

# Notice and Decision on Gas Supplier of Last Resort Licence Modifications

4<sup>th</sup> July 2018



# 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, proportionate, 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 the decision by the Utility Regulator (UR) to modify all gas conveyance and supply licences to introduce a requirement for all gas licence holders to comply with the Gas Supplier of Last Resort arrangements as agreed by industry.

## Audience

This document will be of interest to all gas licence holders. It is also likely to be of interest to other regulated companies in the energy industry, government and other statutory bodies as well as consumer groups with an interest in the energy industry.

## Consumer Impact

This project delivers on the UR Consumer Projection Strategy Objective 3 which is to empower customers through education and transparency and by putting in place arrangements for a Gas Supplier of Last Resort.

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## Glossary

BGTL	Belfast Gas Transmission Limited
CCNI	Consumer Council for Northern Ireland
DNO	Distribution Network Operator
NI	Northern Ireland
PTL	Premier Transmission Limited
SoLR	Supplier of Last Resort
UR	The Northern Ireland Authority for Utility Regulation
WTL	West Transmission Limited

# DECISION PUBLISHED PURSUANT TO ARTICLE 14(8) OF THE GAS (NORTHERN IRELAND) ORDER 1996

In exercise of its powers under Article 14(1) of the Gas (Northern Ireland) Order 1996 (as amended) (the “Gas Order”) the Northern Ireland Authority for Utility Regulation (hereafter referred to as the Utility Regulator) hereby publishes, in accordance with Article 14(8), the following decisions:

1. The UR is proceeding with modifications, which introduce a new Supplier of Last Resort Condition to the gas conveyance licences held by:
  - Belfast Gas Transmission Limited (BGTL)
  - Premier Transmission Limited (PTL)
  - West Transmission Limited (WTL)
  - GNI (UK) Limited
  - firmus energy (Distribution) Limited
  - Phoenix Natural Gas Limited
  - SGN Natural Gas Limited
  
2. The UR is proceeding with modifications, which introduce a new Supplier of Last Resort Condition and a new Last Resort Supply Direction Condition to the gas supply licences held by:
  - SSE Airtricity Gas Supply (NI) Limited
  - Firmus energy (Supply) Limited – Ten Towns
  - Firmus energy (Supply) Limited – Greater Belfast Area
  - Vayu Limited
  - Electric Ireland
  - Equo Energy
  - Go Power
  - Flogas Natural Gas Limited
  - Energia
  - Power NI Energy Limited
  - SSE Airtricity Energy Supply (NI) Limited
  - ONI Gas Limited
  - SSE Energy Supply Limited
  - Shell Energy Europe Limited
  - Viridian Energy Limited
  - Bord Gais Energy Limited
  - AES Ballylumford Limited

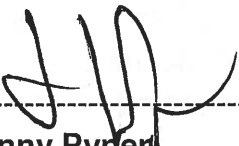
- British Gas Trading Limited
- Coolkeeragh ESB Limited
- Power NI Energy Limited (formally NIE PLC)

In accordance with Article 14(8) of the Gas Order:

3. Chapter 2 of this Decision Paper states how the Utility Regulator has taken account of any representations made in response to the notice published by it pursuant to Article 14(2) of the Gas Order, on 16<sup>th</sup> April 2018. Following review of the responses received, there are no changes to the modifications previously consulted on.
4. Chapter 3 of this Decision Paper states the effects of the modifications.

The relevant modifications are set out in Annexes A, B and C of this Decision Paper and shall each have effect from 31<sup>st</sup> August 2018.

