



## **DECISION PAPER ON THE GAS LICENCE FEE**

**METHODOLOGY:**

**THE PRINCIPLES**

**11 October 2012**

## **1. Purpose of this Paper**

- 1.1. This paper sets out the Utility Regulator's decision on the principles underpinning the methodology by which the annual gas licence fees are calculated.

## **2. Background**

- 2.1. All gas licence holders are required to pay an annual licence fee. This fee is calculated in accordance with a published methodology – the “Principles” - laid out in a determination document by the Authority. The current principles have been in place since 31<sup>st</sup> March 2003 (see Annex 1) and were reviewed in 2008.
- 2.2. In February 2012, the Utility Regulator sought consent from all its gas licence holders to a modification to the licence condition regarding the payment of fees to the Authority. The chief purpose of this modification was to ensure consistency across all of the gas licences. Consent has been received by all of the gas licence holders to adopt the new licence modifications.
- 2.3. In May 2012, the Utility Regulator published a consultation on the gas licence fee methodology: the principles. This consultation closed on 22 June.

## **3. Summary of issues consulted on**

- 3.1. *Supply Licence*  
It was proposed that the Supply licence holders will pay a fixed fee of £1,500 (2012 real) that will increase annually based upon the Retail Price Index (RPI).
- 3.2. *Conveyance Transmission Licence*  
It was proposed that the remaining gas regulatory costs net of the fixed supply licence charges and the Consumer Council NI (CCNI) costs will be apportioned between the conveyance licence holders who participate in transmission activities on the basis of their share of the total forecast volumes transmitted in that year.

3.3. *Conveyance Distribution Licence*

It was proposed that the Conveyance licence holders who participate in distribution activities will fund the CCNI's costs associated with gas issues. The total fee to be raised will be apportioned between distribution licence holders based upon their share of the total forecast gas volumes distributed in that year to which the fees relate.

3.4. *Costs Excluded From the Calculation – Competition Commission costs*

It was proposed that Competition Commission costs will be excluded from the above calculations and will be identified separately in the fee to be paid.

We had proposed to adopt in the gas licences a methodology equivalent to that used for the purpose of the electricity licences.

Accordingly:

- (i) identifiable external costs incurred by or on behalf of the Utility Regulator in relation to references to the Competition Commission, or any successor body, made under Article 15 of the Gas (Northern Ireland) Order 1996, would be charged to any licence holder or group of licence holders, who are the subject of or connected with such references, in proportions which the Utility Regulator would in its discretion determine; and
- (ii) the costs of the Competition Commission in respect of references related to licence holders of a particular type (gas conveyance, or supply) would be allocated between licence holders of that type in proportions determined by the Utility Regulator in its discretion.

For the avoidance of doubt the Utility Regulator will exercise its discretion in each case as to what proportion of these costs should be applied to those licence holders who are party to the reference and those who are not, having regard to all the circumstances of the relevant Competition Commission reference.

Any decision will be subject to any determination by the Competition Commission in relation to the payment of costs.

3.5. *Clarification on base lending rate which will be applied by the Utility Regulator in event of non-payment of licence fee*

The Utility Regulator had proposed to designate the Bank of England Official Bank Rate “where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph XX above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending of an institution designated by the Authority for this purpose”.

**4. Responses received to the consultation**

- 4.1. We have received three responses to the consultation, one was marked confidential. The two non-confidential responses from BGE(UK) and Energia have been published alongside this decision paper.
- 4.2. All of the respondents were generally supportive of the changes as proposed.
- 4.3. BGE(UK) give their consent to the proposal to modify the licence fee methodology. This was however conditional upon all licence fees continuing to be pass through costs. We have discussed with BGE (UK) that the Utility Regulator will be subject to the determination by the Competition Commission in relation to the payment of its own costs. BGE(UK) have subsequently reiterated their consent to the licence modification.
- 4.4. Energia “acknowledges the merits of adopting in the gas licences a fee methodology equivalent to that used for the purpose of the electricity licences . . . but strongly submits that alignment of the licence fee methodology between gas and electricity needs to apply more broadly”. The Utility Regulator acknowledges that the licence fee methodologies used in electricity and gas differ. The current electricity licence fee methodology was subject to full public consultation and review in 2010/11. This took account of multiple respondents’ views and possible other approaches before arriving at a published decision. As market licensing arrangements evolve, further review will likely be necessary. For example the Third Energy Package legislation requires a new electricity distribution licence category to be introduced by April 2013.

