services on the Postalised System under Conditions 2A.2.2.1 (Monthly Postalised Payments); 2A.2.2.2 (Debt Payments); and 2A.2.2.3 (Reconciliation Payments); 2A.2.5.1(c) (Auxiliary Payments) and 2A.2.6.4 (Supplemental Payments) under each Designated Pipe-Line Operator’s Respective Licence;
“Quantity Figures”	shall have the meaning ascribed to that term in Condition 2A.2.3.1(b);
“Quarter”	means each successive three calendar month period in a Gas Year, the first of which shall run from and including 06:00 hours 01 October until 06:00 hours 01 January in that Gas Year; and “Quarterly” shall be construed accordingly;
“Quarterly Exit Quantity”	means the aggregate of Exit Quantities in a Quarter;
“Reconciliation Payment”	means the Capacity Reconciliation Payment and the Commodity Reconciliation Payment;
“Reconciliation Payment Formulae”	means the formulae contained in Condition 2A.2.6.3 in accordance with which Reconciliation Payments shall be calculated;
“Recovery”	means any amount (other than a Debt Payment) paid by or on behalf of a PS Gas Supplier either directly into the PoT Account or to a Designated Pipe-line Operator and subsequently paid by that Designated Pipe-line Operator into the PoT account, in full or partial satisfaction of any PS Notified Debt attributable to that PS Gas Supplier;
“Relevant Charge Date”	shall have the meaning ascribed to that term in Condition 2A.2.5.4;
“Respective Licence”	means in respect of each of the Designated Pipe-line Operators the licence for the conveyance of gas granted to it pursuant to Article 8(1) of the Order or that part of a combined licence relating to the conveyance of gas;

“Second Due Date”	means, in respect of a PS Non-Payment which occurred in a Non-Payment Month, the fifteenth Business Day after the respective Due Date as stipulated in the Network Code;
“Separate Business”	<p>means each of the following businesses of the Licensee (as appropriate):</p> <ul style="list-style-type: none"> <li>(i) the conveyance of gas through a transmission pipe-line pursuant to a licence granted in accordance with Article 8(1)(a) of the Order;</li> <li>(ii) the distribution of gas through distribution pipe-lines pursuant to a licence granted in accordance with Article 8(1)(a) of the Order; and</li> <li>(iii) the supply of gas pursuant to a licence granted in accordance with Article 8(1)(c) of the Order</li> </ul> <p>each taken separately from one another and from any other business of the Licensee or any affiliate or related undertaking of the Licensee;</p>
“Supplemental Payment”	means any sum (whether or not contingent) in addition to aggregate Monthly Postalised Payments which a PS Gas Supplier is committed to pay on an annual basis in respect of transmission through the Postalised System and which is calculated otherwise than on the basis of a minimum quantity of gas or minimum quantum of capacity;
“Supply Business”	means, where applicable, the Separate Business of the Licensee which carries on the business of the supply of gas;
“Termination Payments”	means any amount payable on the termination of a Gas Supplier’s Accession Agreement under the terms of the Network Code;
“Terms of Reference”	means the terms of that name appended to the Network Code which govern the operation of the Credit Committee;
“Total Monthly Payments”	shall have the meaning ascribed to that term in Condition 2A.3.4.3;