Dated this 4<sup>th</sup> July 2018

  
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**Jenny Pyper**

**Chief Executive**

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

# 1. Introduction

- 1.1 The Utility Regulator's (UR) principal objective in carrying out the duties associated with its gas functions is to promote the development and maintenance of an efficient, economic and coordinated gas industry in Northern Ireland (NI), and to do so consistently with the fulfilment of its objectives set out in the European Gas Directive<sup>1</sup>, and by having regard to a number of matters, as set out more fully in the Energy (Northern Ireland) Order 2003.
- 1.2 The [Gas \(Supplier of Last Resort\) Regulations \(Northern Ireland\) 2009](#), here after the Regulations, give the UR the power to appoint a Supplier of Last Resort (SoLR) where there is a failure of a gas supply company. This guiding principle has informed the UR's approach to developing the gas SoLR arrangements. The Regulations came into force as part of the implementation of EU Directive 2003/55/EC.
- 1.3 In March 2011 the UR published a consultation paper on SoLR requirements. This paper outlined the considerations and principles the UR deemed necessary for the selection and appointment of a SoLR at that time. The UR published a subsequent decision paper in June 2012. This [decision paper](#) outlined the key SoLR issues and the overall framework for developing the SoLR processes. However this did not include any detailed industry arrangements, procedures or the licence modifications needed to ensure those processes were followed.
- 1.4 The gas supplier forum has been used to develop and agree the necessary gas SoLR arrangements across the industry. The supplier forum is chaired by the UR and includes representatives from gas suppliers, the Distribution Network Operators (DNO's) and the Consumer Council for Northern Ireland (CCNI).
- 1.5 Through the supplier forum, the SoLR arrangements that will be followed if there is a SoLR event, were drafted and agreed by representatives from all parties.
- 1.6 In April 2018 an [information paper](#) outlining the process and agreed industry principles was published alongside the Gas SoLR proposed licence modification consultation<sup>2</sup>. The information paper provides further details on the SoLR arrangements, as well as issues for future consideration.

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<sup>1</sup> Directive 2009/73/EC of the European Parliament and the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

<sup>2</sup> [Notice and Consultation on Gas Supplier of Last Resort Licence Modifications, Notice under Article 14\(2\) of the Gas \(Northern Ireland\) Order 1996, Consultation 16<sup>th</sup> April 2018.](#)



- 1.7 For the reasons set out in Chapter 2 of this Decision Paper we consider that the modifications set out in the Notice<sup>2</sup> published by the UR pursuant to Article 14(2) of the Gas Order, on 16<sup>th</sup> April 2018, should be made as drafted in the consultation. There are no amendments to be processed to the draft licence condition text as consulted on following a review of the responses received.
- 1.8 The effect of the introduction of the new SoLR licence conditions is set out in Chapter 3 of this document.
- 1.9 A Notice under Article 14(2) of the Gas Order proposing the modifications and seeking comments from interested parties was published by the UR on 16<sup>th</sup> April 2018<sup>2</sup>. The Consultation closed on 16<sup>th</sup> May 2018 and generated three responses from:
- a) firmus energy;
  - b) GNI (UK) Ltd; and
  - c) One confidential response.

### Next Steps

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- 1.10 The UR will continue to work with the gas industry in developing the testing of the agreed SoLR arrangements.
- 1.11 The effective date of the licence modifications will be 31<sup>st</sup> August, which is not less than 56 days after this publication of the licence modification decision, in line with the requirements of Article 14(10) of the Gas Order.

## 2. Consideration of Responses Received

### Summary of Responses Received

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- 2.1 All three respondents' firmus energy, GNI (UK), and the confidential response, supported the proposal for the introduction of the Gas Supplier of Last Resort (SoLR) licence conditions.

#### firmus energy

- 2.2 Firmus energy stated that it has been actively involved with the UR and industry stakeholders through the development of the SoLR arrangements and welcomed the clarity that has now been brought to the application of the Gas (Supplier of Last Resort) Regulations (Northern Ireland) 2009. Firmus energy requested that in future developments of the gas SoLR project, industry is mindful of the decisions which have been made to date.
- 2.3 Firmus energy also requested that the timelines for the delivery of the next phase of the SoLR project be given careful consideration to ensure that all participants are in a position to engage fully in the process.

#### Utility Regulator Response

- 2.4 The UR fully recognises and values the contribution of the NI gas industry and stakeholders in developing the agreed SoLR arrangements. Any aspects for future consideration shall have due regard on the positions to date and the rationale for arriving at them. Going forward, the UR will seek to implement any further changes in the best interests of NI consumers, while ensuring the successful implementation and deliverance of SoLR arrangements, adhering to the relevant Regulations.
- 2.5 The UR have proposed to review the SoLR day 2 considerations in Autumn/Winter 2018 with industry. All relevant parties shall be given adequate notice before the project is resumed.

#### GNI (UK)

- 2.6 GNI (UK) has committed to using all reasonable endeavours to comply with the gas SoLR arrangements. GNI (UK) flagged the need for the timely transfer

of customers from the defaulting supplier to the SoLR supplier to:

- (i) ensure the accuracy and timeliness of shipper nominations on their network and that;
- (ii) customer demand affected by the SoLR is accurately embedded into the SoLR nominations from Day 0.

- 2.7 GNI (UK) also requested the need for a clear change control process around the SoLR policy to ensure that TSO/GMO NI activities are updated accordingly.

