

Northern Ireland Electricity Limited

Transmission and Distribution Price Controls

2013-2017

Final Determination

23 October 2012

APPENDIX F CONSULTATION RESPONSES

1.1	Our consultation on the draft determination for the fifth price control for Northern Ireland Electricity Ltd closed on 19 July 2012. We received non confidential responses from the following organisations:	
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- 1.2 One further response was marked as confidential.
- 1.3 Appendix E covers the response received from NIE T&D.
- 1.4 In the pages overleaf we have summarised the principal points made in each of the non-confidential responses, and our response in turn to each of these.

Comments from respondents other than NIE

In the section below we address the non confidential responses excluding NIE's.

Ref	Organisation	Chapter	Comment	Our response
1	Prospect	General	The regulatory framework should support energy policy objectives and not inhibit them. The regulator should therefore focus more on medium to long-term security of supply and environmental issues, and less on the traditional approach focusing on cost minimisation and asset sweating.	As per 4.3 of our draft determination, stakeholders agreed that the appropriate objectives for RP5 are to: <ul style="list-style-type: none"> • ensure value for money for customers for the service provided; • ensure security of supply by maintaining and developing a network that is fit for purpose; and • facilitate sustainability in the generation and consumption of electricity. The purpose of RP5 is to achieve these objectives while also ensuring that NIE T&D can finance its activities.
		General	It is therefore important that the regulatory framework is flexible enough to encourage investment in new plant, new techniques and new skills.	Our assessment, proposed capex mechanism and allowance for NIE T&D as described in Section 9 RP5 Capex of the draft determination will allow the required investment in the network while ensuring the above objectives are achieved.
		Opex	Prospect made comments concerning the unrealistic intention of maintaining labour costs at or below inflation over the next 5 years, they feel that the current salaries offered by NIE are out of step with the rest of the energy sector. they made additional comments relating to; <ul style="list-style-type: none"> • Demand for engineering skills in NI from NI based companies' e.g. Kelvatec based in NI but operating internationally. • Job security, Some skilled and experienced staff has left the company for relatively short term contracts. Within the energy sector RPI is 	Our analysis of a large number of job adverts has allowed comparisons to be drawn between NIE T&D's salary scales and those of the wider market in Northern Ireland. In most cases that we reviewed, NIE T&D's rates are broadly similar to, or above, those offered by competitors and can therefore be classed as competitive. Evidence from job adverts also suggests that there is a vibrant labour market in many of the skilled staff categories that NIE T&D employs. However to date this has not had a large impact on NIE T&D's business. This was

Ref	Organisation	Chapter	Comment	Our response
			<p>no longer an appropriate benchmark for the retention of existing staff.</p> <ul style="list-style-type: none"> • Regional variations in pay, they stated that the average wage in Northern Ireland is lower than for Great Britain as a whole UR claims that salaries are above the NI average are said to be misleading and meaningless - more objective evidence should be provided or NIE will not retain skilled employees in the future. • Demand for skills, They are concerned for NIE and its ability to retain the appropriate skilled resources over the coming years. <p>They also issued a series of comments about the pension deficit and how it should be addressed.</p>	<p>illustrated by the low labour turnover rates in comparison with the wider market. It is also shown by the fact that there is significant interest in the vacancies that NIE T&D offers.</p> <p>Our draft determination included salaries in the benchmarking exercise and we have not been convinced by new information that any uplift should be applied; the allowance proposed in the draft determination is unchanged.</p>
		Pensions	We urge the regulator to tighten the wording of its pension principles in the final determination.	We consider that the terminology used in the draft determination provides sufficient clarity to reduce uncertainty and will remain.
			NIE Powerteam's share of the deficit should reflect members' service with different entities.	The final determination applies a different approach and this is discussed in the main paper.
			An 11 year deficit recovery period should be used for consistency with the scheme funding recovery plan.	<p>In the NIE T&D response it appears that they will accept a 15 year recovery period. It is also worth considering the position of the Pension Regulator in this matter. They have stated that it "would like to make clear to trustees of defined benefit (DB) schemes with regulated sponsors that the period assumed by economic regulators for firms to recoup pension costs from consumers is subject to very different considerations to the speed at which they should expect sponsors to fill pension deficits." (see http://www.thepensionsregulator.gov.uk/docs/deficits-statement-dec-2009.pdf) Therefore will intend to keep to the proposed 15 year</p>

Ref	Organisation	Chapter	Comment	Our response
				recovery period.
			The current deficit arises from current market conditions and demographic changes; the UR would not be adopting its current approach if the scheme were in surplus.	The funding position of the NIEPS is a consequence of the entire past experience of the scheme together with the assumptions made for future experience.
			Disagreement with the adjustment in respect of benefit improvements funded out of the pension scheme surplus because: <ul style="list-style-type: none"> (i) It is not appropriate to re-examine decisions taken up to 15 years ago; (ii) such benefit improvements were common at the time; and (iii) other regulators have not done so. 	The final determination applies a different approach and this is discussed in the main paper.
			Disagreement that early retirement costs are “legally avoidable or inefficient” because: <ul style="list-style-type: none"> (i) It is not appropriate to re-examine decisions taken many years ago; (ii) The costs were not legally avoidable as they are part of employees’ terms and conditions; and (iii) The UR has not attempted to show that it was inefficient. 	Early retirement costs are discussed in the main paper.
	Phoenix Natural Gas Ltd	Reporting	The introduction of a reporter to sign off on capex plans, reflecting a drift towards more micromanagement in the regulatory framework. Best practice incentive regulation requires both that companies are penalised for poor performance, but (equally importantly) are appropriately rewarded for outperformance. A skew towards the downside in the price control package is likely	Ensuring a flow of good quality, independently verified information from company to regulator helps maintain confidence and ensure efficiency in regulatory interactions. By extension, investors can therefore be assured that we are able to obtain information necessary for timely properly informed regulatory decisions.

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			to lead to investors requiring a higher cost of capital.	We consider the introduction of the reporter reduces risk for consumers and the regulated company as well as reducing the level of work required for the next price control review.
		Opex	Raised concerns about the retrospective nature of some of the proposals and their potential impact on investor confidence and the ability of regulated utilities in NI to raise finance at an efficient cost. The impact of increased risk will require a higher return on capital leading to higher costs being borne by consumers.	The review carried out within the RP5 process is standard regulatory practice to ensure appropriate allowances are set for the next price control period. It is accepted regulatory practice that adjustment are made were efficiency has not been delivered by the company therefore we do not accept that any of the reviews we have carried out will reduce investor confidence or the ability of regulated companies to raise finance at an efficient costs. We consider effective regulation will actually increase investor confidence.
		WACC	Fitch also stated that the WACC proposals was low relative to NIE's allowed WACC in the past, and in particular relative to "the 4.7% currently allowed for the electricity distribution networks in England and Wales, which additionally benefit from around 0.4% of incentives-based/additional income.". PNGL agrees with Fitch's observation and is concerned that UR would adopt a methodology that under-estimates the cost of capital.	<p>This comparison is to Ofgem's 2009 DPCR5 determination.</p> <p>Ofgem made this determination nearly three years ago. Since then, inflation and interest rate outlooks have changed. There should be no expectation that our 2012 cost of capital assessment will be identical to Ofgem's earlier calculation.</p> <p>As evidence of this, we note that Ofgem's RIIO-GD1 draft proposals – and its cost of debt allowance in particular indicate that Ofgem might well have set the DNOs a rate of return of 4.3% if it were making a decision in 2012. This is lower than our proposed 4.45% return in the draft determination.</p>
	Unite Regional Co-ordinating Committee	General	The Unite Regional Co-ordinating Committee is campaigning for pensioners in Northern Ireland to be given the same allocation of free	NIE T&D owns, maintains, plans and develops the transmission network in Northern Ireland and it owns, maintains, plans, develops and

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			electricity units as their counterparts in the Republic of Ireland, particularly as the same electricity company provides power in both jurisdictions.	<p>operates the distribution network in Northern Ireland. Being wholly a wires business NIE T&D are not in the position to provide free electricity units as described.</p> <p>The cross subsidy described is a matter for the Northern Ireland Assembly which has full legislative and executive authority for all matters that are the responsibility of the Northern Ireland Government Departments. It should also be noted that NIE T&D is a subsidiary of the ESB Group. ESB Group is a RoI state owned company that also owns supply and generation businesses.</p>
	Property Compensation Consultants Ltd	Opex	NIE have suggested £11m for anticipated [injurious affection] claims within the RP5 period. We believe this is an under-estimate based on the number of clients we have in NI at present. Estimate £1.8m p/a for PCC Ltd clients alone. This does not count our competitors or claims made for loss of development value were one claim can amount to several million pounds.	<p>The cost has been treated as uncertain in the determination awaiting outcome of current cases however the detail on individual claims and the total monies required is a matter for NIE T&D to consider further.</p> <p>We also note the GB Department of Energy and Climate Change have recently announced they intend to update legislation related to compulsory wayleaves (the Electricity (Compulsory Wayleaves) (Hearings Procedure) Rules 1967) in order “to ensure the rights and interests of both sides are appropriately balanced whilst reducing the costs and other burdens on parties.”</p>
		Opex	Concern that the provision for injurious affection is under-stated	The provision referred to is NIE T&D’s estimate as included in their RP5 submission and we are treating this as uncertain in the determination awaiting the outcome of current cases.
	Unite - the Union	Review of NIE Powerteam Ltd	All our members within NIE Powerteam regard themselves as NIE employees and strongly	We note the statement that NIE Powerteam Ltd regard themselves as NIE employees and

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		Costs	resent the fact that the UR has said that they should be treated as any other 3rd party supplier of services. As a result of the efficiencies achieved within NIE Powerteam, services that were previously outsourced were progressively brought back in-house and delivered more efficiently by NIE Powerteam than by contactors, For example, tree cutting, call handling and meter reading were insourced over the past number of years. Meter reading access rates by contractors was 60% however within a short period of being insourced to NIE Powerteam the access rates increased to 80%. Sickness absence levels within NIE reduced from over 5% at privatisation to 2.22% last year, private sector is between 3.4 3.7. This level of sickness absence reflects the overall commitment and effectiveness of our members who work outdoors in conditions that at times are extremely challenging and dangerous.	welcome the fact that level of sickness absence is so low.
		Opex	Concerns raised over the salary comparators, the conclusion that NIE staff are paid above the NIE average, and in particular the use of Standard Occupational Classifications and the SOC's that have been chosen. These are not believed to be reflective of the skills and competencies of the NIE technicians. Response refers to a number of efficiencies that Unite has negotiated with NIE that are not reflected in the comparisons without which they estimate an additional 200 staff would be required to carry out the same work. A number of specific examples of pay levels are given to illustrate the point that NIE	<p>We do not believe that the position presented in the Draft Determination should be changed.</p> <p>The response from Unite is noted and will feed into our consideration of the Final Determination.</p>