“Transit”, “Transiting”	or forms thereof, refers to the conveyance of gas through the Designated Network to another part of the Postalised System;
“Transit Point”	means a point of interconnection between the Designated Network and another pipe-line forming part of the Postalised System;
“Trust and Account Bank Agreement”	means the agreement in the form approved by the Authority and made between the Designated Pipe-line Operators, the Trustee and account bank which governs the operation of the PoT Account;
“Trustee”	shall have the meaning ascribed to that term in Condition 2A.5.1.1;
“Trustee Functions”	shall have the meaning ascribed to that term in Condition 2A.5.3.1;
“Undesignated Network”	means such part(s) of the network as is or are not from time to time comprised in the Designated Network;
“Unrecovered Postalisation Payments”	shall have the meaning ascribed to that term in Condition 2A.4.3.1(l);
“VAT Distributions”	means distributions made by the Trustee on the instructions of the PSA from the PoT Account as calculated in accordance with condition 2A.4.3.1 (d);
“Year-End Amount”	shall have the meaning ascribed to that term in Condition 2A.6.1.3;
“Year-End Postalisation Formulae”	means the formulae set out in Condition 2A.2.6;
“Year-End Postalised Capacity Charge”	means a charge applicable to each kWh/day of Firm Capacity held by each Gas Supplier for Exit from any part of the Designated Network in respect of a Gas Year in accordance with Condition 2A.2.6.2;
“Year-End Postalised Charge”	means the Year-End Postalised Capacity Charge and the Year-End Postalised Commodity Charge; and
“Year-End Postalised Commodity Charge”	means a charge applicable to each kWh of gas allocated to each Gas Supplier in respect of an Exit Point during a Gas Year in accordance with Condition 2A.2.6.1.



### **2A.1.2 Interpretation**

In Part 2A all capitalised terms shall have the meaning ascribed to them in such part, notwithstanding any other definition of any such term elsewhere in the Licence. Capitalised terms within Part 2A which are not defined within such part shall have the meaning ascribed to them elsewhere in the Licence.

### **2A.1.3 Provision of Information**

Nothing in Part 2A shall require the Licensee to produce any information or provide any document to any other party which the Licensee could not be compelled to produce or provide in any civil proceedings.

### **2A.1.4 Units of Measurement**

For the avoidance of doubt:

- (a) the Licensee shall be entitled to invoice for any Postalised Charges in the unit of Mwh or Mwh/day, subject to the Authority's consent; and
- (b) where any measurement is to be expressed in Kwh or Kwh/day the Licensee may satisfy such obligations by using the Kwh or Kwh/day equivalent of a measurement expressed in Mwh or Mwh/day as the case may be;

## **Condition 2A.2 – Postalisation Charges**

### **2A.2.1 Charges on the Designated Network**

2A.2.1.1 In respect of the Gas Year commencing on or after the Designation Date and each Gas Year or part of a Gas Year thereafter for so long as and to the extent that a Designation Order is and remains in force in respect of all or part of the network, the Licensee shall be subject to the provisions of this Part 2A.

2A.2.1.2 The Licensee shall require all of its Gas Suppliers to make all payments in settlement of PS Transmission Payments, Termination Payments and all Recoveries into the PoT Account. For the avoidance of doubt, PS Transmission Payments shall include any relevant Termination Payments payable in respect of PS Transmission Payments relating to the Gas Year in which termination occurs.

2A.2.1.3 The Licensee shall pay all sums which it receives directly from, or on behalf of, any of its Gas Suppliers in respect of PS Transmission Payments and Recoveries into the PoT Account.

2A.2.1.4 Where the Licensee has a Distribution Business and/or a Supply Business it shall for the purposes of this Condition 2A deal with such Distribution Business and/or Supply Business as if each such Separate Business were a third party Gas Supplier, including but not limited to providing or procuring forecasts relating to each such Separate Business, issuing invoices to each such Separate Business relating to PS Transmission Payments and maintaining appropriate records of all dealings with each such Separate Business.

2A.2.1.5 As used in this Condition and in Conditions 2A.1.6 to 2A.1.16:

- (a) "Day", MDQ, and "PS Code Charges" have the respective meanings given in the Network Code and / or (as the context requires) in the Network Codes of the other Designated Pipe-line Operators;
- (b) "Gas Year 2011 / 12" means the Gas Year which commenced on 1 October 2011;

- (c) "Gas Year 2012 / 13" means the Gas Year commencing on 1 October 2012;
- (d) "Gas Year 2013 / 14" means the Gas Year commencing on 1 October 2013; and
- (e) The "**Threshold Amount**" shall be deemed to have been exceeded if the aggregate of the MDQs represented by Daily Capacity allocated at the Exit Points on the Designated Network in respect of any consecutive period of 12 months exceeds 5 per cent of the aggregate of the MDQs represented by Firm Capacity (as defined in Condition 2A.1.1) allocated at such Exit Points in respect of the same period.

