

**Notice under Article 14(2) of
the Gas (Northern Ireland)
Order 1996**

**Proposed Modification of Gas
Conveyance Licences - Gas
Transmission Price Control
Process Amendments**

**Consultation Paper
12 April 2017**



About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

This paper gives notice of amendments the Utility Regulator proposes to make to the high pressure gas conveyance licences to streamline the price control process across all effected licences. The four licences to be modified are those held by Premier Transmission Ltd, Belfast Gas Transmission Ltd, West Transmission Ltd and GNI (UK) Ltd. These modifications will, amongst other things, align the price control periods for all four licence holders, introduce the standard licence condition on Regulatory Instructions and Guidance (RIGs) already included in other conveyance licences and update the dis-application procedures in the GNI (UK) licence.

Audience

This document is likely to be of interest to the licence holders affected, other regulated companies in the energy industry, government and other statutory bodies and consumer groups with an interest in the energy industry.

Consumer Impact

The proposed modification will permit the Authority to gather cost and output data in a systematic way which will facilitate more effective decision making that will be of benefit to consumers in the short, medium and long term.

TABLE OF CONTENTS

NOTICE UNDER ARTICLE 14(2) OF THE GAS (NORTHERN IRELAND) ORDER 1996	6
1 Introduction	8
Purpose of this Document	8
Overview over Proposed Licence Modifications	9
Responding to this Consultation	10
Document Structure	11
2 Regulatory Instructions and Guidance	13
Proposed Licence Modification	13
Reasons and Effects	14
3 Alignment of Review Date	16
Proposed Licence Modifications	16
Reasons and Effects	17
4 Forecast Uncontrollable Operating Expenditure	18
Proposed Licence Modifications	18
Reasons and Effects	18
5 Timelines	19
Proposed Licence Modifications	19
Reasons and Effects	19
6 VRF and OS Services Revenue	21
Proposed Licence Modifications	21
Reasons and Effects	21
7 First Operational Commencement Date	23
Proposed Licence Modifications	23
Reasons and Effects	23
8 Dis-application of Licence Conditions	24
Proposed Licence Modifications	24
Reasons and Effects	24
9 Special Operating Expenditure Forecast Review	26
Proposed Licence Modifications	26

Reasons and Effects	26
10 Next Steps	27
Conclusion and next steps	27
Annexes and Supplementary Documents	28
Annexes	28

ACRONYMS AND GLOSSARY

ACO	Actual Controllable Operating Expenditure
ARR	Actual Required Revenue
BCO	The sum of the amount of each item of Controllable Operational Expenditure determined to be reasonable by the Authority in line with the PTL and BGTL conveyance licences
BGTL	Belfast Gas Transmission Limited
CMA	Competition and Markets Authority
CRR	Capital Revenue Requirement
DCC	Determined Controllable Operating Expenditure
GNI (UK)	Gas TSO operating in Northern Ireland
GT17	This is the name given to the next price control for the NI GDNs. It is proposed to cover the period 2017 – 2022 (calendar years).
MEL	Mutual Energy Limited
NI	Northern Ireland
OS	Oversubscription and Buyback
PTL	Premier Transmission Limited
RIGs	Regulator Instructions and Guidance
TSO	GNI (UK), PTL, BGTL and WTL. WTL is not a TSO (Transmission System Operator) as defined by the European Commission but it is referred to as a TSO in this document for simplicity.
UR	Utility Regulator
VRF	Virtual Reverse Flow
WTL	West Transmission Limited

NOTICE UNDER ARTICLE 14(2) OF THE GAS (NORTHERN IRELAND) ORDER 1996

In pursuance of its powers under Article 14(1) of the Gas (Northern Ireland) Order 1996 (as amended) (the “Order”) the Northern Ireland Authority for Utility Regulation (hereafter referred to as the Utility Regulator) hereby gives notice under Article 14(2) as follows:

1. The Utility Regulator proposes to modify the gas conveyance licence held by GNI (UK) Limited (GNI (UK)), West Transmission Limited¹ (WTL), Belfast Gas Transmission Limited (BGTL) and Premier Transmission Limited (PTL).
2. The proposed modifications will:
 - a. Introduce into the four licences the Regulatory Instructions and Guidance condition that has already been introduced into the gas conveyance licenses held by the three gas distribution network owners;
 - b. Align the Review Date of all four licence holders which will be every fifth year commencing on 1 October 2017;
 - c. Introduce a requirement to forecast Uncontrollable Operating Expenditure into the licences held by Premier Transmission Limited, Belfast Gas Transmission Limited and West Transmission Limited;
 - d. Align the timelines for the submission of cost data to the Authority across the four licences;
 - e. Remove the inclusion of revenue from Virtual Reverse Flow and Oversubscription and Buy Back from the calculation of the Annual Required Revenue for Belfast Gas Transmission Limited and West Transmission Limited;
 - f. Amend the definition of the First Operational Commencement Date in the West Transmission Limited licence;
 - g. Create a separate condition within the GNI (UK) Licence for updated dis-application procedures; and
 - h. Clarify the circumstances in which GNI (UK) can seek from the Authority a special operating expenditure forecast review.
3. The reasons for and effects of these modifications are explained in sections 2 to 9 of this document.
4. The proposed modifications are set out in Annex 1 to Annex 4 of this document.
5. The purpose of this notice is to bring the proposed modifications to the attention of

