

2.2.4 Additional Definitions and interpretation

(a) For the purpose of this Condition:-

“Actual Controllable Capital Expenditure” means the cumulative amount of actual Controllable Capital Expenditure in respect of each of the North West Pipeline, the South North Pipeline, or the Spurs and any associated Postalised Distribution Pipelines, as determined by the Authority in accordance with Condition **Error! Reference source not found. Error! Reference source not found.**;

“Actual Required Revenue”(ARR) means, for periods when a Designation Order is in place in respect of the Network, the maximum amount which the Licensee is permitted to recover through conveyance charges in any Gas Year, calculated in accordance with the Formula;

“Actual Uncontrollable Capital Expenditure” means the cumulative amount of actual Uncontrollable Capital Expenditure in respect of each of the North West Pipeline, the South North Pipeline, or the Spurs and any associated Postalised Distribution Pipelines, as determined by the Authority in accordance with Condition **Error! Reference source not found. Error! Reference source not found.**;

“Actual Capital Expenditure” means, in respect of the North West Pipeline, the South North Pipeline, or the Spurs and any associated Postalised Distribution Pipelines, the Actual Controllable Capital Expenditure plus the Actual Uncontrollable Capital Expenditure;

“Actual Operating Expenditure” means the Operating Expenditure actually incurred by the Licensee (and “Actual Controllable Operating Expenditure” and “Actual Uncontrollable Operating Expenditure” shall be construed accordingly);

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“Actual Supplemental Income”	means that Supplemental Income determined to be such approved or determined by the Authority in accordance with Condition <b>Error! Reference source not found.</b> <b>Error! Reference source not found.;</b>
“Allowed Operating Expenditure”	means that Operating Expenditure determined to be such by the Authority in accordance with Condition <b>Error! Reference source not found.</b> (and “Allowed Controllable Operating Expenditure” and “Allowed Uncontrollable Operating Expenditure” shall be construed accordingly);
“Allowed Supplemental Income”	means that Supplemental Income determined to be such approved or determined by the Authority in accordance with Condition <b>Error! Reference source not found.</b> <b>Error! Reference source not found.;</b>
“Business Day”	means a day, other than a Saturday or Sunday, on which banks are open for ordinary banking business in Belfast;
“Buy-Back Capacity”	has the meaning given to it in the OS Conditions (as defined in Condition 2A.1.1);
“Capital Expenditure”	means Expenditure that relates to property, plant or equipment that would be recognised as an asset under International Accounting Standard 16 ‘Property, Plant and Equipment’ (excluding any attributable interest costs), or any alternative accounting treatment specified by the Authority in any regulatory accounting guidelines issued from time to time;
“CER” “Commission”	or means the Commission for Energy Regulation established pursuant to Section 8 of the Electricity Regulation Act, 1999;
<u>“Consumer Price Index” or “CPI”</u>	means, <u>the “Consumer Prices Index (CPI) 2005 = 100” as published by the Office of National Statistics (Series Identifier D7BT); or if such index is no longer published,</u>

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	<u>such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects that index;</u>
<u>“Controllable Capital Expenditure”</u>	<u>means Capital Expenditure other than Uncontrollable Capital Expenditure;</u>
<u>“Controllable Capital Expenditure Estimate”</u>	<u>has the meaning given to that term in Condition <b>Error!</b></u> <b>Reference source not found.;</b>
“Controllable Operating Expenditure”	means Operating Expenditure other than Uncontrollable Operating Expenditure;
“CRR”	means the capital revenue requirement as calculated in accordance with the CRR Formula;
“CRR Actuals”	has the meaning given to that term in Condition <b>Error!</b> <b>Reference source not found.Error! Reference source not found.;</b>
“CRR Formula”	means the formulae calculated according to paragraph <b>Error! Reference source not found.</b> of Annex A;
“CRR Variables”	has the meaning given to that term in Condition <b>Error!</b> <b>Reference source not found. Error! Reference source not found.;</b>
“Economic Network”	means the North West Pipeline, the South North Pipeline, and the Spurs taken together;
“EURIBOR”	means the Euro Interbank Offered Rate as published in the Financial Times from time to time and is the rate of interest at which panel banks borrow funds from other panel banks in the EU interbank market and which will be an annual rate unless otherwise stated;
“Expenditure”	means the expenditure reasonably and properly incurred by the Licensee in the development, construction, maintenance and operation of the Economic Network so as to enable the Licensee to provide conveyance services

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in an economically efficient and safe manner, but excluding:

- (i) expenditure relating to tax, financing and other returns to investors; and
- (ii) expenditure that is recoverable under Conditions 2.3 and 2.5;