2A.2.1.6 The Licensee shall offer:

- (a) firm and interruptible third party access services down to a period of one day; and
- (b) an interruptible virtual reverse flow service,

(the services referred to in (a) and (b) above being respectively the "**Short Term Capacity Service**" (or the "**STC Service**") and the "**Virtual Reverse Flow Service**" (or the "**VRF Service**") and together the "**STC / VRF Services**") and, in order to facilitate the provision of the STC/VRF Services, this Licence has been modified by the incorporation of the Conditions numbered 2A.2.1.5 to 2A.2.1.16 (such Conditions being together the "**Short Term Capacity / Virtual Reverse Flow Conditions**" (or the "**STC / VRF Conditions**") and the remaining Conditions of this Part 2A being the "**Postalisation Conditions**").

Modifications having equivalent effect have been made to the Respective Licences of each other Designated Pipe-line Operator.

2A.2.1.7 In applying or giving effect to the Conditions in this Part 2A

- (a) it shall be conclusively presumed that the amounts payable to the Licensee in respect of the charges described in Condition 2A.2.1.9 (and the amounts payable in respect of the like charges described in the corresponding Condition of the Respective Licences of the other Designated Pipe-line Operators) do not constitute PS Transmission Payments and are not to be paid into the PoT Account;
- (b) it shall be conclusively presumed that Daily Capacity allocated pursuant to the Network Code (and / or, as the context requires, the Network Code of any other Designated Pipe-line Operator) does not constitute (and shall not be taken into account in any calculation of) Actual Firm Capacity, Firm Capacity, GS Firm Capacity, Initial Firm Capacity or PS Initial Firm Capacity; and
- (c) any gas which is allocated to a Gas Supplier at any Exit Point on the Designated Network pursuant to any use of the VRF Service shall be disregarded in any calculation of Exit Quantity, Annual Exit Quantity, Forecast Supplier Quantity, Forecast Annual Quantity, GS Annual Exit Quantity, Gas Suppliers' Exit Quantities, PS Forecast Annual Quantity or PS Annual Exit Quantity either as defined in this Licence or the Respective Licence of any other Designated Pipe-line Operator which falls to be made pursuant to the Postalisation Conditions.

2A.2.1.8 The following provisions shall also apply:

- (a) subject to (c) below, each Gas Supplier shall, in respect of each kWh of gas which is allocated to that Gas Supplier at any Exit Point on the Designated Network, be liable to pay the same commodity based charge as each other Gas Supplier for whom gas is exited anywhere on the Designated Network, irrespective of whether the Gas Supplier's entitlement to the allocation of gas arises from the utilisation of Firm Capacity (as defined in Condition 2A.1.1) or from the utilisation of Daily Capacity or Available Interruptible Capacity allocated pursuant to the Network Code;
- (b) such commodity based charge shall constitute PS Transmission Payments for all the purposes of this Licence and the respective licences of the other

Designated Pipeline Operators, without in any way limiting the foregoing, (i) the Licensee shall require all of its Gas Suppliers to make all payments in respect of such charge into the PoT Account and (ii) the Licensee shall pay all sums which it receives directly from, or on behalf of, any of its Gas Suppliers in respect of such charges into the PoT Account; and

- (c) no commodity based charge (or, other than as referred to in Conditions 2A.2.1.9(b) or 2A.2.1.11, any other charge) shall be payable by a Gas Supplier in respect of any gas which is allocated to that Gas Supplier at any Exit Point where the allocation is made pursuant to a utilisation of the VRF Service.