¹ This is the licence granted to Northern Ireland Energy Holdings Limited on 11 February 2015 and last modified on 1 September 2016.

persons likely to be affected by them, and to invite representations or objections in connection thereto. In line with Article 14(3) of the Order, any representations or objections with respect to the proposed modifications may be made on or before 12.00 noon on 10 May 2017 to:

Graham Craig

Utility Regulator

Queens House

14 Queens Street

Belfast BT1 6ED

Email: Gas_networks_responses@uregni.gov.uk with cc to graham.craig@uregni.gov.uk

6. The Utility Regulator has, pursuant to Article 14(4) of the Order, served a copy of this notice on the licensee and sent a copy to the Department of Enterprise Trade and Investment. The Utility Regulator has also sent a copy of this notice to the Consumer Council.

7. Dated this 12 April 2017.

1 Introduction

Purpose of this Document

- 1.1 Our principal objective in carrying out the duties associated with our gas functions is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland, and to do so consistently with our fulfilment of the objectives set out in the European Gas Directive², and by having regard to a number of matters, as set out more fully in the Energy (Northern Ireland) Order 2003.
- 1.2 In line with these duties this document sets out proposals to modify the gas conveyance licences held by GNI (UK) Limited (GNI (UK)), West Transmission Limited³ (WTL), Belfast Gas Transmission Limited (BGTL) and Premier Transmission Limited (PTL). PTL, BGTL and WTL are all part of the Mutual Energy Group (MEL).
- 1.3 The proposed modifications have been deemed necessary to support the GT17 price control process. In line with our Forward Work Plan for 2016/2017, we have also considered the extent to which licences can be simplified, leading to a more improve standardisation across high pressure and low pressure licences.
- 1.4 The proposed licence modifications will:
 - Introduce into the four licences the Regulatory Instructions and Guidance condition that has already been introduced into the gas conveyance licenses held by the three gas distribution network owners;
 - Align the Review Date of all four licence holders which will be every fifth year commencing on 1 October 2017;
 - Introduce a requirement to forecast Uncontrollable Operating Expenditure into the licences held by Premier Transmission Limited, Belfast Gas Transmission Limited and West Transmission Limited;
 - Align the timelines for the submission of cost data to the Authority across the four licences;
 - Remove the inclusion of revenue from Virtual Reverse Flow and Oversubscription and Buy Back from the calculation of the Annual Required Revenue for Belfast Gas Transmission Limited and West Transmission Limited;
 - Amend the definition of the First Operational Commencement Date in the West Transmission Limited licence;
 - Create a separate condition within the GNI (UK) Licence for updated dis-application procedures; and
 - Clarify the circumstances in which GNI (UK) can seek from the Authority a special operating expenditure forecast review.

² Directive 2009/73/EC of the European Parliament and the Council of 13 July concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

³ This is the licence granted to Northern Ireland Energy Holdings Limited on 11 February 2015 and last modified on 1 September 2016.

- 1.5 Please note that on 28 April 2015 Northern Ireland Energy Holdings Limited, the company to whom the gas conveyance licence was originally granted, became West Transmission Limited. We propose to change the name on the front cover of the licence at the same time as making the various licence modifications. For the purposes of this consultation we will refer to the licence holder as West Transmission Limited.

Overview over Proposed Licence Modifications

- 1.6 Our licence modification consultation paper is presented against the background of the GT17 price control. GT17 is the name given to the price control for the four high pressure gas networks in Northern Ireland (NI) relating to the period starting 1 October 2017 and ending on 30 September 2022.
- 1.7 As part of the price control process, a number of areas have been identified for which a licence modification is deemed necessary to address shortcomings of existing licence arrangements and to support the price control process. In the draft determination to the GT17 price control⁴, we indicated our intention to discuss these with the licence holders and to publish a consultation on the modifications. The present document represents this consultation.
- 1.8 Table 1 provides an overview over the relevant areas and the affected licence conditions for each licence holder.