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			salaries are below the NI mean salary gross. Response also states that NI is not an appropriate benchmark because of the increasing opportunities and mobility of its members and that NIE salaries are 10% to 15% behind the rest of the UK. A list of efficiency changes is also provided and the suggestion that Powerteam employees should be treated as any other 3rd party supplier is strongly resented - Powerteam employees regard themselves as NIE employees.	
	Northern Ireland Environment Link	General	It is vital that the impacts of climate change be considered fully in the planning for electricity infrastructural development, upgrading and emergency planning.	As discussed in Section 9 Fund 3 'Development for Renewable Generation and Interconnection' there will be a structured assessment of each project/programme that will be scored against need/priority and scope/cost accuracy.
		General	Climate is changing and that it is prudent and cost effective to adapt proactively to those changes. The general predications of hotter, drier summers; warmer, wetter winters and likely increase in frequency and possibly severity of extreme weather events have been supported by recent experience and there is little doubt that this trend will continue to impact on the infrastructure, economy and people of Northern Ireland. Preparation for these conditions is essential if Northern Ireland is to be resilient, future-proofed, be prepared for emergencies and capable of minimising the disruption and distress caused by weather and climate changes.	<p>As discussed in the draft determination the network is performing to the required standard. This is based on the metrics currently used to measure NIE T&D's performance.</p> <p>Under the incentives section we have proposed targets based on CML/CI based on unplanned outages.</p> <p>We will continue to monitor the performance of the network and expect NIE T&D to consider other areas such as design standards when considering the impact of climate change. We also propose to work with NIE T&D to develop health and load indices for the networks. Consideration will be given in this area to these points.</p>
		Capex	It is vital that the impacts of climate change be	We accept the need to design and plan the

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			considered fully in the planning for electricity infrastructural development, upgrading and emergency planning. In the medium to long term, and certainly within the lifespan of any currently planned infrastructure, there will be significant climate changes which will impact on that infrastructure, and it is only prudent and proper that those impacts are considered within any investment decisions taken now. Prevention of damage is always preferable and less expensive than suffering infrastructural breakdown, with greatly increased costs of repair on top of normal replacement, higher labour costs, difficult repair conditions and greatly increased costs to the consumer in terms of both financial impacts and health and well-being implications. It is therefore that investment in the electricity infrastructure plans for the changing climatic conditions through upgraded standards, early replacement or upgrading of aging infrastructure, and ensuring that all new infrastructure is 'fit for purpose' in a changing world, including incorporation of a higher proportion of renewable generation and increasingly severe and unpredictable weather events.	network for future impacts. We will continue to monitor the performance of the network and expect NIE T&D to consider other areas such as design standards when considering the impact of climate change. We also propose to work with NIE T&D to develop health and load indices for the networks. Consideration will be given in this area to these points
	Northern Ireland Electricity Pension Scheme	Pensions	The proposals would change the trustees' view of the sponsor covenant (for NIE Powerteam specifically, but also more generally).	We considered the implications of its proposals for the final determination. In the final determination we consider that NIE T&D can operate efficiently under the proposed price allowances, so NIE T&D should still offer a strong covenant to the scheme.
			Other points: the adjustment in respect of past benefit improvements reflected practice at the time, the current deficit has arisen due	The final determination applies a different approach and this is discussed in the main paper.

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			to recent economic and demographic factors and the UR's proposals are inconsistent with Ofgem's approach.	
	Advice NI	General	Given the impact of the recession, welfare reform and the cost of living, every effort must be made to protect and support vulnerable low income households in terms of this price control period.	As discussed in Section 4.3 of the Draft Determination the objectives for RP5 were <ul style="list-style-type: none"> • ensure value for money for customers for the service provided; • ensure security of supply by maintaining and developing a network that is fit for purpose; and • facilitate sustainability in the generation and consumption of electricity.
		General	There does not appear to be any content included in RP5 on customer satisfaction/service/support etc. We suggest this is taken into account and considered by both NIE and the utility regulator with steps identified to increase customer satisfaction/service/support.	The results of a customer survey on the GSS were taken into consideration when assessing incentives. As discussed in Section 13.54 of the draft determination, Ofgem are developing arrangements for measuring customer satisfaction, complaints and stakeholder engagement. We will assess these arrangements and consider their suitability for introduction.
		General	Advice NI was part of team which conducted research in 2010 into how energy customers could be helped to avoid / manage debt. Advice NI would call for the 'key messages' arising from this research to be incorporated within the price control deliberations.	NIE T&D as owners of the network are responsible for the infrastructure. We feel this research would be better considered within our social action plan and consideration given to this by suppliers. We intend to bring this research to the attention of suppliers and consider how best this could be taken forward in this arena.
		Change to Capitalisation Practice	This is a matter of great concern and Advice NI would seek assurances that (i) this matter is fully investigated with refunds and compensation paid where appropriate;	This matter has been fully investigated and the findings consulted upon. We intend to adjust NIE T&D RAB going forward to ensure no double payments will take place.

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				Compensation however would require a penalty to be issued to NIE. Under the terms of the Electricity order 2006 and we do not consider a penalty appropriate.
		Impact on Electricity Tariffs	There is a commitment given to minimise any price increases, given the difficulties facing consumers and small business in Northern Ireland.	The impact of the RP5 Price Control on electricity prices has been discussed in the impact of tariffs section of the final determination.
	Ulster Farmers Union	Review of NIE Powerteam Ltd Costs	Farmers and landowners are heavily reliant upon NIE Powerteam, As far as service providers are concerned, single point of contact is crucial when reporting a fault and see it through to resolution. Such a seamless running of a farm business is crucial, in terms of day to day maintenance as well as fault management, grid connections solutions. Moving to a competitive tender could over complicate the fault/service resolution process putting the service at risk and thereby cause damage to farm business, in terms of time lost due to power failure and potential animal welfare problems. The UFU states that whilst the current system has problems and inefficiencies, in the interest of continued service and fault resolutions, the UFU would prefer retaining the status quo with a commitment from NIE to iron out operational problems.	<p>NIE T&D has the responsibility to provide the service to all consumers and NIE Powerteam Ltd are one of the contractors they chose you use to deliver this service. We accept the benefit of a single point of contact but this contact is the responsibility of NIE T&D not NIE Powerteam Ltd. Day to day maintenance as well as fault management, grid connections solutions is crucial to any business reliant on the electricity network. Moving to a competitive tender could also improve the fault/service resolution process.</p> <p>We continue to believe that the current arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for the Utility Regulator with insufficient evidence of benefits for the consumer.</p> <p>Under the NIE T&D licence, NIE Powerteam Ltd provide exclusive services to NIE T&D. We accept that by setting allowances for RP5, the onus is on NIE T&D to deliver with those allowances. However as NIE Powerteam Ltd is not subject to competition, we expect NIE T&D to demonstrate that consumers are</p>

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				getting the best value for money from the NIE Powerteam Ltd arrangements. This will then be considered in our assessment for RP6.
		Capex	In their letter to NIAUR the UFU state "Farmers and landowners rely upon these lines (11 kV) as they cross-cross their land and their business are connected to this network and therefore reliant upon the electricity transmitted and distributed to run their farms. £127 m is required to re-build and replace what is an essential utility in farms and land owners day to day lives."	<p>Whilst the impact of electrical distribution overhead lines on farmers businesses and livelihoods is acknowledged, it is up to NIE to substantiate the requested level of capital expenditure required for RP5. At present this has not been fully justified. We have provided an allowance for the on-going rebuild and refurbishment of the 11kV network to meet the NIE current policy. NIE has the flexibility within Fund 1 to increase this expenditure if it deems this necessary. This allowance is sufficient to ensure the continued reliability of the network.</p> <p>UFU did not provide any evidence to support their claim that £127 m is required. (Note: NIE's request was for a total of £195 m investment in 11kV overhead lines)</p>
		Opex	Rates and wayleaves are not 'semi-controllable', but rather are set in GB. Given new infrastructure that will be brought on to members land, wayleaves allowance should increase.	<p>Rates are calculated by the Land and Property Services, who publish a formula to calculate the net annual valuation and individual district council apportionment of electricity transmission and distribution assets.</p> <p>Wayleave payments given by NIE are adopted voluntarily from a methodology used in GB.</p>
		Opex	Generally against the proposals the reductions in Opex. Farmers and landowners reliant on NIE power team and moving to a competitive tender situation could over complicate the fault/service resolution process putting the service at risk and cause damage to the farm	All the proposed allowances are based upon our assessment of all information provided by NIE and benchmark with our companies that carry out similar activities. NIE T&D manage their business using NIE Powerteam Ltd and other contractors. It is their responsibility to

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			<p>business and potential animal welfare problems.</p> <p>They spoke to NIE who confirmed that their submission was fully supported by "realms of spreadsheets". They also commented that rates and wayleaves are not "semi-controllable" and these should be rising as new infrastructure will be brought onto members land and this will need to be reflected in revised rents.</p> <p>They also provided comment on renewables (including an alternative proposal and would like 1600km of lines to be upgraded to phase 3 to enable the farms to connect small scale renewables to benefit the NI economy.</p> <p>They also stated that the cost to the consumer could be even higher if the requested Capex/Opex is not granted because of the cost of to damaged lines, failing equipment and personal safety issues</p>	<p>ensure the appropriate level of service is provided.</p> <p>We have carefully considered all responses and our final position on "semi-controllable" items is reflected in the final determination.</p> <p>Connection costs are reflected within the connection charge provided by NIE. These costs are identified within NIE T&D Charging statement. It is not appropriate of any subsidy to be provided to connect small scale generation.</p>
		Connections	<p>Utility Regulator has instructed NIE T&D to remove the 40% subsidy for domestic and small business customers. In our response to the earlier consultation, we set out our objections to this move The UFU continue to be opposed to the removal of this. Whilst it is acknowledged that the subsidy was introduced to assist with the electrification of NI, the UFU believes that the subsidy should remain to allow the continued roll out of renewable generation and the assistance for rural dwellers who have difficulty in establishing a connection to the grid.</p>	<p>The removal of the 40% subsidy is not part of the RP5 consultation. As discussed in Section 12 of the draft determination the decision was made to remove the 40% subsidy. Our position with regard to RP5 is to reflect this arrangement.</p> <p>With regard to generation, the Statement of Charges for Connection to the Northern Ireland Distribution System states that the 40% subsidy only relates to customers who are neither an Over 1MW Customer nor an Authorised Generator. An Authorised Generator is stated as a person who generates, or when connected to the Distribution System will generate, electricity</p>