#### **Utility Regulator Response**

- 2.8 The industry agreed SoLR arrangements ensure that established processes are in place to manage the day ahead nominations, whereby at Day 0, the relevant DNO will provide the SoLR with a copy of the day ahead nominations previously issued to the defaulting supplier on D-24 hours at 8:00am. In addition, at the end of Day 0, the relevant DNO will prepare and reissue within day nominations for the SoLR to include the defaulting supplier's portfolio. The processes are in place however the UR acknowledges that the success of the SoLR arrangements, should a SoLR event occur, are dependent on the successful and timely sharing of necessary data between all relevant parties.
- 2.9 The UR will continue to engage with the gas supplier forum to ensure any amendments to the existing SoLR policy are fully consulted on.

#### **Confidential**

- 2.10 A confidential response to the proposed SoLR licence modification was received. The respondent requested to remain anonymous and the consultation response is therefore not published alongside this decision paper. The respondent did state that they supported the approach to the NI SoLR arrangements.

#### **Utility Regulator Response**

- 2.11 The content of the confidential response does not necessitate any changes to the SoLR licence condition text which was consulted on. Similarly the confidential response does not require any changes to the NI industry agreed SoLR arrangements.

### **3. Effect of the Licence Modifications**

- 3.1 The licence modifications are included in Annexes A, B and C. There are no changes to the draft licence condition text which was published for consultation on 16th April 2018.
- 3.2 The effect of the various modifications are as follows:

#### **High Pressure Conveyance Licences**

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- 3.3 The effect of the implementation of this Condition is that it ensures all gas high pressure conveyance licensees act in accordance with the gas SoLR arrangements as agreed by industry.
- 3.4 The introduction of the licence condition and the finalisation of the gas SoLR arrangements ensures NI gas customers maintain a continuity of gas supply, should a SoLR event be initiated.

#### **Low Pressure Conveyance Licences**

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- 3.5 The effect of the implementation of this Condition is that it ensures all gas low pressure conveyance licensees act in accordance with the gas SoLR arrangements as agreed by industry.
- 3.6 The introduction of the licence condition and the finalisation of the gas SoLR arrangements ensures NI gas customers maintain a continuity of gas supply, should a SoLR event be initiated.

## Gas Supply Licences

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- 3.7 The effect of the implementation of these Conditions is that it ensures all gas supply licensees act in accordance with the gas SoLR arrangements as agreed by industry.
- 3.8 The introduction of these licence Conditions and the finalisation of the gas SoLR arrangements ensures NI gas customers maintain a continuity of gas supply, should a SoLR event be initiated.
- 3.9 The effect of the implementation of the Last Resort Supply Direction Condition is that it gives gas supply licensees clarity on the UR processes for issuing a Last Resort Supply Direction and the responsibility of the gas supply licensee.

## 4. Conclusion

- 4.1 The UR has considered the representations received fully and remains content that the new gas Supplier of Last Resort and Last Resort Supply Direction licence conditions, as set out in Annexes A, B and C, should be made for the reasons outlined in this Decision Paper. The UR has also concluded that the new licence conditions will better facilitate the achievement of our statutory consumer protection obligations and ensure compliance with the Regulations by all gas licensees.
- 4.2 The UR is therefore proceeding to implement the modifications to the relevant licences by way of the new conditions as set out in Annexes A, B and C. This paper represents the UR's final decision on the modification of all gas high pressure conveyance licences, low pressure conveyance licences and gas supply licences.
- 4.3 The modifications have effect from 31<sup>st</sup> August 2018.

# Annex A: Modifications to the High Pressure Conveyance Licences

## Condition 2.1A: Supplier of Last Resort

1. Following the issue of a Last Resort Supply Direction, the Licensee shall (and shall procure that its Agents or Sub-contractors shall) use all reasonable endeavours to comply with any relevant arrangements that have been prepared and maintained by Gas Industry Representatives and approved by the Authority (that are in place from time to time) and that outline the processes that should be followed both in the initiation of, during and after the circumstances following the issue of a Last Resort Supply Direction.

2. In this Condition:

<b>Agent or Sub-contractor</b>	means any person directly or indirectly authorised to represent the Licensee.
<b>Gas Industry Representatives</b>	means representatives from gas suppliers, distribution system operators, transmission system operators and also the Consumer Council for Northern Ireland.
<b>Last Resort Supply Direction</b>	means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Order.

# Annex B: Modifications to the Low Pressure Conveyance Licences

## Condition 2.1A: Supplier of Last Resort

1. Following the issue of a Last Resort Supply Direction, the Licensee shall (and shall procure that its Agents or Sub-contractors shall) use all reasonable endeavours to comply with any relevant arrangements that have been prepared and maintained by Gas Industry Representatives and approved by the Authority (that are in place from time to time) and that outline the processes that should be followed both in the initiation of, during and after the circumstances following the issue of a Last Resort Supply Direction.