⁴ [Utility Regulatory: Price Control for Northern Ireland's Gas Transmission Networks GT17, Draft Determination, 16 December 2016.](#)

Table 1: Licence Modification Overview

	GNI (UK)	PTL	BGTL	WTL
Regulatory Instructions & Guidance	1.21* 2.2.4	1.21* 3.1.6 (b) 3.1.6 (c)	1.21* 3.1.6 (b) 3.1.6 (c)	1.21* 4.7.2 4.7.3
Alignment of Review Dates	2.2.4	3.1.6 (b) 3.1.6 (f)*	3.1.6 (b) 3.1.6 (f)*	4.1.2 4.7.2
Forecast Uncontrollable Operating Expenditure		3.1.6 (b) 3.1.6 (c) 3.1.6 (e)*	3.1.6 (b) 3.1.6 (c) 3.1.6 (e)*	4.7.4 4.7.2 4.7.3
Timelines	2.2.4	3.1.6 (b)	3.1.6 (b)	4.7.2
VRF and OS Services Revenue			3.1.3 3.1.4 3.1.5 3.1.6 (a)	4.1.2 4.4.2 4.4.3 4.7.7
First Operational Commencement Date				1.1.6
Dis-application of Licence Conditions	2.2.5 2.2.19 2.2.22* 2.2.23.2 Annex A, Part 5			
Special Operating Expenditure Forecast Review	2.2.4 (i)			

*New Condition

- 1.9 It should be noted that we consult on these licence modifications together as a package. It is our intention that they will become effective in July 2017 in advance of us giving formal notice of our GT17 final determination

Responding to this Consultation

- 1.10 Responses to this consultation paper should be submitted by 12.00 noon on 10 May 2017. Responses should be sent to:
- Graham Craig
Utility Regulator
Queens House
14 Queens Street
Belfast BT1 6ED
- Email: Gas_networks_responses@uregni.gov.uk with cc to graham.craig@uregni.gov.uk
- 1.11 The Utility Regulator's preference would be for responses to be submitted by e-mail.
- 1.12 Individual respondents may ask for their responses (in whole or in part) not to be published, or that their identity should be withheld from public disclosure. Where either of these is the case, the Utility Regulator will also ask respondents to supply the redacted version of the response that can be published.

- 1.13 As a public body and non-ministerial government department, the Utility Regulator is required to comply with the Freedom of Information Act (FOIA). The effect of FOIA may be that certain recorded information contained in consultation responses is required to be put into the public domain. Hence it is now possible that all responses made to consultations will be discoverable under FOIA, even if respondents ask us to treat responses as confidential. It is therefore important that respondents take account of this. In particular, if asking the Utility Regulator to treat responses as confidential, respondents should specify why they consider the information in question should be treated as such.
- 1.14 This paper is available in alternative formats such as audio, Braille etc. If an alternative format is required, please contact the office of the Utility Regulator, which will be happy to assist.

Document Structure

- 1.14 This consultation paper is structured in a number of chapters as follows:
- *Chapter 1 Introduction* provides an overview of the purpose and structure of this consultation document, provides an overview over the proposed licence modifications and details on how to respond to the licence consultation;
 - *Chapter 2 Regulatory Instructions and Guidance* details the proposed licence modifications with this respect as well as the associated reasons and effects;
 - *Chapter 3 Alignment of Review Date* details the proposed licence modifications with this respect as well as the associated reasons and effects;
 - *Chapter 4 Forecast Uncontrollable Operating Expenditure* details the proposed licence modifications with this respect as well as the associated reasons and effects;
 - *Chapter 5 Timelines* details the proposed licence modifications with this respect as well as the associated reasons and effects;
 - *Chapter 6 Removal of VRF and OS Services Revenue from Actual Required Revenues* details the proposed licence modifications with this respect as well as the associated reasons and effects;
 - *Chapter 7 First Operational Commencement Date* details the proposed licence modifications with this respect as well as the associated reasons and effects.
 - *Chapter 8 Dis-application of Licence Conditions* details the proposed licence modifications with this respect as well as the associated reasons and effects;
 - *Chapter 9 Special Operating Expenditure Forecast Review* details the proposed licence modifications with this respect as well as the associated reasons and effects; and
 - *Chapter 10 Next Steps* outlines the proposed timelines for the remainder of the licence modification process.
- 1.15 The present document is complemented by four annexes. For each licence holder, there is an annex setting out the licence modifications as tracked changes to the current licence conditions. Table 3 provides an overview of these annexes. Within the annexes

proposed deletions are indicated by red text that has been struck through, proposed additions are indicated by red text highlighted in yellow.

- 1.16 Each of the chapters 2 to 9 details the licence modifications and follows the same structure: We first present the required licence modifications and subsequently detail the associated reasons and effects.