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				for the purpose of giving a supply to any premises or enabling a supply to be so given and who is, or will be when connected to the Distribution System, authorised to do so by a licence or exemption. Therefore by definition those customers connecting renewable generation would not receive this subsidy.
		Connections	The UFU's concerns is that in many cases when a retirement dwelling is built for example, it can often be in a remoter location in terms of access to existing electricity lines and this increases the chance that the connection charges will be greater than £15,000 In such cases, the developers will be restricted when it comes to locating a property and there will be little or no choice on where a building could be located.	<p>As discussed in the original consultation document on electricity connections, the 40% subsidy was considered to be appropriate for the initial electrification of Northern Ireland and served to deliver the wider social benefits associated with a supply of electricity to homes and small businesses, there are now requirements on regulators to ensure that charges to customers are cost reflective.</p> <p>The removal of this subsidy not only reduces the direct cost charged to all applicable electricity customers by the DUoS tariff, but also minimises any increases in the value of the asset base (and subsequent return on the capital) associated with this subsidy.</p> <p>A rural customer seeking to connect to the distribution system is currently treated no differently than any other customer and will be required to pay NIE for the cost of connection. This is regardless of whether or not the customer in question has the ability to pay for his or her connection. The removal of the 40% subsidy would possibly increase the number of occurrences of this situation, however it should be noted that even a subsidised cost of connection could be deemed excessive.</p>

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				The question of whether all customers including those that may be classed as vulnerable should be charged for the helping another customer connect in a certain location is critical. We have decided that customers should be charged the full cost of connection therefore removing cross subsidies.
		Incentives	<p>-There must be adequate penalties and sanctions in place where it is found that the commitment to minimise price increases is breached.</p> <p>-NIE pay a £25 fee to domestic customers for failure to provide a NIE service, however the fee hasn't been increased since 1992 and therefore is not in line with current inflation levels. We would suggest this fee is updated & reviewed as part of the price control determinations.</p> <p>-There does not appear to be any content included in RP5 on customer satisfaction/service/support etc. We suggest this is taken into account and considered by both NIE and the utility regulator with steps identified to increase customer satisfaction/service/support.</p>	<p>Capex and Opex incentives are aimed to encourage NIE T&D to make appropriate investment and expenditure decisions.</p> <p>Furthermore NIE T&D are being encouraged to measure and collate data on network losses. Once sufficient adequate data is available an incentive is expected to be developed to reduce network losses. These incentives will contribute to minimize price increases.</p> <p>Payment due on default by NIE T&D, as determined under the Guaranteed Standards Scheme (GSS), will be adjusted upward to account for RPI inflation. This will require legislative changes, and we will liaise with colleagues in DETI to bring this about. These standards contribute to an overall acceptable level of customer service.</p> <p>Current incentives, 'customer minutes lost' (CML) and 'customer interruptions' (CI) are to be strengthened with the additional of a financial penalty or reward. This will feature a range within which the CML and CI may fluctuate without penalty or reward. The incentive will then apply to variances greater than 10% from the target. Consideration was</p>

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				given to creating an incentive for customer services and a specific incentive for 'worst served customers'. However, having reviewed stakeholder opinion gathered via the RP5 strategy paper and results of a customer survey on the GSS a customer services incentive will not be introduced at this stage. We received further evidence on practical and cost factors of proposed new standards in the draft determination and have decided not to introduce an incentive on 'worst served customers' at present, although development will be considered during RP5.
		Innovation	With no guarantee that the RHI (Renewable Heat Incentive) is to be rolled out to small scale businesses in Northern Ireland, such incentives are crucial. As of July 2012, the RHNIPP (Northern Ireland Renewable Heat Premium Payment) for domestic customers has been launched, but there are doubts in the sector as to whether the RHI is actually going to be rolled out.	DETI and Ofgem have developed guidance notes for applicants registering for the scheme. These guidance notes were subject to a 4 week consultation process. All responses to this consultation should have been submitted by 18 October 2012. DETI have stated that they expect the NIRHI to be open for applications before the end of 2012.
		Innovation	The smart programme should be maintained should the RHI not materialise.	As stated above DETI expect the NIRHI to be open for applications before the end of 2012.
		Innovation	The UFU have lodged their reservations concerning the decision not to continue with the Vulnerable Customer Programme.	As discussed in the Draft Determination the Vulnerable Customer Programme was delivered by Power NI on behalf of NIE T&D. When the VCP started Power NI (formerly known as NIE Energy Supply) and NIE T&D were both part of the Viridian Group Limited. This work, at the time, was said to have complemented other activity streams undertaken by Power NI in the areas of energy efficiency, offering discounted tariffs to customers through the 'keypad' pay as you go meter and other social action plan initiatives.

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				<p>After the SEM was established NIE Energy Supply and Power Procurement businesses (now known as Power NI) transferred to a separate Viridian subsidiary company – to ensure independence of distribution system operation under the 2003 EU Electricity Directive.</p> <p>In December 2010, ESB acquired NIE (and NIE Powerteam Ltd) from Viridian Group Limited completing total independence of both companies.</p> <p>Whilst we recognise the success of the scheme and the fact that NIE and Power NI have assisted greatly in driving performance over the years since the VCP's inception in 2007, we have questioned whether industry participants of this kind are the most appropriate organisations to receive funding for its continuance in the future.</p> <p>NIE T&D has not suggested implementing a similar programme in RP5 and we would be in agreement with this position. If a similar programme is to be implemented the responsibility for it should sit with an appropriate external body funded through other means.</p>
		Innovation	The UFU have also asked that 'vulnerable customer' status can be applied to a section of their membership and this should be taken into consideration.	We note the UFU's comments that 'vulnerable customer' status can be applied to a section of their membership.
		Impact on Electricity Tariffs	UFU have been informed by NIE that these proposals would increase consumer electricity bills by 1% until 2017.	The impact of the RP5 Price Control on electricity prices has been given in the impact on tariffs section of the final determination.

Ref	Organisation	Chapter	Comment	Our response
	Major energy Users' Council (MEUC)	General	<p>We are of the view that the proposed increases by NIE T&D are excessive in the backdrop of the Government's expectation on businesses and we therefore support your determination proposals as a more equitable approach.</p> <p>We are very impressed by the thoroughness of this methodology and the attention to detail.</p>	<p>We appreciate the time and effort taken by MEUC in providing a response and welcome the support given to the Draft Determination.</p>
		Review of NIE Powerteam Ltd Costs	<p>Your assessment makes much reference to the operations of the wholly owned subsidiary Powerteam. We are concerned by your findings that there are no Service Level Agreements (SLA'S) or even benchmarking activities between Powerteam and other similar operators. We would support and encourage you in bringing to an end the current arrangements between NIE and Powerteam and the introduction of more competitive procurement activities</p>	<p>We continue to be concerned that there are no Service Level Agreements (SLA'S) or even benchmarking activities between NIE Powerteam Ltd and other similar operators. We continue to believe that the current arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for the Utility Regulator with insufficient evidence of benefits for the consumer.</p> <p>Under the NIE T&D licence, NIE Powerteam Ltd provide exclusive services to NIE T&D. We accept that by setting allowances for RP5, the onus is on NIE T&D to deliver with those allowances.</p> <p>However as NIE Powerteam Ltd is not subject to competition, we expect NIE T&D to demonstrate that consumers are getting the best value for money from the NIE Powerteam Ltd arrangements. This will then be considered in our assessment for RP6.</p> <p>In the draft determination we were minded to bring the current arrangements between NIE T&D and NIE Powerteam Ltd to an end and</p>

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				remove any references to NIE Powerteam Ltd from NIE T&D's licence; however this is no longer practical or possible, due to the pension arrangements. The final determination addresses the treatment of Powerteam, as informed through the consultation period responses.
		Incentives	<p>-We support your position that NIE should do more to reduce the amount of losses on the network.</p> <p>-The metering systems already in place for apportioning costs between generation, transmission and distribution could equally be used for the evaluation of losses.</p> <p>-We note that there is nothing in your documentation on the benefits that customer load management might have on network operation and subsequent infrastructure cost reduction.</p>	<p>We note the support for developing an incentive to reduce distribution losses.</p> <p>Due to current difficulties in accurately measuring losses it is inappropriate to adopt a specific losses incentive at this time. However, we encourage NIE T&D to put appropriate measurement systems and reporting structures in place. It is anticipated a distribution losses incentive can be implemented in the latter years of RP5.</p> <p>NIE will be able to consider customer load management within any proposed Smart Grid development to be approved under Fund 3.</p>
		Depreciation and Return	Your price control analysis gives depreciation on plant and equipment of 40 years. In GB networks and it would appear also in NIE systems, equipment is being operated for 50 years plus. Our query would be that perhaps 50 year depreciation might be more appropriate.	In the Draft determination consideration was given to the length of depreciation to be applied to NIE T&D's asset base. We accept that some equipment is operated for over 50 years however there are also group of assets included with shorter Lives. By leaving the depreciation periods the same as RP4 we are showing consistency and predictability for investors and NIE T&D
		Impact on Electricity Tariffs	We are alarmed that the NIE proposals, if adopted, will increase tariffs to Northern Ireland customers by 40% over the price control period (25% if interconnectors and	The impact of the RP5 Price Control on electricity prices has been given in the impact on tariffs section in the final determination.

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			renewables are excluded).	
	Farm Woodlands Ltd	Opex	Wayleaves in existing and new woodland impact on timber production due to the sterilisation of the land. In the case of existing woodland, this results in breaches in contracts held with the Forest Service. The land owner should be entitled to compensation in both cases.	The issues that wayleaves raise for landowners are important however the management of any compensation issue is for NIE T&D to consider within its processes.
	ESB	Background	DD is a “stark departure from established regulatory norms in mature jurisdictions”	We do not accept that there is any evidence for this statement. The draft determination is in keeping with normal practice analysis of all the elements of NIE T&D’s proposals has been carried out, this is not unusual.
		Background	The approach of UR for the DD has been deficient and unsatisfactory	Having reviewed our approach and considered other regulators approaches we do not see any evidence to support this statement. We have carried out detailed analysis and bench marking, and have provided NIE with all back up materials possible to provide.
		Major Individual Issues	It appears to ESB that there has been a serious lack of consultation and dialogue by the UR with NIE in connection with RP5. In the normal course of a well-run regulatory process there would have been extensive two-way engagement, involving site visits, face-to-face meetings between consultants and access to consultants’ reports.	We disagree with the respondent that there has been a lack of consultation and dialogue by us with NIE in connection with RP5. Although there are aspects of the review process that could be improved upon (see Chapter 2 of main determination report) in our view a price control review process has been delivered consistent with our values and mission statement.
		Major Individual Issues	Capital expenditure: DD proposes to strike out large blocks and categories of capex which in NIEs judgement are necessary to satisfy it’s statutory and licence obligations. The proposals grossly underfund the investment required to ensure a safe, secure, reliable network.	The capex proposed in the DD is based upon amounts that NIE T&D has requested and were NIE T&D has also demonstrated clearly the expenditure need. The allowance of recoverable amounts being based on established need is a reasonable and predictable approach.