2A.2.1.9 The Licensee shall charge each of its Gas Suppliers to whom it provides the STC / VRF Services the following amounts, namely:

- (a) in respect of each kWh / day of Daily Capacity which is allocated in respect of a given Day, an amount equal to the capacity charge per kWh applicable for that Day, as determined pursuant to the charging methodology statement approved by the Authority pursuant to Condition 2A.2.1.10 for the Gas Year in which that Day falls; and
- (b) in respect of each provision of the VRF Service, the charge for such provision which is applicable at the relevant time, as determined pursuant to the charging methodology statement approved by the Authority from time to time.

2A.2.1.10 Not later than the date on which this Licence is modified by the incorporation of this Condition, the Licensee shall publish a charging methodology statement approved by the Authority (and in a manner so approved) showing the charges referred to in Condition 2A.2.1.9(a) and (b) in respect of (i) the Day which commences on 1 July 2012 and each subsequent Day in the Gas Year 2011 / 12 and (ii) each Day in the Gas Year 2012 / 13. The Licensee shall, not later than 1 July in the Gas Year 2012 / 2013 and in each subsequent Gas Year, publish a charging methodology statement approved by the Authority (and in a manner so approved) showing the charges referred to in Condition 2A.2.1.9(a) and (b) in respect of each Day in the forthcoming Gas Year.

- 2A.2.1.11 Nothing in this Licence shall prejudice the right of the Licensee to impose on and recover from any Gas Supplier to whom it provides the STC / VRF Services any PS Code Charges which are payable by that Gas Supplier in respect of the STC / VRF Services pursuant to the Network Code.
- 2A.2.1.12 Notwithstanding any Condition of this Licence which may otherwise prohibit it from doing so, the Licensee shall apply charges in respect of the STC / VRF Services in accordance with the STC / VRF Conditions and the relevant provisions of the Network Code and (if and to the extent such would otherwise would be the case) the application of such charges shall not constitute a contravention of any of the Conditions of this Licence. The Conditions of this Licence (other than the STC / VRF Conditions) shall accordingly be read and given effect to accordingly.
- 2A.2.1.13 For the avoidance of doubt, the charges described in Condition 2A.2.1.9 shall not be subject to reconciliation or other adjustment on any ground following the end of a Gas Year (including the ground that forecast costs or other amounts differ from the corresponding outturn costs or other amounts).
- 2A.2.1.14 If the Threshold Amount is exceeded (or is forecast by the Licensee to be exceeded) in respect of any period of 12 months, the Licensee may give notice to the Authority stating that the Licensee wishes to secure the making of modifications to this Licence and the Network Code (and to the Respective Licences and Network Codes of the other Designated Pipe-line Operators) which will have the effect that the amounts payable to the Licensee in respect of such charges are postalised and brought within the regime for postalised charging applicable under the Postalisation Conditions (such modifications being the "**required modifications**").
- 2A.2.1.15 The Authority may at any time (and irrespective of whether or not the circumstance described in Condition 2A.2.1.14 has occurred) give notice to the Licensee stating that the Authority wishes to secure the making of the required modifications.

2A.2.1.16 If the Licensee gives notice pursuant to Condition 2A.2.1.14 or the Authority gives notice pursuant to Condition 2A.2.1.15, the Licensee shall co-operate with the Authority in taking and implementing the steps which are necessary in order to secure the making of the required modifications.