2 Regulatory Instructions and Guidance

Proposed Licence Modification

- 2.1 We propose to introduce new *Condition 1.21: Regulatory Instructions and Guidance* (RIGs) into the GNI (UK), Premier Transmission, Belfast Gas Transmission and West Transmission gas conveyance licences.
- 2.2 The new proposed licence condition is based on the equivalent condition in the gas conveyance licences held by the three gas distribution network owners, firmus energy (Distribution) Ltd (FE), Phoenix Natural Gas Limited (PNGL) and SGN Natural Gas Limited (SGN), with only small adjustments to account for differences in licence number and structuring and to replace specific references to distribution system operator with wording applicable for high pressure licence holders.
- 2.3 We furthermore propose to include clarification in all four high pressure conveyance licences that the format of the submissions on estimated and actual Controllable and Uncontrollable Expenditure shall follow the format as set out in the RIGs. This will require amendment of:
- *Condition 2.2.4: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Allowed Operating Expenditure* of the GNI (UK) conveyance licence by including in paragraphs (f) and (k) reference to the new Condition 1.21;
 - *Condition 3.1.6: Allowed Revenue Determination, Approved Surplus Determination* of the PTL and BGTL conveyance licences by including in paragraphs (b) and (c) reference to the new Condition 1.21;
 - *Condition 4.7.2: The Approved Surplus and Other ARR⁵ Component, Determination of DCO⁶* and *Condition 4.7.3: The Approved Surplus and Other ARR Component, Determination of ACO⁷* of the WTL conveyance licence reference to the new Condition 1.21.

In the PTL, BGTL and WTL licences, references to “submissions in “a format to be approve by the Authority” are proposed to be removed, as the new requirement for submissions to follow the format as set out in the RIGs is more concrete.

- 2.4 The proposed licence modifications are set out in detail in Annexes 1 to 4.
- 2.5 In our discussions with licence holders regarding these conditions a number of specific issues were raised regarding the level of prescription and intrusion that the drafting of the condition might imply. We note, however, that the new condition explicitly states in 1.21.3 (c) that it cannot be used to collect specific information in excess of that which could have been collected under the existing licence *Condition 1.3.1: Provision of Information to the Authority, Furnishing information*. The condition therefore does not increase the regulatory burden on the licence holder but rather provides a transparent framework within which to collect relevant information.

⁵ Actual Required Revenue.

⁶ Determined Controllable Operating Expenditure.

⁷ Actual Controllable Operating Expenditure.

Reasons and Effects

- 2.6 Each of the existing licences includes obligations on the licence holder to provide data to the UR in a way that will permit it to set allowances, and to monitor ongoing performance against those allowances.⁸ However, these reporting conditions are not consistent across the various licences and are no longer regarded as being in accordance with best regulatory practice. For example, there is no obligation on the licence holder to provide cost information in a pre-determined way approved by the UR or on a consistent basis over time or between licence holders.
- 2.7 As have other economic regulators, the UR has in recent years committed itself and the firms it regulates to annual cost reporting supported by specific licence conditions. For instance, a common cost reporting template has been developed for gas distribution companies. This, along with a standardised business plan submission, has formed the basis for determinations made as part of the Gas Distribution Price Control 2017 (GD17).
- 2.8 Accordingly, in preparation for the Gas Transmission Price Control (GT17) we consulted with the four licence holders on a common cost reporting template and standardised business plan submission format. For the purposes of GT17 we required all business plans to be submitted on the basis of the new format.
- 2.9 Going forward we will require the annual cost reporting requirements of the licence to be met using the new cost reporting template.
- 2.10 To give effect to these ongoing requirements we propose to modify the existing licences to include a new Regulatory Instructions and Guidance condition. This will be a new standard condition added to section one of the licence and will match that which has been included in the conveyance licences of the distribution companies, with only small adjustments to account for differences in licence number and structuring and to replace specific references to distribution system operator with wording applicable for high pressure licence holders. We also propose to include clarification in all four high pressure conveyance licences that the format of the submissions on estimated and actual Controllable and Uncontrollable Expenditure shall follow the format as set out in the RIGs.
- 2.11 We consider that these Regulatory Instructions and Guidance will provide for:
- Consistent cost reporting that will facilitate the ongoing monitoring of performance against regulatory allowances;
 - Standardised templates which will facilitate benchmarking where appropriate; and
 - Reporting templates signed off by senior management in the company.
- 2.12 The effect of the licence modification will be to provide additional clarity for both ourselves and the Licensees with regards to the arrangements concerning the provision of information under RIGs and the associated responsibilities. In particular, the licence condition:
- Sets out the scope and content of the RIGs;

⁸ GNI (UK) Gas Conveyance Licence Condition 2.2.4 . PTL and BGTL Gas Conveyance Licence Condition 3.1.6 (b) and (c) - WTL Gas Conveyance Licence Condition 4.7.2 and 4.7.3

- Requires the Licensees to have in place and maintain systems, processes and procedures which enable it to collect and provide information set out in the RIGs, and to comply with the RIGs; and
 - Provides for us to issue new or modified RIGs, as appropriate.
- 2.13 The licence modification will furthermore further consistency between the NI low pressure conveyance licences and the NI high pressure conveyance licences and help ensure that licence holders are regulated on an equivalent basis.
- 2.14 We do not consider that the proposed licence condition will add to the regulatory burden imposed on licence holders as it does not permit the Authority to collect information in excess of that which it already has the power to collect under *Condition 1.3.1: Provision of Information to the Authority, Furnishing information* of the licence. Indeed, consistency of reporting is likely to reduce the need for an ongoing clarification process.
- 2.15 The more effective and consistent collection of cost and activity data will better facilitate the Authority in achieving its statutory duties.