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		Major Individual Issues	Pensions: pension deficit repair allowance adjustment (<u>re-opening of previous price controls</u> “long since settled”). This entails reviewing matters in the knowledge of the UR for many years, having the effect of dismantling all expectation of regulatory stability.	The principle behind our proposal is that customers should not pay twice. Where it is shown that customers have paid twice, it would be appropriate and reasonable for this to be remedied. Stability can be provided for the company and consumers through effective regulation ensuring any amounts requested are only recovered in the proper manner.
		Major Individual Issues	Capitalisation policy: it would be improper now, and inconsistent with minimal standards of regulatory certainty, to re-open the RP3/RP4 determinations in the manner proposed.	Standard practice as part of a regulatory review is to assess the current regulatory period. If an issue arises as part of this assessment it is reasonable that, if it is identified that may adversely impact upon customers a proper investigation is carried out. This should take account of all the pertinent facts and information available.
		RP5 strategy	It appears to ESB that there has been a serious lack of consultation and dialogue by the Utility Regulator with NIE in connection with RP5.	<p>Prior to the publication of the Draft Determination consultation we had over 30 meetings with NIE in relation to RP5. This covered areas such as Timelines, Strategy Paper, Renewables Integration, Capex, Opex, Incentives, Connections, Tax, Capitalisation Practice etc. Also various North South interconnector meetings were held and meetings with NIE T&D about the Enduring Solution with our consultants.</p> <p>The level of interaction has been greater than other regulatory NIE T&D reviews and this is particularly significantly when compared to RP4.</p>
		RP5 strategy	The common objective of ESB, NIE, and the Utility Regulator must be to meet the needs of customers, in the short and long terms, by providing for comprehensive infrastructure development, and tightly-controlled	The regulatory objectives discussed in section 4 of the Draft Determination align with the views of ESB in this respect.

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			expenditure in the delivery of that infrastructure, within a framework that allows for meaningful remuneration of investment consistently with mature regulatory practice.	
		Change to Capitalisation Practice	ESB is extremely concerned about the way in which the issue of the internal capitalisation policies of NIE and the OPEX allowance has been approached. This approach has the potential to adversely affect the reputation of NIE and the wider ESB Group. On the headline point, ESB accepts that it is right to review the performance of NIE at the end of a price control period. It is wrong, however, to seek to retrospectively change the basis of the RP4 price control.	Standard practice as part of a regulatory review is to assess the current regulatory period. If an issue arises as part of this assessment it is reasonable that if it is identified that may adversely impact upon customers a proper investigation is carried out. This should take account of all the pertinent facts and information available. The basis of the RP4 price control was the application of consistent capitalisation practice rules (as per early RP3) and it is important that any consideration as material as this investigation is carried out in a transparent manner included consultation of any proposed decision. There is no intention on the part of the Utility Regulator to retrospectively change the basis of the RP4 price control.
		Change to Capitalisation Practice	The capitalisation issue was addressed explicitly and in a considered way in the RP4 process, when the UR determined that the issue should be approached at a high level on the basis of fundamental principles, and drew its conclusions accordingly. I refer to the UR's papers of December 2005 and September 2006 which state very clearly a preference for a high-level approach rather than a "traditional" approach for reasons stated by UR to include a wish to be "collaborative", and to avoid "expensive and expansive work".	As stated in the Composite proposal a fundamental principle of RP4 is <i>"The use of actual expenditure to determine future revenue entitlement removes ambiguity around the allocation of costs as between opex and capex. For regulatory purposes actual expenditure is recovered either via the RAB over 40 years or via the opex allowance but not through both."</i> The Utility Regulator's proposal for dealing with the capitalisation issue will ensure the consumer will not pay twice.
		Review of NIE	A proposal that NIE be required to put	We continue to believe that the current

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		Powerteam Ltd Costs	<p>substantial transmission and distribution work out to tender, rather than be entitled to deploy NIE Powerteam for that work, misunderstands the position of NIE Powerteam as a core part of NIE's business. NIE Powerteam was established, with NIE employees but as an entity legally separate from NIE, as a management initiative to provide focus and priority to a distinct set of activities.</p> <p>The Utility Regulator acknowledges (and implicitly endorses) the current arrangements with NIE Powerteam in various provisions of NIE's licence, including those which implement the RP4 price control. The essential point is that NIE Powerteam's activities are of their nature inherently part of the network provider's activities. This is borne out by the fact that 1,000 of IE's 1,200 employees are assigned to NIE Powerteam. The UR's proposal appears to be predicated on the mistaken assumption that NIE Powerteam is a simple service provider. This is clearly not the case. As regards the pension rights of employees of NIE Powerteam, these are identical to those of NIE and the associated costs should be recoverable from customers in the same way as those associated with NIE employees.</p>	<p>arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for the Utility Regulator with insufficient evidence of benefits for the consumer.</p> <p>Under the NIE T&D licence, NIE Powerteam Ltd provide exclusive services to NIE T&D. We accept that by setting allowances for RP5, the onus is on NIE T&D to deliver with those allowances. However as NIE Powerteam Ltd is not subject to competition, we expect NIE T&D to demonstrate that consumers are getting the best value for money from the NIE Powerteam Ltd arrangements. This will then be considered in our assessment for RP6.</p> <p>In the draft determination we were minded to bring the current arrangements between NIE T&D and NIE Powerteam Ltd to an end and remove any references to NIE Powerteam Ltd from NIE T&D's licence; however this is no longer practical or possible, due to the pension arrangements.</p>
		Capex	<p>In their letter to NIAUR ESB state "The Draft Determination proposes to strike out large blocks and categories of capital expenditure which in NIE's judgment are necessary in order that the network can meet the needs of customers and to enable NIE to satisfy its statutory and licence obligations. This is a matter of fundamental concern to ESB as</p>	<p>We have reviewed all of the evidence provided by NIE T&D and have approved all capital expenditure that has been supported by evidence. We would expect ESB, as shareholder, to have similar (or higher) standards for evidence to support investment.</p>

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			Ultimate Controller of NIE and as investor in that company. ESB in acquiring NIE gave undertakings in relation to investment in the network and to the welfare of customers in Northern Ireland. ESB must take the most serious view of proposals which grossly underfund the investment required to ensure a safe, secure, reliable network in Northern Ireland.”	
		Opex	Concerns raised regarding the proposed treatment of Powerteam and that the UR has misunderstood the position of Powerteam as a core part of NIE’s business. ESB believes that the UR has mistakenly assumed that Powerteam is a simple service provider and cites the pension rights as an example as they are identical for NIE employees and for Powerteam.	We believe the current arrangements regarding NIE Powerteam Ltd complicate the regulatory process for us with insufficient evidence of benefits for the consumer. The onus will be on NIE to demonstrate the benefits to consumers during RP5.
		Pensions	Sub-heading (b), pensions: reviewing actions taken up to 15 years ago demonstrates no regulatory stability and is inconsistent with regulatory practice elsewhere.	The final determination applies a different approach and this is discussed in the main paper.
		Pensions	Sub-heading (d), NIE Powerteam (last sentence only): NIE Powerteam’s pension costs should be recoverable from consumers.	The final determination applies a different approach and this is discussed in the main paper.
		WACC	Under the Utility Regulator’s “minded to” position on WACC and taking account of the inadequate provisions for pensions, OPEX and incentives, NIE’s return on equity during RP5 would be less than 2%. The effective return would be lowered further taking into consideration the Utility Regulator’s proposed underfunding in respect of capex. There is no rational reason why the Utility Regulator should expect NIE’s investors to bear at least as much risk as investors in GB DNOs, but for a	NIE T&D is drawing attention here to an arithmetical consequence of the arguments it has made elsewhere in its submission. These arguments are considered under their respective chapter headings.

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			massively lower return. On the contrary, when regulatory risk, relative scale of operation, and peripheral location are factored in to the consideration, an argument for a higher return is compelling.	
		WACC	NIE will require access to capital markets to raise funding necessary for its future investment programme and will need to compete with other DNOs for this purpose. A comment that NIE is not competing with other DNOs for ESB's equity investment is entirely irrelevant.	<p>It was NIE that originally made the argument that "NIE must be able to compete for equity funds on an ongoing basis".</p> <p>As far as debt market access is concerned, we are content that our proposed cost of debt allowance – at 6.65% nominal is adequate to cover the interest that NIE will need to pay on any new borrowings in RP5. It is also important that NIE passes our financeability tests. This assessment is set out in the final determination.</p>
		Financeability	The overall effect of the proposals set out in the Draft Determination would be to deprive NIE of the revenue appropriate to its functions and which is available, by efficient and innovative operation within a mature regulatory framework, to DNOs in Great Britain. An inevitable consequence would be a decline in NIE's creditworthiness and therefore in its capacity to raise efficiently the finance necessary for its activities. The Utility Regulator will be aware that the T&D licence requires NIE to maintain an investment-grade rating.	We do not accept that NIE T&D is being inappropriately 'deprived' of revenues. The proper calculation of the proposed revenues under the price control determination is explained in the relevant sections of the determination. We do not recognize the 'inevitable consequence' for creditworthiness described here. Instead we assess NIE's creditworthiness through an objective financeability assessment on the basis that NIE performs and finance itself in line with our assumptions for an efficient company.
		Financeability	The financeability of NIE's business would be adversely affected by the heightened regulatory risk that is introduced by the Draft Determination.	We do not accept the premise that our draft determination increases regulatory risk.
		Financeability	The recent commentary from Fitch provides evidence that the Draft Determination	We disagree that Fitch's statement provides such evidence of concerns. ESB has not

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			introduces significant concerns for investors with regard to the regulatory model and with regard to NIE's ability to maintain its investment grade credit rating and ability to raise finance in the market	pointed to specific text in support of its assertion.
	ESB (Stephen Littlechild)	RP5 strategy	Question whether the UR has the quantity and quality of resources to discharge its proposed responsibilities in a constructive and timely manner.	<p>The Utility Regulator put in place a team to deliver the RP5 project. The level of work has been considerably more significant than originally foreseen due to the complex reporting arrangement between NIE T&D and NIE Powerteam Ltd, and a lack of clarity within the original NIE T&D submission requiring in excess of 300 additional questions, and the investigation into NIE T&D capitalisation practice.</p> <p>Additional resources were allocated and significant consultancy support was also needed to complete this work. Clear reporting requirements and the introduction of a reporter will significantly reduce this resource requirement for future price controls.</p>
		RP5 strategy	Transparency has been significantly impaired by the lack of real two-way engagement on the part of the UR, not least in the lack of planning of information flows during RP5 and the lack of discussion of the kinds of price control elements that the UR has had in mind. This leaves the impression that the UR has not been willing to understand the full implications of the policy that it now proposes.	<p>We do not agree that the regulatory process for RP5 has lacked transparency. Indeed, we have sought greater stakeholder engagement in RP5 than for any previous electricity transmission and distribution price control review that it has undertaken. This has included public consultations (including draft determinations and strategy papers on the form and process of the price control review), stakeholder workshops and bilateral meetings with NIE.</p> <p>We have provided multiple opportunities for NIE to engage with and present its business</p>