### 3.1.3 The Forecast Required Revenue

- (a) The Forecast Required Revenue of the Licensee in respect of the Gas Year which commenced on 1 October 2004 shall be an amount to be determined by the Authority and notified to the Licensee on or before the date that the Licence comes into full force and effect.
- (b) The Forecast Required Revenue of the Licensee in respect of each subsequent Gas Year<sub>t</sub> (other than any Gas Year which is a Post Finance Gas Year) shall be:
  - (i) the Licensee's forecast of (aa) (bb) and (cc) below, namely:-
    - (aa) the Fixed Amount for such Gas Year<sub>t</sub> (which is represented by the term  $A_t$  in the formula set out in Condition 3.1.4(b)) plus
    - (bb) the amount of the Eligible Pass-Through Costs for such Gas Year<sub>t</sub> (which is represented by the term  $B_t$  in the formula set out in Condition 3.1.4(b)); plus
    - (cc) the Postalisation Adjustment for such Gas Year<sub>t</sub> (which is represented by the term  $C_t$  in the formula set out in Condition 3.1.4(b))

Minus

- (ii) the Licensee's forecast of (dd), (ee), ~~and~~ (ff) and (gg) below, namely:-
  - (dd) the Ratio Account Credit for such Gas Year<sub>t</sub> (which is represented by the term  $D_t$  in the formula set out in Condition 3.1.4(b)); plus

- (ee) the Insurance Recoveries for such Gas Year<sub>t</sub> (which is represented by the term E<sub>t</sub> in the formula set out in Condition 3.1.4(b)); plus
- (ff) the UC Revenues for such Gas Year<sub>t</sub> derived from charges calculated in accordance with Condition 3.1.8 (which is represented by the term F<sub>t</sub> in the formula set out in Condition 3.1.4(b)). Plus
- (gg) the STC / VRF Revenues for such Gas Year (which is represented by the term G<sub>t</sub> in the formula set out in Condition 3.1.4(b))

### 3.1.4 Actual Required Revenue

- (a) The Licensee's Actual Required Revenue (ARR<sub>t</sub>) for any Gas Year shall be the amount determined in accordance with the formula set out in Condition 3.1.4(b) for such Gas Year.
- (b) The formula for the calculation of the Licensee's Actual Required Revenue is as follows, namely:-

$$ARR_t = (A_t + B_t + C_t + Z*(S_t)) - (D_t + E_t + F_t + G_t).$$

### 3.1.5 Definition of Formula Terms

As used in the formula in Condition 3.1.4 and elsewhere in this Condition 3.1:-

- t = denotes a Gas Year;
- t-1 = denotes the Gas Year which immediately precedes the Gas Year for the purposes of which any forecast or calculation is made in accordance with this Condition 3.1 (and the subscript t-2 shall be construed accordingly);
- A<sub>t</sub> = in respect of any Gas Year, the Fixed Amount for such Gas Year;

- $B_t$  = in respect of any Gas Year, the Eligible Pass-Through Costs for such Gas Year;
- $C_t$  = in respect of any Gas Year, the Postalisation Adjustment for such Gas Year;
- $S_t$  = in respect of any Gas Year, the Approved Surplus determined by the Authority in accordance with Condition 3.1.6 and notified by the Authority to the Licensee on or before the eighth Business Day in November following the end of such Gas Year;
- $Z_t$  = in respect of any Gas Year, a factor between 0 to 1, as determined by the Authority for such Gas Year and notified by the Authority to the Licensee on or before the eighth Business Day in November following the end of such Gas Year;
- $D_t$  = in respect of any Gas Year, the Ratio Account Credit for such Gas Year;
- $E_t$  = in respect of any Gas Year, the Insurance Recoveries for such Gas Year;
- $F_t$  = in respect of any Gas Year, the UC Revenues for such Gas Year.
- $G_t$  = in respect of any Gas Year, the STC / VRF Revenues for such Gas Year

### 3.1.7 Authority Direction and Definitions

3.1.7.1 Words and expressions used in Condition 3.1.5 or elsewhere in this Condition 3.1 (including Fixed Amount, Eligible Pass-Through Costs, Ratio Account Credit and Insurance Recoveries and Final Repayment Date) which are not defined in the Licence shall have the meanings given to them in a direction (the "Authority Direction") issued by the Authority to the Licensee for the purposes of this Condition 3.1.7.1.