## **5. UR Response and Decision**

- 5.1. Following careful deliberation, taking into account the considerations as outlined in the consultation and the views of respondents, we will apply this new methodology as outlined at appendix 1 from this financial year.
- 5.2. To clarify we will, as before, make an adjustment to licence fees in respect of each year:
  - 5.2.1. should actual gas regulatory and/or CCNI and/or Competition Commission costs vary from estimated costs;
  - 5.2.2. should actual gas volumes vary from forecasted volumes; and/or
  - 5.2.3. to reflect any determination by the Competition Commission.
- 5.3. We would note specifically that, in accordance with the approach set-out at paragraph 5.2.3, we will make an adjustment, if it is required, to reflect the determination of the Competition Commission in respect of PNG Ltd Price Determination (such determination is expected to be given in November 2012).

## **6. Next Steps**

- 6.1. The Utility Regulator has separately confirmed the modifications to be made to the conveyance and supply licences and these took effect on 28<sup>th</sup> September 2012.
- 6.2. This new gas licence fee methodology will take effect in the financial year running April 2012 to March 2013. Gas licence holders should note the adjustment to the 2011/12 fees for the actual costs and actual volume forecasts will still be on the basis of the former gas licence methodology. It is anticipated that the Utility Regulator will send out its gas licence fee invoices in October 2012.

## **Appendix 1**

**11<sup>th</sup> October 2012**

### **The Gas Licence Fee Methodology**

#### **The Principles**

##### ***Supply Licence***

Supply licence holders will pay a fixed fee of £1,500 (2012 real) that will increase annually based upon the Retail Price Index (RPI).

##### ***Conveyance Transmission Licence***

The remaining gas regulatory costs net of the fixed supply licence charges and the CCNI costs will be apportioned between the conveyance licence holders who participate in transmission activities on the basis of their share of the total forecast volumes transmitted in that year.

##### ***Conveyance Distribution Licence***

Conveyance licence holders who participate in distribution activities will fund the CCNI's costs associated with gas issues. The total fee to be raised will be apportioned between distribution licence holders based upon their share of the total forecast gas volumes distributed in that year to which the fees relate.

##### ***Costs Excluded From the Calculation – Competition Commission costs***

Competition Commission costs will be excluded from the above calculations and will be identified separately in the fee to be paid.

Accordingly:

- (i) identifiable external costs incurred by or on behalf of the Utility Regulator in relation to references to the Competition Commission, or any successor body, made under Article 15 of the Gas (Northern Ireland) Order 1996, would be charged to any licence holder or group of licence holders, who are the subject of or connected with such references, in proportions which the Utility Regulator would in its discretion determine; and

(ii) the costs of the Competition Commission in respect of references related to licence holders of a particular type (gas conveyance, or supply) would be allocated between licence holders of that type in proportions determined by the Utility Regulator in its discretion.

For the avoidance of doubt the Utility Regulator will exercise its discretion in each case as to what proportion of these costs should be applied to those licence holders who are party to the reference and those who are not, having regard to all the circumstances of the relevant Competition Commission reference.

Any decision will be subject to any determination by the Competition Commission in relation to the payment of costs.

***Clarification on base lending rate which will be applied by the Utility Regulator in event of non-payment of licence fee***

The Utility Regulator designates the Bank of England Official Bank Rate “where the Licensee fails to pay the amount of the licence fee as notified to it under paragraph XX above within the 30 day period specified, it shall with effect from the end of that 30 day period pay simple interest on the amount at the rate which is from time to time equivalent to the base lending of an institution designated by the Authority for this purpose”.

***Adjustment to the previous year’s licence fee (if required)***

To clarify we will, as before, make an adjustment to licence fees in respect of each year:

- should actual gas regulatory and/or CCNI and/or Competition Commission costs vary from estimated costs;
- should actual gas volumes vary from forecasted volumes; and/or
- to reflect any determination by the Competition Commission.