"First Operational Commencement Date" means, in respect of each of the North West Pipeline, the South North Pipeline, or the Spurs and any associated Postalised Distribution Pipelines, the Gas Year commencing the October immediately after the pipeline in question becomes operational, or else such other date as is agreed by the Authority and the Licensee;

"Forecast Required Revenue" means the amount set out in accordance with **Error! Reference source not found. Error! Reference source not found.;**

"Formula" means the formula for the determination of the Actual Allowed Revenue set out in paragraph 1 of Annex A;

"Formula Amendments" has the meaning given to that term in Condition **Error! Reference source not found. Error! Reference source not found.;**

"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;

"LIBOR" means the sterling London Interbank Offered Rate as published in the Financial Times from time to time and which will be an annual rate unless stated otherwise;

"Network" means all high pressure gas pipe-lines and gas plant owned and/or operated and/or utilised by the Licensee in Northern Ireland in relation to its Licence given under Paragraph 1 of the Grant;

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"North Pipeline"	West	means the pipeline starting at the tie-in of the Licensee's pipeline at Carrickfergus to the pipeline owned by Phoenix Natural Gas to the outlet flange of the AGI at the site of the 400 MW CCGT power plant at Coolkeeragh;
"Operating Expenditure"		means Expenditure other than Capital Expenditure;
"OS Capacity"		has the meaning given to it in the OS Conditions (as defined in Condition 2A.1.1);
"OS Revenue"		means, in respect of any Gas Year, the net amounts received in respect of the provision of the OS Services as determined in accordance with the OS Scheme;
"Licensee OS Revenues Share"	OS	means, in respect of any given Gas Year, the part of the OS Revenues actually received and retained in cash by the Licensee out of the proceeds of OS Revenues, after deduction of value added tax (if any) and any other taxes payable by the Licensee on the amounts so received and in accordance with the relevant provision of the OS Scheme.
"OS Services" and OS Scheme	and	have the meaning given to them in the OS Conditions (as defined in Condition 2A.1.1);
"Postalisation Adjustment"		means for the purposes of the determination of Total Allowed Conveyance Revenue in Gas Year t, an allowance (positive or negative) comprised of the sum of the amounts referred to in Condition <b>Error! Reference source not found. Error! Reference source not found.</b> ;

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“Postalised Distribution Pipeline”	means that part of any pipe-line owned and operated pursuant to the Towns Licence and running from the Economic Network to one or more Supply Locations which commences at the point of connection with the Economic Network and ends at the first Five km Point to be reached by that pipe-line. Where:  “ <b>Five km Point</b> ” means, in respect of a Supply Location, any point lying on a radius of 5 kilometres drawn around the Load Centre for that Supply Location;  “ <b>Load Centre</b> ” means, in respect of a Supply Location, the location determined as such by the Authority;  “ <b>Supply Location</b> ” means each Town (as defined in condition 3.1 of the Towns Licence), and any other premises or group of premises that is designated as such by the Authority from time to time; and  “ <b>Towns Licence</b> ” means the conveyance licence granted to Bord Gais Eireann on 24 March 2005;
“Rate of Return”	means the rate of return established in accordance with paragraph <b>Error! Reference source not found.</b> of Annex A;
“Retail Price Index” or “RPI”	means, <u>the “Retail Prices Index (RPI) January 1987 = 100” as published by the Office of National Statistics (Series Identifier CHAW) ; or if such index is no longer published, such alternative index as the Authority shall, after consultation with the Licensee, determine most closely reflects that index;</u>
“Revenue Recovery Period”	means, in respect of each of the North West Pipeline, the South North Pipeline, or the Spurs and any associated Postalised Distribution Pipelines, the period of twenty five years commencing on the relevant First Operational Commencement Date;

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“Review Date”		means 1 <sup>st</sup> October 2007 and every fifth anniversary thereafter during the Revenue Recovery Period;
“South Pipeline”	North	means the high-pressure transmission pipeline running from Gormanston in the Republic of Ireland up to and including its connection and tie-in point with the North West Pipeline at the Ballyalbanagh AGI in Northern Ireland;
"Spurs"		means a high pressure pipe-line connecting (directly or indirectly) to the Licensee’s North West pipe-line or South North pipe-line which runs to a point designated by the Authority under Condition 1.15.3(b)(ii) and which is constructed or to be constructed for the purpose of facilitating the taking of gas to a town, customer, or group of customers;
“Supplemental Income”		means all revenue arising in the hands of the Licensee (or any affiliate or related undertaking of the Licensee) from the exploitation of the North West Pipeline, the South North Pipeline, and Spurs other than charges arising directly from the provision of conveyance services and shall include income from the conveyance of gas through the South North Pipeline outside Northern Ireland and any other revenue arising from the exploitation by the Licensee of the Economic Network assets;
“Total Controllable Capital Expenditure”		has the meaning given to that term in Condition <b>Error! Reference source not found. Error! Reference source not found.</b> ;
“Total Allowed Conveyance Revenue”		means the maximum amount which the Licensee is permitted to recover in any Gas Year through conveyance charges under the Formula;
“Total Conveyance Revenue”		means the total conveyance charge revenue received by the Licensee in any Gas Year;