3.1.7.2 As used in this Licence:-

"**UC Revenues**" means, in respect of any Gas Year, the cash amounts actually received (or in the context requires forecast to be received) by the Licensee from business upstream of the Northern Ireland high water mark in that Gas Year, in respect of the charges calculated in accordance with Condition 3.1.8 after deduction of value added tax (if any) and any other taxes based directly on the amounts so received;

**“Postalisation Adjustment”** means, in respect of any Gas Year<sub>t</sub>, the aggregate (which may be positive or negative) of the amounts set out in (i), (ii) and (iii) below:

- (i) costs and expenses, losses and/or liabilities incurred or to be incurred by the Licensee in Gas Year<sub>t</sub> associated with the PSA and/or the Trustee under the agreements under which they are appointed;
- (ii) amounts due in respect of Commodity Reconciliation Payments in Gas Year<sub>t</sub>, calculated according to the following formula:

$$\text{CPI}_{t-2} \text{ PS ARR}_{t-2} = \frac{\text{UNRPT}_{t-2} \times (1+\text{RE})^{1.5} \times [\text{CPI}_t]}{\text{ARR}_{t-2}}$$

where:

$\text{UNRPT}_{t-2}$  = the Unrecovered Postalisation Payment as calculated by the PSA in respect of Gas Year<sub>t-2</sub>;

$\text{CPI}_t$  = the forecast of the absolute value of the General Index of Consumer Prices – All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) for Gas Year<sub>t</sub>, as published in the preceding year’s May edition of the Bank of England Inflation Report or if such index is no longer published, such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects the General Index of Consumer Prices (1996 = 100);

$\text{CPI}_{t-2}$  = the absolute value of the General Index of Consumer Prices – All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) - for Gas Year<sub>t-2</sub>, or if such index is no longer published, such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects the

General Index of Consumer Prices – All items (1996 =100);

$ARR_{t-2}$  = the Licensee's Actual Required Revenue in respect of Gas Year  $t-2$ ;

$PS\ ARR_{t-2}$  = the sum of the Actual Required Revenues (as defined in the Respective Licence of each Designated Pipe-line Operator) of all Designated Pipe-line Operators in respect of Gas Year  $t-2$ ;

$RE$  = the applicable real interest rate, which is calculated as the one year LIBOR rate, as published on the 10th Business Day of June in Gas Year  $t-1$ , plus 2% minus a CPI factor, calculated as:

$LIBOR\ rate\ \% + 2\% - [(CPI_t / CPI_{t-1}) - 1] \times 100$ );

$CPI_{t-1}$  = the absolute value of the General Index of Consumer Prices – All items (1996 =100) as published by the Office of National Statistics (Series Identifier CHVJ) - for Gas Year  $t-1$ , or if such index is not available the latest CPI figure published in Gas Year  $t-1$  (or if such index is no longer published, such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects the General Index of Consumer Prices – All items (1996 =100));

(iii) such amount as the Authority may, after consultation with the Department, deem appropriate in respect of costs incurred by the Licensee in connection with approved activities in relation to the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland;

**"Bord Gais"** means Bord Gais Eireann or any other person or entity (whether or not possessing independent legal personality) which for the time being or from time to time constructs or procures the construction of and/or operates (or which represents its intentions so to do) the Bord Gais Network;

**"Bord Gais Network"** means the pipeline constructed, owned or controlled by or on behalf of Bord Gais from a point at or near Moffat to a point at or near Twynholm;

**"Licensee Predictable Operating Costs"** means costs and expenses incurred by the Licensee or any affiliate thereof in or associated with the following matters relating to the operation of the Economic Network:

- (a) inspection of the Economic Network, the Economic Network backfill material and the Economic Network route (or any parts thereof) by aerial, subsea or any other method;
- (b) on line inspection of the pipe-line interior;
- (c) measures for protection against corrosion including but not limited to the checking of and confirmation that such measures are functioning correctly;
- (d) routine testing and test operation of all valves fixtures, fittings and instrumentation comprised in the Economic Network;
- (e) routine or recommended pressure testing and certification of the Economic Network as required under legislation, standards or applicable recommendations current at February 1992;
- (f) liaison with landowners; and
- (g) all internal and overhead costs and expenses of the Licensee (whether or not containing a profit element) of or in any way associated with the performance, management, procuring, arranging or supervision of any of the items or matters referred to in paragraphs (a) to (f) of this definition. For the avoidance of doubt, such costs and expenses shall be assessed on a basis consistent with applicable external man-hour rates of charge from time to time of the Licensee,

but shall exclude any such costs or expenses relating to the Bord Gais Network; and

**"Licensee Unpredictable Operating Costs"** means

- (a) all costs and expenses which have been reasonably and properly incurred by the Licensee or any affiliate thereof in operating, repairing or maintaining the Economic Network and any land or substrata on, in, under or over which it is laid other than the Licensee Predictable Operating Costs and excluding any such costs or expenses relating to the Bord Gais Network; and
- (b) to the extent to which they constitute Licensee Unpredictable Operating Costs for the purposes of paragraph (a) of this definition, any amounts that the Network Code shall specify as constituting Licensee Unpredictable Operating Costs.

**"Predecessor Conveyance Licence"** means the licence to convey gas dated 6<sup>th</sup> September 1996 granted to the Licensee under Article 8(1) of the Order, which was revoked by the Department at the time of grant of the Licence.

**"STC / VRF Revenues"** means in respect of any Gas Year, the cash amounts actually received (or, as the context requires, forecast to be received) by the Licensee for the provision of the STC / VRF Services in that Gas Year, after deduction of value added tax (if any) and any other taxes based directly on the amounts so received.

### 3.1.8 UC Charges

The Forecast UC Commodity Charge shall be calculated by the PSA in accordance with Condition 3.1.8.1 (a) and a Forecast UC Capacity Charge shall be calculated by the PSA in accordance with Condition 3.1.8.2 (a).

### 3.1.8.1 Forecast UC Commodity Charge

- (a) The Forecast UC Commodity Charge to be charged to each person (a “UC Gas Supplier”) shipping gas to an exit point (a “UC Exit Point”) from the Economic Network upstream of the Northern Ireland high water mark in respect of each unit of gas allocated to such UC Gas Supplier under the Network Code in respect of each UC Exit Point shall be calculated by the PSA in accordance with the following formula:

$$\text{UCComC} = \frac{[(\text{PSFRR} - \text{FRR}) + \text{FRRU}] * \text{Commodity Percentage}}{(\text{PS Forecast Annual Quantity} + \text{UC Forecast Annual Quantity})}$$

where:

FRRU = the Licensee's Forecast Required Revenue including UC Revenues, which shall be the aggregate of the Licensee's forecast of the amounts referred to in Condition 3.1.3(B)(1)(aa), (bb) and (cc) minus the Licensee's forecast of the amounts referred to in Condition 3.1.3(B)(2)(dd), and (ee) and (gg)

UCComC = the Forecast UC Commodity Charge;

UC Forecast Annual Quantity = the Licensee's forecast total quantity of gas, in respect of a Gas Year which all UC Gas Suppliers will exit from UC Exit Points.

- (b) The Monthly UC Commodity Payment shall be calculated in accordance with the following formula in respect of gas allocated to each UC Gas Supplier at a UC Exit Point in respect of the previous month, the components of which shall be applied in respect of month (“m”) in Gas Year (“t”) and shall be payable by UC Gas Supplier (“s”):

$$\text{MUCComP}_s = \text{UCComC} \times \text{MUCEQ}_s$$

where:

$\text{MUCComP}_s$  = the Monthly UC Commodity Payment for UC Gas Supplier s;

$\text{UCComC}$  = the Forecast UC Commodity Charge applicable in respect of Gas Year<sub>t</sub>;

$\text{MUCEQ}_s$  = the total quantity of gas, allocated to UC Gas Supplier s in respect of a UC Exit Point in respect of month m.