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				plan and requirements for RP5 both to us and other interested stakeholders. Feedback from this engagement has been reflected in our Draft and Final Determinations.
		RP5 strategy	Consistency – the consistency of the UR’s approach has been problematic in four respects. Its treatment of the pensions deficit and previous capital expenditure, the UR’s change from active engagement to non-engagement, changes in opex policy and the consistency with GB regulation.	<p>We agree with the respondent that regulatory consistency is important. However, provided changes in regulatory policy and process are clearly signalled and well justified this does not prevent, in our view, changes in regulatory process from previous electricity transmission and distribution controls.</p> <p>Changes that we have implemented in RP5 were clearly signalled and justified to all stakeholders involved through our strategy paper, draft determinations and stakeholder workshops. As regards consistency of engagement, we followed best regulatory practice with requests for information, requests for clarification and consultation on our draft determination. We have sought greater stakeholder engagement in RP5 than for any previous electricity transmission and distribution control. Our response on points of consistency with GB regulation and other sector regulators is provided below.</p> <p>We have also felt it necessary to review in detail the application of agreed policies and processes in order to ensure value for money for consumers.</p>
		RP5 strategy	Proportionality – proportionality is called into question by the volume of UR information requests from NIE during RP5, which were not well planned and discussed in advance. The UR failed to develop adequate price control	The level of detail of analysis and information that was requested from NIE was clearly signalled by us through bilateral meetings with the company and through the public strategy document consultation. Having initially

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			work-plans and timetables and repeatedly failed to meet the timelines it suggested. The UR is also less sensitive to its own costs of regulation, and to the burden of regulation on the company and hence on consumers, than other GB regulators. The UR's approach to the rollover of RP4 is out of line with good regulatory practice.	<p>reviewed NIE T&D's business plan submission, it was apparent to us that more detailed information was required on aspects of the plan due to significant gaps in the detailed and complex reporting structures within the company. The volume of information requested demonstrates our regulatory objective to engage with and understand NIE T&D's business plan for the RP5 period. Price control work-plans and timetables were also developed and shared with stakeholders including NIE T&D over the course of the review. Comments on the cost of regulation are provided in the main part of the decision paper.</p> <p>We consider the rollover of RP4 is allowed within the current NIE T&D licence, however we accept that best practice is to consult on any significant decisions. At the time, a six month only extension was envisaged and we did not deem a consultation necessary.</p>
		RP5 strategy	Contrasting price controls – cuts to NIE's proposed opex and capex are more severe than other UK regulators would normally consider reasonable. The proposed cost of capital is out of line with that allowed by Ofgem. Outcomes to are different. Reviews of Ofgem and ORR regulatory processes emphasize the importance of full engagement with the company and of good project management. The UR process in RP5 does not bear comparison with best practice UK regulation.	<p>The statement about 'cuts to NIE T&D's proposed opex and capex' does not consider the substantial increased allowances sought by NIE T&D and lack of supporting detailed information provided in NIE T&D's original submission. This is not consistent with other regulated companies' submissions.</p> <p>While there are aspects of the RP5 process that we agree could be improved upon (see Appendix B of the final determination report) we have sought to develop many of the recent changes in good regulatory practice in the UK and internationally in RP5.</p>

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				Lessons learned from the Utility Regulator's cross-utility approach to network price controls project have been implemented and, in particular, there has been an increasing move to involve stakeholders other than NIE in the price control reviews, consistent with GB practice.
		Review of NIE Powerteam Ltd Costs	<p>The UR argues that NIE Powerteam Ltd is a separate legal entity from NIE T&D. On that basis, the UR says that the price control should not recover the share of pension deficit attributed to Powerteam. NIE, in contrast, explains that Powerteam employees are exclusively engaged on NIE-related activities NIE should therefore be able to recover the share of pension deficit costs allocated to Powerteam.</p> <p>In principle, there seem to be two regulatory options. If Powerteam is regarded as essentially the same entity as NIE, then NIE's price control should include the recovery of Powerteam's share of the pension deficit costs. But if, hypothetically, Powerteam were regarded as a separate entity from NIE, then the charges for Powerteam's services to NIE should include a contribution to cover Powerteam's share of pension deficit costs. Either way, the accepted obligation on customers of NIE to pay the pension deficit costs should include whatever share of the pension deficit costs might be deemed associated with Powerteam.</p>	<p>We continue to believe that the current arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for the Utility Regulator with insufficient evidence of benefits for the consumer.</p> <p>Under the NIE T&D licence, NIE Powerteam Ltd provides exclusive services to NIE T&D. We accept that by setting allowances for RP5, the onus is on NIE T&D to deliver with those allowances. However, as NIE Powerteam Ltd is not subject to competition, we expect NIE T&D to demonstrate that consumers are getting the best value for money from the NIE Powerteam Ltd arrangements. This will then be considered in our assessment for RP6.</p> <p>In the draft determination we were minded to bring the current arrangements between NIE T&D and NIE Powerteam Ltd to an end and remove any references to NIE Powerteam Ltd from NIE T&D's licence; however this is no longer practical or possible, due to the pension arrangements.</p>
		Capex	ESB engaged Stephen Littlechild to review "UR's approach to pension costs, previous capital expenditure and the regulatory process	Prior to the publication of the draft determination, we held more face to face meetings with NIE T&D than throughout the

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			<p>generally, as exhibited in the ongoing RP5 price control review of NIE T&D” In his response he stated:</p> <p>I am astonished that the UR’s engineering consultants did not even deem it necessary or appropriate to make site-visits to the company’s network and premises. Thus, not only is it difficult for the company “to see and understand the logic of the UR’s direction of travel”, there must also be a question as to whether the UR has taken every available opportunity fully to inform itself about the relevant circumstances of the company that it regulates. More generally, although the UR has asked many questions and obtained much information, the lack of real two-way engagement up to the issue of the Draft Determination increases the chances that the UR may not have understood fully the information that the company has provided, or the circumstances in which it is to be applied, or the implications of particular directions of travel</p>	<p>entire RP4 capex process. It is not typical as part of a price control assessment to require site visits to validate the condition of assets prior to the determination of an appropriate level of capital expenditure for such asset replacement.</p> <p>NIE are the asset owners and should be able to provide the necessary asset condition and supporting investment decision information in support of their RP5 CAPEX proposals. This includes demonstration that the asset condition information has been used appropriately to develop asset replacement expenditure profiles and that an appropriate balance has been achieved between replacing aged assets and maintaining a quality supply to customers.</p> <p>Throughout the RP5 process we have accepted the factual accuracy of the information provided. We do not believe that a superficial inspection of assets by an external consultant would add value to that process. The additional questions are part of the process to ensure all appropriate information is available to inform our decisions. The final determination is based upon our understanding of the information provided. Due to the substantial engagement we are confident we have the full understanding required to make this final determination.</p>
		Opex	Major concerns raised about the whole regulatory process and the lack of engagement with NIE, the handling of the	While there are aspects of the RP5 process that we agree could be improved upon (see Appendix B of the final determination report)

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			pensions deficit, the handling of Powerteam, the proposed retrospective adjustments relating to capitalisation practices and surprise that this has not been addressed previously, and the severity of the proposed cuts compared with practices in GB.	<p>we have sought to develop many of the recent changes in good regulatory practice in the UK and internationally in RP5. Lessons learned from the Cross-utility approach to network price controls project have been implemented and, in particular, there has been an increasing move to involve stakeholders other than NIE in the price control reviews, consistent with GB practice.</p> <p>We continue to believe the current arrangements regarding NIE Powerteam Ltd complicate the regulatory process for us with insufficient evidence of benefits for the consumer.</p> <p>The concern over the severity of cuts compared to practices in GB does not consider the substantial increased allowances sought by NIE T&D and lack of supporting detailed information provided in NIE T&D's original submission. This is not consistent with other regulated companies submissions.</p>
		Opex	Major concerns raised about the whole regulatory process, consistency of the UR's approach has been problematic in four respects. Its treatment of the pension's deficit and previous capital expenditure suggest an unwillingness to accept the implications of the UR's own previous price control decisions. The UR's change from active engagement to nonengagement is encapsulated in the view that "The manner in which previous price controls were carried out should not have a bearing on future price controls." The UR's return to the "traditional approach" to opex in	<p>While there are aspects of the RP5 process that we agree could be improved upon (see Appendix B of the final determination report) we have sought to develop many of the recent changes in good regulatory practice in the UK and internationally in RP5.</p> <p>Lessons learned from the Utility Regulator's cross-utility approach to network price controls project have been implemented and, in particular, there has been an increasing move to involve stakeholders other than NIE in the price control reviews, consistent with</p>

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			<p>RP5 makes no reference to the shortcomings that the UR had previously identified in the RP4 process, that were sufficiently serious to cause it to abandon that approach. The UR has been evasive, perhaps dissembling, on the question whether its presently proposed approach is generally consistent with GB regulation.</p> <p>Regarding Powerteam the report states that Powerteam employs about 1000 of NIE's 1300 staff. It is not a peripheral activity, it is the core of NIE's staff. The two organisations operate in an integrated way. In principle, there seem to be two regulatory options. If Powerteam is regarded as essentially the same entity as NIE, then NIE's price control should include the recovery of Powerteam's share of the pension deficit costs. But if, hypothetically, Powerteam were regarded as a separate entity from NIE, then the charges for Powerteam's services to NIE should include a contribution to cover Powerteam's share of pension deficit costs. Either way, the accepted obligation on customers of NIE to pay the pension deficit costs should include whatever share of the pension deficit costs might be deemed associated with Powerteam.</p>	<p>GB practice.</p> <p>We have considered the decision made within RP4 within both our Draft and Final Determinations in relation to the pension's deficit. Further information is available in both papers.</p> <p>The Utility Regulator did not 'abandon' the RP4 approach but gave consideration to the best methodology to use within the RP5 process after discussion with NIE T&D as well as a consultation on the strategy and way forward.</p> <p>We do not accept that we have been evasive or dissembling. We follow good regulatory practice and while the Utility Regulator is under no obligation to follow Ofgem precedent, we have where appropriate adopted their or other regulators approaches to matters. Within NIE T&D's response to the draft determination the company agreed with this approach and stated:</p> <p><i>"NIE's position is that Ofgem's approach to regulation is generally reasonable in that it typically has sound incentive properties and strikes a broadly appropriate balance between the interests of the company, customers and investors. For the avoidance of doubt, it is not our position that Ofgem precedent should be followed slavishly and in all instances. But Ofgem precedent could and should form the foundation on which NIE's price control is conducted with material departures from</i></p>

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				<p><i>Ofgem precedent requiring careful consideration.”</i></p> <p>The approach to Powerteam is set out in the final determination.</p>
		Pensions	Why should the UR use a funding valuation that could be up to 2 years’ out of date by the start of RP5, noting that Ofgem used funding updates in its latest distribution price control?	The final determination applies a different approach and this is discussed in the main paper.
			The rationale for a 15-year deficit recovery period is weak, in particular in view of the proposed decrease in charges and of the risks in deferring costs.	The response does not appear to propose a better period. Our rationale for choosing a 15-year deficit recovery period is discussed in the main paper.
			Consumers should pay NIE Powerteam’s share of the pension deficit (under one of two options) as NIE Powerteam employees are exclusively engaged on NIE-related activities.	The final determination applies a different approach and this is discussed in the main paper.
			Reviewing actions from up to 15 years ago is retrospective and inconsistent with GB regulatory practice.	The final determination applies a different approach and this is discussed in the main paper.
		Financeability	I am advised that NIE does not accept the UR’s assertions about its capitalisation practice. I am not in a position to assess the arguments on this issue. I find it surprising that the UR has not sought to clarify and resolve this issue beforehand, rather than maximizing regulatory uncertainty by including an unresolved allegation in the Draft Determination	<p>Our understanding of this comment is that the uncertainty is maximised by conducting an open and transparent investigation. This appears to be inconsistent with the earlier point on “regulatory uncertainty”. We feel it is essential that in line with our values that this issue was consulted upon in a transparent manner.</p> <p>In other comment made by NIE T&D the company references Ofgem’s stated intention on openness transparency decreasing perceived and real regulatory risk and they view this as best practice.</p>