3 Alignment of Review Date

Proposed Licence Modifications

- 3.1 We propose to modify *Condition 2.2.4: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Allowed Operating Expenditure* of the GNI (UK) conveyance licence by:
- specifying in paragraph (f) the number of Gas Years for which estimates of annual Operating Expenditure are to be provided as five;
 - clarifying in paragraphs (g), (h) and (i) that forecasts of annual Operating Expenditure for each Gas Year approved by the Authority shall, subject to amendment in line with Condition 2.2.4, be the allowed Operating Expenditure for such Gas Year until the next Review date; and
 - removing from paragraphs (g) and (h) reference to “*the Allowed Operating Expenditure for such Gas Year as previously determined in accordance with Condition 2.2.4 (d), (e), (g), (h) or (i), as appropriate*” which relates to historic obligations.
- 3.2 We furthermore propose to modify *Condition 3.1.6: Allowed Revenue Determination, Approved Surplus Determination* of the PTL and BGTL conveyance licences by:
- introducing in paragraph (f) a definition for the term “Review Date”;
 - defining in paragraph (b) the timelines for submission of the Operating Expenditure estimates with respect to the Review Date; and
 - specifying in paragraph (b) the number of Gas Years for which estimates of annual Operating Expenditure are to be provided and for which the Authority shall determine the amount of BCO⁹ as five.
- 3.3 Similarly, we propose, with respect to the WTL conveyance licence, to:
- introduce in *Condition 4.1.2: General Provisions, Definitions and Reporting, Definitions* a definition for the term “Review Date”;
 - define in *Condition 4.7.2: The Approved Surplus and Other ARRCComponents, Determination of DCO* the timelines for submission of the Operating Expenditure estimates with respect to the Review Date; and
 - specify equally in *Condition 4.7.2* the number of Gas Years for which estimates of annual Operating Expenditure are to be provided and for which the Authority shall determine the amount of Determined Controllable Operating Expenditure as five.
- 3.4 The proposed licence modifications are set out in detail in Annexes 1 to 4.

⁹ The sum of the amount of each item of Controllable Operational Expenditure determined to be reasonable by the Authority in line with the PTL and BGTL conveyance licences.

Reasons and Effects

- 3.5 At present the duration of the review period varies between licence holders. In the case of GNI (UK) the review period is defined¹⁰ as being every fifth year. In the case of Premier Transmission, Belfast Gas Transmission and West Transmission the licence holder must submit a forecast of Controllable Operating Expenditure every third year for approval by the Authority¹¹.
- 3.6 In order to carry out the GT17 price control we asked all four licence holders to submit business plans for the five year period commencing 1 October 2017. All four licence holders complied with this request. We now propose to modify each licence to facilitate a common five year price control period going forward commencing in 1 October 2017.
- 3.7 This alignment of price control review periods will permit more effective comparisons between licence holders as allowances are set under the same set of market conditions. It will facilitate a consistent approach to similar issues by the UR. It will also lead to greater efficiency on the part of the Utility Regulator as all relevant licence holders will have their reviews carried out at the same time.
- 3.8 The proposed removal to reference to reference to “*the Allowed Operating Expenditure for such Gas Year as previously determined in accordance with Condition 2.2.4 (d), (e), (g), (h) or (i), as appropriate*” from paragraphs (g) and (h) of Condition 2.2.4 of the GNI (UK) conveyance is for clarity. The reference relates to historic obligations and is no longer relevant.

¹⁰ GNI (UK) Gas Conveyance Licence Condition 2.2.19

¹¹ PTL and BGTL Gas Conveyance Licence Condition 3.1.6 (b) WTL Gas Conveyance Licence Condition 4.7.2 (a)

4 Forecast Uncontrollable Operating Expenditure

Proposed Licence Modifications

- 4.1 We propose to modify *Condition 3.1.6: Allowed Revenue Determination, Approved Surplus Determination* of the PTL and BGTL conveyance licences by:
- Adding a requirement to submit details on Uncontrollable Operating Expenditure in addition to Controllable Operating Expenditure; and
 - Adding in paragraph (e) a definition of the term “*Uncontrollable Operational Expenditure*”.
- 4.2 We furthermore propose to introduce the equivalent changes to the WTL conveyance licence through modification of licence Conditions 4.7.2, 4.7.3 and 4.7.4.
- 4.3 The proposed licence modifications are set out in detail in Annexes 2 to 4.