### 3.1.8A STC / VRF Services at Stranraer

- (a) Notwithstanding any provision of or in (and, specifically, any definition which is set out in or is incorporated into) the STC / VRF Conditions which might indicate to the contrary, the provisions concerning the calculation and application of charges for the provision of the STC / VRF Services in the STC / VRF Conditions:
- (i) shall only apply to STC / VRF Services which involve Exit Points on the Designated Network; and
  - (ii) accordingly shall not regulate the calculation and application of charges for any provision of STC / VRF Services which involve a UC Exit Point (as defined in Condition 3.1.8.1(a))
- (b) Charges for any provision of the STC / VRF Services which involve a UC Exit Point shall be calculated and applied in accordance with the following provisions of this Condition 3.1.8A, namely:
- (i) the Licensee shall charge to each UC Gas Supplier (as defined in Condition 3.1.8.1(a)) to whom it allocates Daily Capacity at a UC Exit

Point in respect of a given Day an amount (in respect of each kWh / day of such Daily Capacity) equal to the capacity charge per kWh for that Day, as determined pursuant to the charging methodology statement referred to in Condition 2A.2.1.9(a);

- (ii) the Licensee shall charge to each UC Gas Supplier, in respect of each kWh of gas which is allocated to that UC Gas Supplier at a UC Exit Point in any circumstance in which the UC Gas Supplier's entitlement to the allocation of such gas arises from the utilisation of Daily Capacity, an amount equal to the UCCoM (as defined in Condition 3.1.8.1(a)) which is applicable at the time of the allocation;
  - (iii) the Licensee shall charge to each UC gas supplier to whom it makes any provision of the VRF Service in respect of a UC Exit Point, the same charge as is applicable at the time of the provision of the VRF Service, as determined pursuant to the charging methodology statement referred to in Condition 2A.2.1.9(b).
- (c) Nothing in this Licence shall prejudice the right of the Licensee to impose on and recover from any person to whom it makes any provision of the STC / VRF Service which involves a UC Exit Point any Code Charges which are payable by that Gas Supplier in respect of the STC / VRF Services pursuant to the Network Code.
- (d) For the avoidance of doubt, the charges described in this Condition 3.1.8A shall not be subject to reconciliation or other adjustment on any ground following the end of a Gas Year (including the ground that forecast costs or other amounts differ from the corresponding outturn costs or other amounts).
- (e) As used in this Condition 3.1.8A:
- (i) the expression "STC / VRF Conditions" has the meaning ascribed to it in Condition 2A.2.1.6; and

- (ii) other capitalised expressions which are defined in the STC / VRF Conditions shall have the respective meanings ascribed to them in the STC / VRF Conditions.

3.1.8.3 **Forecast UC Revenue Receivable and Forecast STC and VRF Revenue Receivable**

The Licensee's forecast of UC Revenues in respect of any Gas Year  $t$  shall be the aggregate of  $(UCComC_t \times UC \text{ Forecast Annual Quantity } t) + (UCCapC_t \times \text{the UC Firm Capacity held by all UC Gas Suppliers in Gas Year } t)$ .

The Licensee's forecast of STC / VRF Revenues shall be set at zero. The Licensee shall provide to the Authority such data and information as it has received from Gas Suppliers pursuant to the Network Code concerning their likely usage of Daily Capacity and of the Virtual Reverse Flow Service in such forthcoming Gas Year and their actual usage of Daily Capacity and of the Virtual Reverse Flow Service in any Gas Year which has ended prior to the making of the request). Such data to be provided no later than the last business day in June in the case of likely usage of Daily Capacity and of the Virtual Reverse Flow Service in such forthcoming Gas Year, and by the tenth business day in November in the case of actual usage of Daily Capacity and of the Virtual Reverse Flow Service in any Gas Year which has ended prior to the submission of the data.