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				<p><i>“Ofgem has stated its intention to be open and transparent in its approach to regulation in order to decrease the perception and reality of regulatory risk.</i></p> <p><i>Beyond this statement of intention, our view is that Ofgem has a proven track record of adherence to best practice principles of regulatory process, as demonstrated by its approach at recent reviews.”</i></p>
	Gaelectric	General	Gaelectric has concerns on the delays in which the determination has been delivered. There needs to be an emphasis on meeting targeted deadlines on decisions.	The reasons behind the existing timescales are discussed under Section 4.18 of the draft determination. Following on from the consultation we are mindful of the delays to date and have set a challenging timescale to complete the final determination for RP5.
		General	The Regulators duties do not include technical assessments. Does the Regulator have the authority to carry out individual Cost Benefit Analysis and Technical Assessments without formal requests from the consumer?	<p>The principle objective and general duties of the UR are set out in law.</p> <p>We are required to carry out our related functions in the manner best calculated to further the principle objective and general duties. Any assessment, technical or economic, would be in keeping with this requirement.</p>
		General	The regulator must ensure NIE are suitably financed (in line with protocol).	Ensuring NIE is financeable in regards specified legislative obligations is one of our statutory duties.
		RP5 strategy	Gaelectric has concerns on the delays in which the determination has been delivered.	The RP4 extension was necessary because of delays in receiving the full RP5 submission from NIE T&D. As a result we needed more time both to complete a robust assessment of the submission itself and to deal with the significant issues that were subsequently

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				identified.
		RP5 strategy	Part of the regulators responsibilities is to secure a diverse, viable and environmentally sustainable long-term energy supply. Gaelectric needs to understand the process. How efficient will this process be? It would be useful to have timelines in place to aid efficient turnaround so not to cause any material delay on projects, also what the decision criteria may be on such approvals? Can the Regulator confirm that it has the resource available to conduct a number of projects in parallel and that there will be no material delay to one project over others?	<p>We agree with Gaelectric's identification of the regulators responsibilities.</p> <p>The establishment of the Renewables Grid Liaison Group should help address Gaelectric's concerns about the processes, timelines and transparency of the Fund 3 process.</p> <p>Resources to ensure timely delivery of this approval process will be put in place.</p>
		RP5 strategy	Does the Regulator have the authority to carry out individual Cost Benefit Analysis and Technical Assessments without formal requests from the consumer? If so what additional costs are involved? Does the Regulator have the internal ability to conduct these?	Consultation on this has taken place and further transparency on the process will be provided by the Renewable Grid Liaison Group. Technical assessment and cost benefit analysis has taken place for projects approved within RP4 and it is intend to increase transparency around these processes.
		RP5 strategy	The determination also suggests the regulator is now making the decisions on system need to supply safety, reliability and development of the grid structure to the consumer. Does this now put full responsibility on the regulator if the systems experience unsafe, unreliable and lack of development conditions?	It is not the intension of the regulator to make decisions on the items identified but to ensure value for consumers going forward in lince with its statutory duties.
		Reporting	There is no indication of when the reporter will be appointed or how that will influence timescales on Fund 3 – it could increase timescales further if the roles processes are not defined and its responsibilities are agreed by both parties.	Timescales and requirements regarding the reporter are set out in detail in the final determination and accompanying appendices. By reviewing information in advance of submission, the quality will be improved and the information will be more closely aligned with what is required to make approval

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				decisions – helping expedite the process.
		Capex	Infrastructure in Northern Ireland needs to be maintained to a high standard. NIE must identify areas within its Grid network that requires upgrade in the next 5 years so not to cause unnecessary outages and hardship to its customers. If the network is not improved in continuous regulatory periods then it will require upgrade in the next period along with additional required replacement of degraded assets through the existing 5 years. This will ultimately cause additional cost to the consumer much more in the longer term and puts a much increased potential of an unreliable system in the near term. A reactive method of maintaining the system is not productive, certainty in system performance is critical and a proactive approach should be taken.	We employed SKM to undertake modelling of the theoretical requirements for asset replacement. They then reviewed the results of this in the light of the data provided by NIE T&D. This has shown that NIE T&D require investment in certain areas, but that not all of NIE T&D's request can be justified. By increasing the amount of capital investment beyond that in the draft determination, we will be ensuring that NIE T&D can maintain the standard of network performance.
	SONI	General	SONI would expect to be involved in more detailed discussions on the investment plans that may be required with both the Utility Regulator and NIE.	We are in agreement with this statement and where applicable SONI will be fully engaged.
		General	NIE T&D's investment via their price control must be financeable.	Ensuring NIE is financeable in regards specified legislative obligations is one of our statutory duties.
		RP5 strategy	It is important that a common all island approach is taken to the development of the transmission networks across the island and that neither the approvals nor price control arrangements pertaining in either jurisdiction run counter to or hinder the delivery of the most overall efficient or optimal solution.	Any submission made by NIE T&D will have to demonstrate that all island planning has been taken into account. This is currently part of NIE T&D's licence (Condition 19 para 1b). This licence condition is expected to remain unless an amendment is required to comply with changes as a result of IME3.
		Capex	General comments concerning impact of RP5 determination on SONI business and operations, including comments relating to	We agree with the SONI view regarding consideration of total lifetime costs during network planning activities.

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			<p>renewables and generation connections.</p> <p>Specific commentary provided supporting UR's view that the NIE T&D network should be planned giving consideration to "the total lifetime costs of the network investment and to plan a network which balances the ongoing costs of dispatch of out of merit generation and constraints with the lifetime capital and maintenance costs"</p>	<p>The establishment of the Renewables Grid Liaison Group and further consultation that has taken place on Fund 3 will ensure transparency of processes.</p>
		Connections	<p>Under proposals presently being consulted upon SONI will be required to calculate transmission Firm Access Quantities (FAQ) for generations connecting to the distribution and transmission networks. This will require concise details of transmission infrastructure over a seven year horizon. The requirement is the same for calculation of Generator Output Reductions. It would be beneficial for SONI to understand how we can use NIE "plans" for inclusion in such processes so as to give sufficient transparency to connecting generators while respecting an arrangement between NIE and the Utility Regulator that allows for every project to be separately "approved".</p>	<p>The issue of transparency is critical in this area and we will ensure that where applicable SONI will be fully engaged in all relevant matters and that.</p>
		WACC	<p>In the Utility Regulator's assessment of the WACC itself it has built in average RPI inflation expectations of 3.35%. These were taken from the Office of Budget Responsibility forecast paper in November 2011. The more recent OBR forecasts (March 2012) forecast an average RPI for the same period of c.3.15%. Thus, as SONI in general believes that the most recent inflation forecasts should be taken into account in setting the price control,</p>	<p>We agree with this argument and our consultants have previously indicated an intention to update their inflation assumptions prior to our final determination.</p>

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			in order to maintain the same nominal returns (which was the basis upon which the original real numbers were derived) the real Vanilla WACC must be raised by c.0.2% to leave both the utility (and the consumer) in no worse position.	
		WACC	Furthermore, SONI believes a much fuller discussion should be held on the use of Debt Betas in the determination of the cost of capital and would note that the Utility Regulator itself is not consistent in its approach employing a debt beta here and indeed in the recent SONI determination but not employing one in the most recent assessment of the cost of capital for the BNE.	This is discussed in the main paper.
		WACC	On the application of a differential WACC for new investment in renewables requirements SONI believes there is insufficient justification to suggest the WACC would be significantly different and indeed that the approach proposed is at variance with the Utility Regulator's earlier work commissioned from First Economics which suggested new investment was the riskier element of the business and that recovery of sunk investment in general the lower risk activity.	We consider the setting of fixed capex allowances for five years and the setting of capex allowances on a rolling basis to be significantly different regulatory frameworks with significantly different risk characteristics. We note that most respondents to our 2011 Financing Networks consultation – including SONI – were not supportive of the distinction between new and sunk investment.
		Financeability	It would in general have been beneficial had a financial model been made available to respondents as part of the consultation exercise.	It is not our practice to publish our financial modelling along with the Final Determination however we may consider doing this in the future.
		Financeability	EirGrid has previously highlighted its concerns on relying wholly on additional equity to bridge financing requirements. Elsewhere, where such an approach is employed, such as by Ofgem for the Scottish transmission companies under RIIO-T1 it has resulted in	Cost of raising equity, if required will be part of the discussions between us and Credit rating agencies. The regulator noted in the draft determination

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			additional provision for equity raising which can be worth the equivalent in some instances of up to 0.2% points on the WACC. It is therefore not a costless option.	“18.27 NIE T&D have not yet formally submitted any funding requirements in this area. We expect to engage with NIE T&D and will also discuss this area with the rating agencies regarding the impact that this body of work will have on the financial position of the company. These discussions would include the steps that the company will be able to take to support the investment and to discharge its licence obligations. Consistent with the general principle we outlined above, we would require compelling evidence that the company cannot reasonably support necessary investment before we would look to adjust revenue profiles in an NPV neutral manner.”
		Financeability	The financeability of the T&D business is particularly stretched by the inherent cash squeeze in the current regulatory model through the application of real returns with an indexed RAB whereas debt costs must be met in nominal terms. Given the Utility Regulator’s forecast of inflation expectations of an RPI of 3.35% at the notionally assumed gearing of 60% the basic model is only ‘PMICR sustainable’ to a ratio of 1.11 against the existing embedded cost of debt. This is below the necessary level. Therefore if NIE were to be geared at the level assumed by the Utility Regulator in its Weighted Average Cost of Capital assessment (60%) the proposals as set out would not be financeable in the absence of additional equity injection.	<p>We recognize the effect described here relating to the mismatch between nominal interest payments and real index linked returns on the RAB.</p> <p>The assumed gearing has been updated to 50% in the final determination.</p>
	SSE	Reporting	SSE understands that the Utility Regulator will consult on a regulatory approval process for individual renewables projects later this year.	We strongly believe the introduction of an Independent Reporter will add value in the medium to long term. NIE T&D are currently