Reasons and Effects

- 4.4 At present there is no licence requirement on Premier Transmission, Belfast Gas Transmission and West Transmission to provide UR with forecasts and actual of Uncontrollable Operating Expenditure over the price control period. We consider that this leaves a gap in consumers’ ability to make a fully informed assessment of the likely total cost of transmission services over the price control period. It also means that the reporting requirements of these licence holders and those of GNI (UK) differ for no apparent good reason.
- 4.5 We therefore propose to modify the licences to require a reporting of Uncontrollable Operating Expenditure to be submitted in advance of the price control and actual figures to be submitted during the price control period. This will include the introduction of a definition of such expenditure that will mirror the existing definition of Controllable Operating Expenditure.
- 4.6 The licence modification will ensure consistency between NI high pressure conveyance licences and help ensure that licence holders are regulated on an equivalent basis.
- 4.7 The proposed modification may result in some enhancement of the reporting obligations for PTL, BGTL and WTL. However, we consider that the additional information requested should be recorded by a reasonable and prudent operator in any case.

5 Timelines

Proposed Licence Modifications

- 5.1 We propose to modify *Condition 3.1.6: Allowed Revenue Determination, Approved Surplus Determination* of the PTL and BGTL conveyance licences by:
- defining the timelines for submission of the Operating Expenditure estimates with respect to the Review Date¹² in paragraphs (b)(i)(bb);
 - providing a definition of the term “Review Date” in paragraph (f);
 - removing the requirement to notify BCO within 28 days of verification in paragraph (b)(iii); and
 - extending the timelines for provision of licence holder comments on changes to the Operating Expenditure estimates from 14 to 28 days in paragraphs (b)(iii) and (v).
- 5.2 We furthermore propose to introduce the equivalent changes to the WTL conveyance licence through modification of licence *Condition 4.7.2: The Approved Surplus and Other ARR Components, Determination of DCO*.
- We propose to modify *Condition 2.2.4: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Allowed Operating Expenditure* of the GNI (UK) conveyance licence by requiring the licence holder to report Actual Operating Expenditure whether Controllable or Uncontrollable for the previous gas year according to the same timeline, that is six months into the gas year by inserting the term Actual Controllable Operating Expenditure into Condition 2.2.4 (k).
- 5.3 We furthermore propose to modify *Condition 2.2.19: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Additional Definitions and interpretation* of the GNI (UK) conveyance licence by providing a definition for the terms “Actual Controllable Operating Expenditure” and “Allowed Controllable Operating Expenditure” used in Condition 2.2.4.
- 5.4 The proposed licence modifications are set out in detail in Annexes 1 to 4.

Reasons and Effects

- 5.5 Certain of the timelines in the existing PTL, BGTL and WTL licence governing the process by which operating expenditure allowances are determined by the Authority no longer seem appropriate. For instance the licence holder is entitled to a minimum of 14 days to respond to proposed allowances. In line with other consultation processes we consider that this should be increased to a minimum of 28 days.
- 5.6 We also consider that as is the case for GNI (UK) these licence holders should be required to submit cost estimates for the next review period 15 months before that review period commences. The present licence drafting only provides that the necessary data is provided three months before the Review Date.

¹² See also chapter 2.

- 5.7 This will ensure alignment of the process across all licence holders on a timeframe that will ensure that decisions are based on a robust process with sufficient time for consultation provided for. Setting allowances for all licence holders at the same time should also lead to a consistent and co-ordinated approach. This is now essential given the creation of the single system operator by means of a contractual joint venture.
- 5.8 We acknowledge that need for earlier submission of cost estimates may have some impact on accuracy of forecasts. However, we consider this is out weighed by the benefits of a more robust analytical process facilitated by this longer period.
- 5.9 We have removed the requirement on the Authority to notify the licence holder of the BCO within a certain timeframe as we want to ensure that the price control of all the high pressure companies is notified at the same time.

6 VRF and OS Services Revenue

Proposed Licence Modifications

- 6.1 We propose to amend the BGTL conveyance licence by:
- Removing paragraph (gg) and reference to same in *Condition 3.1.3: Allowed Revenue Determination, The Forecast Required Revenue*; and
 - Removing reference to the term G_t from the formula for the calculation of ARR_t in *Condition 3.1.4: Allowed Revenue Determination, Actual Required Revenue*,
 - Removing reference to the term G_t from the definitions in *Condition 3.1.5: Allowed Revenue Determination, Definition of Formula Terms*: and
 - Removing reference to the term G_t from *Condition 3.1.6: Allowed Revenue Determination, Approved Surplus Determination*.
- 6.2 Similarly, we propose to amend the WTL conveyance licence by:
- Removing the definition of Virtual Reverse Flow from *Condition 4.1.2 (b) General Provisions, Definitions and Reporting*,
 - Removing reference to the term F_t from the formula for the calculation of ARR_t in *Condition 4.4.2: Forecast and Actual Required Revenue, Actual Required Revenue*;
 - Removing reference to the term F_t from the definitions in *Condition 4.4.3: Forecast and Actual Required Revenue, Definition of Formula Terms*;
 - Removing *Condition 4.7.7: The Approved Surplus and Other ARR Components, The Virtual Reverse Flow Revenues*.
- 6.3 The proposed licence modifications are set out in detail in Annexes 3 to 4.