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“Total Uncontrollable Capital Expenditure” has the meaning given to that term in Condition **Error! Reference source not found. Error! Reference source not found.**;

“Uncontrollable Capital Expenditure” has the meaning given to that term in Condition **Error! Reference source not found.**;

“Uncontrollable Capital Expenditure Estimate” has the meaning given to that term in Condition **Error! Reference source not found. Error! Reference source not found.**;

“Uncontrollable Operating Expenditure” means Operating Expenditure which is outside the reasonable control of the Licensee and which falls within the list of “Uncontrollable Operating Expenditure” determined as such by the Authority for the purposes of this Condition, as such list may be amended, supplemented or varied from time to time;

“Unforeseen Operating Expenditure” means any Operating Expenditure incurred or to be incurred in a Gas Year and not accounted for in the Allowed Operating Expenditure figure for that Gas Year;

“Verified Controllable Capital Forecast” means that Controllable Capital Expenditure determined to be such by the Authority in accordance with Condition 2.2.2 (b);

~~“STC/VRF Revenue” means in respect of any Gas Year, the cash amounts actually 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~~

2.2.5 Allowed Capital Expenditure, Allowed Operating Expenditure, Supplemental Income and associated expressions may, where appropriate, include actual or forecast expenditure or revenue incurred or earned outside Northern Ireland.

~~2.2.6 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.~~

### ~~2.2.7 STC/VRF Revenues Information~~

~~2.2.7.1 The Licensee shall report to the Authority on an annual basis in each Gas Year not later than the tenth Business Day in November details of the Licensees STC/VRF Revenues in the preceding Gas Year.~~

~~The Licensee shall promptly provide to the Authority such information, explanations, documents and records as the Authority may reasonably require in connection with or relating to STC/VRF Revenues and the report provided to the Authority by the Licensee in accordance with Condition 2.2.22.1.~~

~~2.2.22.2 The Authority may, following verification, by notice to the Licensee in respect of the figures in the Licensee's report submitted in accordance with Condition 2.2.22.1:~~

- ~~(i) approve the figures in the report as the STC/VRF Revenues for the relevant Gas Year; or~~
- ~~(ii) determine as the STC/VRF Revenues for the relevant Gas Year such amended figure as the Authority considers appropriate.~~

~~provided that before making any amendments to the figures in the report, the Authority shall provide details of the amendments and the reasons for them.~~

### ~~2.2.8~~2.2.6 Allocation of OS Revenues

~~2.2.8.1~~2.2.6.1 The Licensee may, in respect of each Gas Year, retain the Licensee's OS Revenues Share as calculated in accordance with the relevant provisions of the OS Scheme.

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2.2.23.2 In respect of each Gas Year for which the Licensee has an obligation pursuant to the OS Scheme to make a payment during the Gas Year, the Licensee shall make such payment at the time prescribed and otherwise in accordance with the OS Scheme.

## **ANNEX A: ACTUAL REQUIRED REVENUE FORMULA**

This Annex forms part of Condition 2.2.

### **1. Formula**

The Total Allowed Conveyance Revenue for each Gas Year t shall be calculated in accordance with the following formula:

$$| \text{ARR}_t = \text{CRR}_t^p + \text{O}_t - \text{SI}_t + \text{PA}_t - \text{G}_t$$

where:

**ARR<sub>t</sub>** is the Total Allowed Conveyance Revenue or Actual Required Revenue in Gas Year t;

**CRR<sub>t</sub><sup>p</sup>** is the capital revenue requirement for the pipeline, p in Gas Year t, as calculated in paragraph **Error! Reference source not found.** of this Annex;

**O<sub>t</sub>** is the inflation adjusted allowed operating expenditure for Gas Year t, as calculated in paragraph **Error! Reference source not found.** of this Annex;

**SI<sub>t</sub>** is the supplemental income for Gas Year t, as calculated in paragraph **Error! Reference source not found.** of this Annex; and

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**PA<sub>t</sub>** is the Postalisation Adjustment for Gas Year t, as determined in accordance with Condition **Error! Reference source not found.****Error! Reference source not found.;**

**p** is the North-West Pipeline, the South-North Pipeline or any Spur (where “Spur” shall, in relation to Capital Expenditure only, include any associated Postalised Distribution Pipelines) as appropriate.

~~**G<sub>t</sub>** in respect of any Gas Year, the STC/VRF Revenues for such Gas Year as defined in condition 2.2.19.~~