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			<p>They also expect approvals to be faster with the new reporter function as submissions will follow a standard format.</p> <p>While we had initially supported the introduction of a reporter in our RP5 Strategy Paper submission, we have not been convinced that the introduction of an independent reporter to audit, certify and comment on submissions would add significant value, and would like to see more detail as to the terms of reference for the role. If the expectation is that the role would ensure the consistency and accuracy of regulatory returns, we suggest that this could be achieved at lower cost through changes to reporting templates or requiring 'director sign-off' for certain regulatory submissions. We would note that the principle of an independent reporter was considered by Ofgem in the RIIO consultation:</p> <p>"This review considers, as one option, the benefits of introducing requirements for companies to appoint independent reporters. At this stage, we do not anticipate making a recommendation on the introduction of the type of scheme employed in the water and sewerage sectors, whereby each company appoints an individual with a joint duty of care to the company and regulator to examine the systems used in preparing the principal annual reporting submissions and to review the company's performance. However, we could see merit in similar but more focussed arrangements with the reporter looking solely at the robustness of regulatory reporting."</p>	<p>going through a period of transition following the acquisition by ESB. It is felt this also supports the timing for introducing a Reporter function which is aimed to reduce problems of information asymmetry and improve reporting and monitoring. It is expected the Reporter function will have a consistent approach and will aim to improve the turnaround time of decisions e.g. approvals regarding renewable. SSE requested further detail which is provided in an appendix to the final determination which details the proposed Reporter Terms of Reference. Please also note that the NIE T&D licence has a proposed new licence condition relating to the Reporter.</p> <p>While recognizing the decisions taken by OFGEM and OFWAT regarding reporter functions we believe the decision to pursue a Reporter function is beneficial in light of the information asymmetry. OFWAT have benefited from the use of a Reporter in recent years to the point they now feel a Reporter function is no longer required.</p>
		Capex	General comments regarding ability of NIE	We acknowledge the importance of measuring

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			<p>T&D network to support connection of renewable and broader economic developments plus commentary of price control process and turnaround times for regulatory approval.</p> <p>“While the draft determination identifies planned outputs in terms of plant, transformers, overhead lines etc, we would consider these inputs that should be assessed against actual delivery of improvements in network performance. This means holding NIE’s investments to account against clearly defined and measurable metrics – RIIO uses claw back and penalty mechanisms that require licensees to ensure capital expenditure is both efficient and necessary.”</p>	<p>the outcomes for customers from capital investment, and are working towards having the measurement systems in place for RP6.</p> <p>By measuring the inputs during RP5, we are introducing more accountability to RP5 than has existed in previous price controls.</p>
		Connections	Contestability of connections will provide a natural check on connection costs and we are convinced that the introduction of a formal process should be prioritised by the Utility Regulator.	We note the support for introducing contestability in connections.
		Incentives	<p>SSE believe that incentive structures must be retained and extended rather than limited as in the draft determination. SSE would prefer more focus on outputs such as:</p> <ul style="list-style-type: none"> -Delivery of firm access -Quality of Service -Reduction in network losses -Reduction of carbon in network operation -Delivery of capacity improvements through use of technology -Information Quality Incentives 	<p>A modest number of incentive arrangements were proposed in the draft determination over and above RPI-X cost allowances.</p> <p>Current quality of service incentives, ‘customer minutes lost’ (CML) and ‘customer interruptions’ (CI) are to be strengthened with the additional of a financial penalty or reward. This will feature a range within which the CML and CI may fluctuate without penalty or reward. The incentive will then apply to variances greater than 10% from the target.</p> <p>To increase the focus on outputs we intent to</p>

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				extend the range of incentives to include a distribution loss incentive and health and load indices. We encourage NIE to start measuring and collating data to enable the development of these incentives, with a view to introducing them at the latter end of RP5 or in RP6.
		Innovation	Agreed with NIE and the Utility Regulator in that the fast follower principle is generally appropriate for introducing innovation schemes	We note SSE's agreement with this principle.
		Innovation	SSE was disappointed to see the Utility Regulator's position on innovation.	In their submission, NIE T&D requested £14.9M for innovation. With one exception, the proposals have not yet been developed in sufficient detail. We therefore maintain our position that spending in this area remains and will be assessed as part of NIE's Capex submission.
		Innovation	SSE also believes that <i>there is a significant difference between an obligation to plan, develop and maintain the system and an incentive to improve the planning, development and maintenance of the system. There are natural incentives to innovate in a competitive market, whereas a regulated natural monopoly business requires justification for taking risks or introducing new ideas in the form of well-designed incentives.</i>	We are in agreement with the first part of SSE's statement. A small market such as Northern Ireland cannot afford to take risks however this should not preclude NIE from adopting new initiatives to meet its own efficiency targets while providing a benefit to customers.
	Smart Grid Ireland	Capex	Comment provided on Grid Modernisation: "The Determination relies on a trend analysis of past investments as a predictor of what is required for the future. Yet it is an accepted fact that the grid network is ageing and that replacement is non-linear. Investments must be made ahead of the need otherwise the consequences will be catastrophic for	The statement made concerning the non-linearity of network replacement CAPEX with an ageing asset base is correct. However, the assertion that only a trend analysis based on past investment has been used to determine the level of CAPEX required is incorrect. Consideration of both asset replacement

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			<p>Northern Ireland.</p> <p>The investment profiles in distribution networks across the developed world are remarkably similar as the priority focus will see the majority of funding allocated to the renewal and upgrade of distribution automation assets. “</p>	<p>requirements given the ageing NIE asset base plus a project specific view has been adopted to determine the required level of RP5 CAPEX.</p>
			<p>Smart Grid Ireland is concerned that in spite of the NIE proposal taking a forward view to begin this process (Smart Grids), the Determination takes a view more aligned to “business as usual” as opposed to essential and strategic economic investment considerations.</p>	<p>As per 4.3 of our draft determination Stakeholders agreed that the appropriate objectives for RP5 are</p> <ul style="list-style-type: none"> • ensure value for money for customers for the service provided; • ensure security of supply by maintaining and developing a network that is fit for purpose; and • facilitate sustainability in the generation and consumption of electricity. • <p>The purpose of RP5 is to achieve these objectives while also ensuring that NIE T&D can finance its activities.</p> <p>Our assessment, proposed capex mechanism and allowance for NIE T&D as described in Section 9 RP5 Capex of the Draft Determination will allow the required investment in the network while ensuring the above objectives are achieved.</p> <p>Schemes such as Smart Grids and investment in renewables will be assessed as part of the Fund 3 mechanism. In their submission NIE T&D proposals for this area had been developed in sufficient detail.</p>

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		Innovation	Smart Grid Ireland (SGI) state <i>The Low Carbon Network Fund initiative by Ofgem is held out as an exemplar to utilities and regulatory authorities throughout Europe.</i> And that <i>Northern Ireland should be able to utilize a similar initiative to encourage innovation in the development of the robust grid infrastructures that can cope with the transition to a low carbon economy with the capability to allow integration of the planned growth in renewables.</i>	We are in agreement with SGI that the LCNF has shown to be of benefit. Such a fund would not however, be as beneficial in Northern Ireland as NIE are currently the only network provider. In their submission NIE T&D requested £14.9M for innovation. With one exception, the proposals have not yet been developed in sufficient detail to meet those required under the LCNF. We therefore maintain our position that spending in this area remains and will be assessed as part of NIE's Capex submission.
		Innovation	<i>Had NIAUR initiated a similar programme to the Low LCNF (Low Carbon Network Fund) there is no doubt they would have received innovative working proposals to test the range of possible solutions to critical problems.</i>	As discussed above such a fund would not however, be as beneficial in Northern Ireland as NIE are currently the only network provider.
	Renewable Energy Systems Limited	Capex	Comments are made regarding renewable connection and CAPEX Fund 3 allocation, electrical losses and WACC.	We have published our consultation on fund 3 and have noted RES's response to that.
		Connections	RES welcomes consideration of the introduction of contestability in connections as described in Section 12 of the document. At a time when resources at NIE are stretched and the need for timely delivery of new connection is paramount, RES considers that progression of arrangements to support contestability in connection construction is of the utmost urgency.	We agree that the introduction of contestability is required and will be consulting on this area in 2013.
		WACC	RES notes that NIAUR considers that, because Fund 3 capex funding decisions will be decided once the scope and timing of the infrastructure project is known, NIE T & D's exposure to systematic is significantly reduced. RES is unclear why NIAUR considers	Our view is that the setting of capex on a rolling basis rather than as a fixed five-year allowance significantly reduces NIE's exposure to unforeseen changes in wages, materials costs and contractor margins.

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			<p>this to be the case. Many of the Fund 3 projects will present significant engineering and environmental challenges relative to other investments. While the level of project specific scrutiny may be raised for Fund 3 projects, it would seem to RES that the levels of risk inherent to projects of this scale and nature would justify the maintaining of WACC applicable to Fund 1 and Fund 2 projects. RES considers that, by imposing a lower than normal WACC for Fund 3 capex, NIAUR may be creating an inappropriate disincentive to NIE progress Fund 3 projects which are essential to the delivery of an economic and efficient system for the Northern Ireland consumer. RES would urge NIAUR to reconsider their position on this matter.</p>	<p>It is important that NIE factors the benefits of this reduction in risk in lower prices to customers.</p>
	Endesa Ireland	General	<p>Endesa Ireland requests that separate papers are published on Transmission and Distribution Price controls as it is difficult to assess just the Transmission proposals under the current format; the allowed revenues should be clearly and transparently attributed.</p>	<p>We do not agree that a separate paper is required for Transmission and Distribution Price controls however separation of NIE T&D's RABs are discussed in Section 17.</p>
		Reporting	<p>Endesa Ireland welcomes the introduction of a Reporter to audit, certify and comment on submissions made by NIE T&D to the UR.</p>	<p>We note the support for introducing a reporter.</p>
		Change to Capitalisation Practice	<p>Endesa Ireland is concerned at the change in capitalisation practice within NI T&D and considers that the Utility Regulator should publish the results of its investigation for comment by market participants before RP5 is completed.</p>	<p>A consultation has taken place and the results have been published.</p>
		Review of NIE Powerteam Ltd Costs	<p>Endesa Ireland agrees that the current arrangements between NIE T&D and NIE Powerteam should be brought to an end and NIE T&D should tender for services by way of</p>	<p>The response is noted.</p>

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			competitive procurement.	
		Capex	Endesa Ireland considers that, at a minimum, the Transmission Price Control should be kept separate and distinct from the Distribution Price Control so as to enable interested parties to assess the proposals regarding the Transmission system. Therefore Endesa Ireland requests that separate papers are published on Transmission and Distribution Price controls as it is difficult to assess just the Transmission proposals under the current format; the allowed revenues should be clearly and transparently attributed.	<p>We have separated the amount of capital expenditure that NIE T&D are allowed to recover through tariffs for transmission and distribution. They are not able to reallocate spend between transmission and distribution.</p> <p>This ring fencing, enshrined in the licence, should protect generators in the SEM from funding distribution investments via the all-island TUoS tariffs.</p>
		Opex	As regards Opex, the UR's paper does not distinguish clearly between Transmission and Distribution. Pension deficit costs are of particular interest in this regard. Support the separation of Powerteam and the Reporter role.	
		Pensions	Pension deficit costs (among other items) should be separated between Transmission and Distribution.	This was considered in the draft determination.
		Connections	Endesa Ireland welcomes the UR's statement that NIE is working towards the introduction of contestability in connections.	We agree that the introduction of contestability is required and will be consulting on this area in 2013.
		WACC	As regards the WACC proposed for the price control, Endesa Ireland does not consider that a figure comparable to GB DNOs is legitimate unless it can be shown that NIE T&D can in fact access capital at GB rates. We consider that the Irish networks companies should have been included in First Economics' analysis, not just GB networks companies and rates set by Ofgem. Endesa Ireland recognises that NIE T&D, like the businesses used by First Economics for comparison, enjoys a regulated	We have adopted a methodology that is consistent with good regulatory practice in determining the WACC and we do not consider a blended WACC is appropriate for the Final Determination for NIE T&D.