Reasons and Effects

- 6.4 Prior to 1 October 2015 the commercial regime in Northern Ireland operated on the basis of a point to point, rather than an entry exit regime. Consequently to provide commercial tools such as Virtual Reverse Flow (VRF) and Oversubscription & Buy Back (OS) required that any revenue associated with the provision of such services be collected from network users by the TSOs at each exit point. With the advent of an entry exit regime such revenue is collected only at the two Interconnection Points, Moffat and Gormonstown. Therefore licence conditions to deal with OS revenue are not needed in the BGTL or WTL licences as there are no Interconnection Points on these networks at which OS services are provided.
- 6.5 We therefore propose to remove references to OS revenue from those licence holders whose network does not include a designated Interconnection Point.

- 6.6 It is important to note that no consequential modification to Part 2A in any licence is proposed. Part 2A underpins the operation of Postalisation and any modification must be reflected in all licences that include these conditions.
- 6.7 The proposed modification is necessary to bring the regime into line with European requirements on the offering of over subscription services at interconnection points.

7 First Operational Commencement Date

Proposed Licence Modifications

- 7.1 We propose to modify the WTL conveyance licence by changing the definition of the term “First Operational Commencement Date” in *Condition 1.1.6: Interpretation and Construction, Definitions* to be “*the date specified in any direction issued by the Authority following consultation with the licence holder, as being the date on or from which the Network is deemed to be operational*”.
- 7.2 The proposed licence modification is set out in detail in Annex 4.

Reasons and Effects

- 7.3 When this licence was granted in February 2015 it was anticipated that the First Operational Commencement Date would be 1 October 2017. Since then, however, the nature of the network design has changed. A short length of high pressure pipeline and an Above Ground Installation in the Maydown area of Londonderry has become operational during the gas year commencing 1 October 2016. Gas suppliers can now book exit capacity from West Transmission to supply consumers on the Strabane distribution network for use during the 2016/17 gas year. As the licence is currently drafted¹³ this would move the First Operational Commencement date to 1 October 2016. We would regard this as an undesirable outcome, given that the licence was drafted in anticipation of the First Operational Commencement Date coinciding with the completion of the major part, if not the entirety, of the high pressure network. In particular, prior to the First Operational Commencement Date the rate of return the licence holder receives on their investment is limited to a rate equal to LIBOR + 0.5%. This provides an incentive to the licence holder to complete the network in a timely manner. It would not be appropriate to remove this incentive when only a fraction of the final network had been completed.
- 7.4 We intend to modify the relevant licence condition such that this undesirable outcome does not arise. As with any major infrastructure project there is always the potential for delay due to a variety of factors such as weather conditions and planning consents. The modification will therefore not set a specific First Operational Commencement Date but will provide the Authority with flexibility when setting this key date.

¹³ WTL Gas Conveyance Licence Condition 1.1.6

8 Dis-application of Licence Conditions

Proposed Licence Modifications

- 8.1 We propose to modify the GNI (UK) conveyance licence by:
- Amending *Condition 2.2.5: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Five yearly review of the Capital Revenue Requirement – CRR* as follows:
 - Modifying the title of the condition to read “Review of the Capital Revenue Requirement – CRR”;
 - Removing from paragraph (b) sub-paragraph (iv) regarding the Rate of Return and renumbering the subsequent paragraphs accordingly;
 - Removing from paragraph (d) (i) the reference to the term “Formula Amendments”;
 - Removing paragraphs (f) and (g) regarding dis-application provisions.
 - Updating in *Condition 2.2.19 Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Additional Definitions and interpretation* in the definition of the term “Formula Amendments” the cross reference to point to the new disapplication *Condition 2.2.22*;
 - Inserting a new dis-application condition as *Condition 2.2.22*;
 - Correcting the erroneous numbering of *Condition 2.2.23.2* to *2.2.21.2*;
 - Modifying, in *Annex A: Actual Required Revenue Formula, Part 5: Rate of Return*, the definitions of re_t , g_t and d_t to include reference to notification to the Licensee by the Authority:
- 8.2 The proposed licence modification is set out in detail in Annex 1.

Reasons and Effects

- 8.3 Dis-application is the process by which a licence holder can trigger a referral of a decision of the Authority to the Competition & Markets Authority for adjudication. Under the existing licence these dis-application provisions only apply in circumstances where the Authority serves notice under *Condition 2.2.5: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Five yearly review of the Capital Revenue Requirement – CRR*, paragraph (d). That is in circumstances where it seeks to amend the calculation of the Capital Revenue Requirement. No provision is made for dis-application whenever the Authority makes a price control determination with regard to the annual allowances in respect of Controllable Operating Expenditure and the Rate of Return.
- 8.4 We therefore propose to remove the current provisions entirely and replace them with an entirely new condition that will provide for dis-application when the Authority serves notice that it intends to amend the calculation of the Capital Revenue Requirement,

amend the value given to r_t , g_t and d_t for the purpose of calculating the Rate of Return and or when it sets the price control allowances at each review date. This modification will therefore permit GNI (UK) to refer the Authority's price control determination to the Competition and Markets Authority for adjudication.