2. In this Condition:

**Agent or Sub-contractor**

means any person directly or indirectly authorised to represent the Licensee.

**Gas Industry  
Representatives**

means representatives from gas suppliers, distribution system operators, transmission system operators and also the Consumer Council for Northern Ireland.

**Last Resort Supply  
Direction**

means a direction given by the Authority to the Licensee that specifies or describes the premises to be supplied with gas in accordance with Article 24A of the Order.



# Annex C: Modifications to all gas supply Licences

## Condition 2.1A: Supplier of Last Resort

1. Following the issue of a Last Resort Supply Direction, the Licensee shall (and shall procure that its Agents or Sub-contractors shall) use all reasonable endeavours to comply with any relevant arrangements that have been prepared and maintained by Gas Industry Representatives and approved by the Authority (that are in place from time to time) and that outline the processes that should be followed both in the initiation of, during and after the circumstances following the issue of a Last Resort Supply Direction.

2. In this Condition:

**Agent or Sub-contractor**

means any person directly or indirectly authorised to represent the Licensee.

**Gas Industry  
Representatives**

means representatives from gas suppliers, distribution system operators, transmission system operators and also the Consumer Council for Northern Ireland (previously, the General Consumer Council for Northern Ireland).

### **Condition 2.1B: Last Resort Supply Direction**

- 1 The Authority may give a Last Resort Supply Direction to the Licensee if it considers that:
  - (a) circumstances have arisen that would entitle it to revoke the gas supply licence of a gas supplier other than the Licensee (for this Condition only, the **other supplier**); and
  - (b) the Licensee could comply with the Last Resort Supply Direction without significantly prejudicing its ability:
    - (i) to continue to supply gas to its consumers' premises; and
    - (ii) to fulfil its contractual obligations for the supply of gas.
- 2 The Last Resort Supply Direction will:
  - (a) have effect on and from the date on which and the time at which the other supplier's gas supply licence is revoked; and
  - (b) stop having effect on and from a date, specified in the Last Resort Supply Direction, that is up to six months after the date upon which the Last Resort Supply Direction has effect.
- 3 The Licensee shall, subject to paragraph 4, comply with a Last Resort Supply Direction.
- 4 The Licensee is not required to comply with a Last Resort Supply Direction in respect of premises to which it would not be required to supply gas because of any of the exceptions set out in sub-paragraphs 4(a), (b) and (c) of Condition 2.17A.
- 5 Within a reasonable period of time after receiving a Last Resort Supply Direction, the Licensee must send a copy of a notice to each of the premises specified or described in the Last Resort Supply Direction to inform the consumer:
  - (a) that the other supplier stopped supplying gas to the premises with effect on and from the date upon which the Last Resort Supply Direction had effect;
  - (b) that the Licensee began to supply gas to the premises with effect on and from the date upon which the Last Resort Supply Direction had effect;
  - (c) that the Licensee is supplying gas to the consumer's premises under a Deemed Contract;
  - (d) that the consumer may enter into a Contract with the Licensee or any other gas supplier under which gas will be supplied to the premises; and
  - (e) of the charges for the supply of gas that the Licensee may charge the consumer while supplying him under the Last Resort Supply Direction.

- 6 The Licensee's charges for the supply of gas to the premises specified or described in the Last Resort Supply Direction must not exceed an amount that may be expected, in total, approximately to equal the Licensee's reasonable costs of supply (including, where appropriate, the costs of purchasing gas at short notice) and a reasonable profit.
- 7 If the Licensee purchases gas to comply with a Last Resort Supply Direction, it must take all reasonable steps to do so as economically as possible in all the circumstances of the case.
- 8 The Licensee shall, so far as is reasonably practicable, give the Authority at least five days' notice of any increase in the charges for the supply of gas to premises to be supplied with gas by it in accordance with a Last Resort Supply Direction.
- 9 Where, within five days of the receipt by the Authority of the notice referred to in paragraph 8, the Authority determines that the charges proposed by the Licensee would be likely to cause hardship to domestic consumers, it may issue a direction to the Licensee requiring it to ensure that its charges for the supply of gas do not exceed those specified in the direction as being appropriate in order to avoid or mitigate such hardship.
- 10 The Licensee shall comply with any direction issued by the Authority under paragraph 9, but shall not be required by that direction to set its charges for the supply of gas at a level less than that applicable to the supply by it under Deemed Contracts of comparable Domestic Premises otherwise than in accordance with a Last Resort Supply Direction.