



Power NI
Woodchester House
50 Newforge Lane
Belfast
BT9 5NW

www.powerni.co.uk

Paul Harland
Utility Regulator
Queens House
14 Queen Street
Belfast BT1 6EB

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Dear Paul

Price Control for Northern Ireland's Gas Distribution Networks GD14. Consultation on Approach

While the above consultation is focussed on the Utility Regulator's (UR) price controlled regulation of Northern Ireland's gas distribution companies; Power NI although not a network owner is also subject to a UR retail electricity supply price control. The comments within this response are therefore positioned as a more general critique upon issues of process and methodology as they may be applied across the full range of the UR price control activity.

A price control review should be set against a backdrop of striking a balance between protecting customers and ensuring that companies are able to finance their activities in a sustainable way. Principles of best practice regulation should be observed i.e. regulatory certainty and giving due consideration to all aspects and effects of the market as well as changes in the operating environment. Of particular importance within recent price controls are the capital requirements to support the business's operations and the implications of risk.

To ensure that companies are able to finance their activities is critical to the UR's duties. This can only be achieved within the current (and foreseeable) economic climate by the detailed assessment of capital requirements to finance a regulated activity and the cost of that capital. Providing adequate returns on capital ensures ongoing financeability and maintains investment confidence. The UR therefore must ensure that it carries out robust analysis utilising industry best practice to deliver transparent reasonable decisions.

Through its recent experience Power NI believes that the UR should look to enshrine key procedural steps across all price controls it under takes. These steps should include –

- Provision of a clear timetable for the review
- Engagement to understand the key issues and to develop and finalise the strategy and outputs for the review
- Assessment of company performance during the current control period

- Issuing a "strategy for the review" document and request for data
- Provision of time for the company to develop its well-justified business plan
- Scrutinise business plans and send queries and comments to the company
- Publish confirmation of price control methodology and not change the methodology after that
- Apply methodology to determine price control
- Develop initial followed by final proposals which (a) providing transparency on how the control will be implemented; and (b) ensuring decision-making is open and transparent
- Consult on the initial and final proposals
- Take decisions based on robust and auditable evidence

Power NI considers these key process steps that would provide transparency and certainty to a business critical issue.

Within the consultation paper the UR acknowledges that a five year control is appropriate and is mindful of minimising the regulatory burden on licensees. Power NI welcomes these statements. Additionally the UR states an intention to use benchmarking. While benchmarking in this case can provide a general guide the UR must be mindful of particular circumstances, market conditions and circumstances which may be drivers of variations.

Power NI is concerned that the UR is considering a "Retrospective Mechanism". Retrospective adjustments run contrary to the principles of regulatory certainty and predictability and therefore Power NI would caution against their use unless there are clearly defined and agreed special circumstances which would warrant such an adjustment.

As stated above, although Power NI is not a gas distribution company we are subject to a UR price control and have therefore sought to provide some constructive observations on price control process and methodology.

Yours sincerely



William Steele
Power NI