- 8.5 The proposed modification also provides that in circumstances where the licence holder issues a Dis-application Notice, then until the dispute has been resolved:
- The Capital Revenue Requirement remains unchanged;
 - The Rate of Return is left at the level it was in the previous price control period;
 - The Allowed Operating Expenditure is set at the average for the previous five gas years.
- 8.6 The licence holder will therefore continue to be entitled to collect a significant proportion of the funds they require to operate the licensed activity during the period of any dispute. In this way consumers and investors are protected from any potential negative effects of the dis-application.
- 8.7 The proposed licence modification also furthers consistency between GNI (UK) and other licence holders in NI who can refer price control determinations to the CMA.

9 Special Operating Expenditure Forecast Review

Proposed Licence Modifications

- 9.1 We propose to modify *Condition 2.2.4: Conveyance Charges, Other Terms for the Conveyance of Gas and the Provision of Conveyance Services, Allowed Operating Expenditure* of the GNI (UK) conveyance licence by specifying in paragraph (i) that the 15% threshold referred to in that paragraph relates to the difference between Actual Controllable Operating Expenditure and the most recently agreed Allowed Controllable Operating Expenditure.
- 9.2 The proposed licence modification is set out in detail in Annex 1.

Reasons and Effects

- 9.3 GNI (UK) is subject to a standard and fairly straightforward incentive mechanism in the form of a 'revenue cap'. Under this mechanism the licence holder is given an allowed revenue to carry out its duties under the licence. The licence holder is exposed to the cash flow risk associated with deviations between allowed revenue and actual costs. In the case of GNI (UK) this risk is mitigated to some extent by two mechanisms:
- The ability to seek allowances for Unforeseen Operating Expenditure¹⁴; and
 - The ability to seek a forecast expenditure review should actual expenditure be greater than 15% above the allowance in any gas year¹⁵.
- 9.4 In the latter case, however, the current licence is unclear as to the definition of actual expenditure, in particular whether it refers to total actual expenditure including uncontrollable costs or whether it is restricted to controllable expenditure. We propose to modify the licence such that the assessment is made with regard to controllable operating costs only. By explicitly excluding uncontrollable costs from the calculation a smaller variation in costs will be required to trigger the mechanism. We do not believe that it would be reasonable to include costs that the licence holder is not able to manage in this mechanism.
- 9.5 The effect of the proposed licence modification is that a smaller deviation in expenditure will trigger the review mechanism as is currently the case.

¹⁴ GNII (UK) Gas Conveyance Licence Condition 2.2.4 (j).

¹⁵ GNII (UK) Gas Conveyance Licence Condition 2.2.4 (i).

10 Next Steps

Conclusion and next steps

- 10.1 This paper represents the Utility Regulator’s proposals on modifications to the GNI (UK), PTL, BGTL and WTL gas conveyance licences.
- 10.2 Table 2 summarises the next steps and associated timelines for the licence modification process.

Table 2: Next Steps

Next Steps	Proposed Date
Notice of Proposal to Modify Published	12 April 2017
Statutory Consultation closes	10 May 2017
Notice of Determination Published	18 May 2017
Licence Modifications Effective Date	17 July 2017
Publication of Final GT17 Determination	18 July 2017
Dis-application Window Closes	15 August 2017

- 10.3 We note that this timetable allows for the effective date of the licence modifications to be at least 56 days after the publication of the licence modification decision, in line with the requirements of Article 14(10) of the Gas (Northern Ireland) Order 1996¹⁶. This period provides an opportunity for the licence holder concerned, any other licence holder materially affected by the decision, a qualifying body or association representing one of those licence holders, and/or the Consumer Council for Northern Ireland to appeal the decision on the licence modifications to the CMA (Competition and Markets Authority).
- 10.4 An application to the CMA for permission to appeal must be made within 20 working days from the publication of the Notice of Determination to modify the licence.

¹⁶ <http://www.legislation.gov.uk/nisi/1996/275/contents>.

Annexes and Supplementary Documents

Annexes

Table 3 provides an overview over the annexes to this decision paper on licence modifications.

Table 3: Annexes to Consultation on Licence Modifications

Annex Number	Annex Name
Annex 1	Proposed GNI (UK) Licence Modifications
Annex 2	Proposed PTL Licence Modifications
Annex 3	Proposed BGTL Licence Modifications
Annex 4	Proposed WTL Licence Modifications