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			return, but as a proportion of allowed transmission revenue is collected on an all-island basis, and given the differential between Ireland and GB, a blended Ireland-Northern Ireland WACC would be appropriate. We note that the WACC allowed to ESB Networks and EirGrid in Ireland in its price control for 2011-2016 is significantly higher than that proposed for NIE T&D.	
	National Energy Action Northern Ireland (NEA NI)	Introduction	NEA NI is assured by the significance placed on NIAUR's role and function in the protection of customers in Northern Ireland.	We welcome the NEANI's support, as we carry out all of our statutory duties and functions.
		Reporting	NEA NI welcomes the proposal of the NIAUR to employ a Reporter to aid in the price control process. We believe that the establishment of an independent professional or number of professionals to assist the NIAUR in the submissions made by regulated companies to their regulators during the price control exercise is timely but should represent value for money. As the Northern Ireland energy market grows, the process of price controls needs to become as transparent as possible. NEA NI considers the involvement of an independent party to be beneficial to the outcomes of the price control process.	<p>We note the support for introducing a reporter.</p> <p>The independent scrutiny of a reporter function on aspects of the regulated company's submissions to us will enhance reliance and completeness of the information to enable a more robust decision process. Verification of specific aspects of such submissions will also provide consumers and other stakeholders with a degree of assurance regarding the information received by us which forms the basis of our decisions. We will continue to improve transparency particularly in an evolving energy market. Value for money will be obtained through the information quality improvements a reporter will bring, thus improving the efficiency of, for example, Fund 3 capital expenditure projects.</p>
		Change to Capitalisation Practice	NEA NI, believe that it is of the upmost importance that this matter is resolved and the solution put in place that is robust enough to ensure that this situation can not arise again. As such we pose a series of questions at	This particular example of a suspected double charge is unlikely to arise again, due to the unique nature of the RP4 price control in which Opex was an allowance and Capex was a pass through.

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			<p>this point which include – did customers pay too much in the past and if so how will they be reimbursed? How can we ensure this doesn't happen again?</p> <p>What happens elsewhere and can we improve regulation and best practice to ensure this cannot occur again?</p>	<p>The amount customers have paid twice will be discussed in the Draft determination on the matter.</p> <p>NIE are directly responsible for any double charge taking place.</p> <p>Double charges have occurred elsewhere but for different reasons.</p> <p>Establishment of further guidelines may or may not prevent any future double charging. The company does not undertake a big risk due to the penalties and enforcement available to us (Electricity order 2006).</p>
		Change to Capitalisation Practice	<p>Customer confidence in the functionality of regulation in Northern Ireland could be damaged by the suggestion that customers may have paid twice for services offered by a regulated company. NEA NI would welcome the establishment of a set of accounting guidelines which would ensure greater accountability and transparency.</p>	<p>It appears that NIE have failed to comply with their current guidelines and conditions – SEE licence conditions with regards to preparation of accounts;</p> <p>“3. The Licensee shall, in respect of each Separate Business:</p> <p>(b) prepare on a consistent basis from such accounting records in respect of the financial year commencing on 1 April 1992”</p> <p>And also;</p> <p>“4 (a) The Licensee shall not, in relation to the accounting statements in respect of a financial year, change the bases of charge, apportionment or allocation referred to in sub-paragraph (b) of paragraph 3 from those applied in respect of the previous financial year, unless the Authority shall previously have issued directions for the purposes of this Condition directing the Licensee to change</p>

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				such bases in a manner set out in the directions or the Authority gives its prior written approval to the change in such bases.” Regulatory accounting guidelines will hopefully ensure more appropriate outcomes for customers.
		Capex	General comments made relating to fuel poverty in NI and potential implications if full NIE requested RP5 CAPEX is approved. Commentary on the disparity between NIE CAPEX proposals and NIAUR Draft Determination and need for NIAUR to consider any supplementary information put forward by NIE.	We can confirm that NIE have had the opportunity to put forward additional information to support their proposals and we have reassessed the amount of capital expenditure that will be funded through tariffs during RP5.
		Opex	Generally supportive of the draft determination. “ Following the completion of a benchmarking exercise with other GB companies, similar to NIE T&D, the NIAUR has identified a 9% efficiency gap within NIE T&D. NEA NI is concerned by this discovery. This apparent lack of efficiency needs to be addressed in order to provide reassurance to customers in Northern Ireland; especially in relation to tariff price setting and the implications that this has on customer’s domestic electricity bills.”Also commented on operational capacity, benchmarking, the Reporter, pensions, renewables and connections.	The Utility Regulator accepts that any efficiency gap needs to be addressed and seeks to do so with its final determination. All other comments have been considered within the Final Determination.
		Pensions	Does the UR think that the scheme deficit might continue for some time and if so what support will consumers need to provide, and what caused the current deficit?	Whether or not the NIEPS might remain in deficit depends on (currently unknown) future economic and demographic experience, among other factors. Our pension principles denote that customers

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				will effectively underwrite pension deficit costs, but should achieve the benefit of any future surplus also.
		Connections	In regards to the removal of the 40% subsidy for new connections, NEA NI would seek an explanation as to the impact this would have on vulnerable customers and would any such impact be monitored and assessed in respect of vulnerable customers?	<p>As discussed in the original consultation document on electricity connections the 40% subsidy was considered to be appropriate for the initial electrification of Northern Ireland and served to deliver the wider social benefits associated with a supply of electricity to homes and small businesses, there are now requirements on regulators to ensure that charges to customers are cost reflective.</p> <p>The removal of this subsidy not only reduces the direct cost charged to all applicable electricity customers by the DUoS tariff, but also minimises any increases in the value of the asset base (and subsequent return on the capital) associated with this subsidy.</p> <p>A vulnerable customer seeking to connect to the distribution system is currently treated no differently than any other customer and will be required to pay NIE for the cost of connection. This is regardless of whether or not the customer in question has the ability to pay for his or her connection. The removal of the 40% subsidy would possibly increase the number of occurrences of this situation, however it should be noted that even a subsidised cost of connection could be deemed excessive. The question of whether all customers including those that may be classed as vulnerable should be charged for the helping another customer connect in a certain location is critical. We have decided</p>

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				<p>that customers should be charged the full cost of connection therefore removing cross subsidies.</p> <p>The Utility Regulator does not have the data to monitor vulnerable customers. The Utility Regulator is currently supporting a smart meter trial to assist the understanding in this area.</p>
		Impact on Electricity Prices	The NIAUR proposals have indicated that the annual charges for the average household in Northern Ireland could reduce by £24. In a time of rising fuel costs (Natural gas, electricity and domestic home heating oil), a potential saving of £24 is significant for householders.	The impact of the RP5 Price Control on electricity prices has been given in the impact on tariffs section of the final determination.
	Northern Ireland Renewables Industry Group (NIRIG)	Overview	Recommend the regulatory framework and decision making within RP5 take account of the long-term needs of consumers and investors and focus on methodologies that enable the development of infrastructure to provide specific results rather than focusing on short-term cost efficiency.	The regulatory framework is based upon our statutory duties and governing legislation. Decision making derives from the same, in both cases backed by detailed analysis.
		Policy Considerations	Regulator should support the 2009 RES-E Directive implementation RE transmission infrastructure development and facilitating system operators providing renewable generators with reasonable indicative grid connection timetable.	We support the RES-E Directive as implemented through the relevant member state legislation and/or requirements.
		Reporting	<p>The Regulator has requested the appointment of a Reporter to interface between NIE and the Regulator as part of RP5 monitoring. There is no indication of when that appointment will happen or how it will influence timescales of project approval.</p> <p>NIRIG does not believe that the Reporter will</p>	We have been through a period of transition with the objective of improving the regulation process. This transition has resulted in a notable increase in skilled resources to prepare the level of detail apparent in the RP5 paper. This has significantly improved the analysis and decision making process however it is still limited by the information asymmetry.

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			<p>improve either the speed or efficiency of the project approval process and would recommend that the priority be on ensuring that existing regulatory approval is more efficient and timely.</p> <p>NIRIG is aware that other utilities, such as Great Britain water utilities have previously used this approach of employing a reporter and have found it to be of no benefit. In addition, if NIAUR appoints a Reporter and support staff then NIE will also be required to mirror this appointment within NIE, increasing costs on both sides.</p> <p>The introduction of the Reporter must not increase costs, increase delays or reduce the number of project approvals</p>	<p>It is for these reasons an Independent Reporter function is deemed necessary to verify the quality and completeness of the specific areas of the submissions being made to us. Such information reviewed by a Reporter is anticipated to result in an improved approval process.</p> <p>The speed at which regulatory approval is granted depends upon, amongst other factors, the quality of information provided. Where a reporter is able to, in advance of submission, independently review and verify information, this will increase the process efficiency and speed.</p> <p>The Reporter Terms and Reference is drafted and attached in an appendix to the final determination which will be discussed with the regulated company and finalised. The Reporter function will then be tendered and a Reporter put in place. The appointment will be made within the timeline specified in the final determination.</p> <p>With or without a Reporter we would require detailed information to carry out the price control monitoring function. The Reporter function will be required to analyse specific aspects of the submissions as directed by the Utility Regulator. The increase in the regulated company's costs to facilitate a Reporter function has been factored into the 'uncontrollable opex category' of this price control.</p>

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				<p>OFWAT are no longer requiring a Reporter on the basis that a Reporter has been in place for a number of years and reasons for introducing the Reporter have been addressed over the years. Including the establishment of a sustainable working relationship together with appropriate and complete information being received from the regulated company. The benefits of a Reporter have been realized over the years to the point now that the function is no longer necessary. It is our objective to get to a similar position with the regulated company in the medium to long term.</p> <p>NIE's supposition it will require costs equal to that of those proposed by us for a reporter are noted. However full break down and exploration of this amount is to be addressed. They will of course be assessed for need, as with all other amounts the company seeks to pass on to consumers.</p>
		Capex	<p>Comments made concerning RP5 renewables investment and potential timeliness of subsequent project by project investment decisions associated with proposed NIAUR approach.</p> <p>Asset replacement of 11 kV network highlighted as important to allow connection of small and medium sized renewable developments.</p>	<p>Concerns regarding network upgrades and asset replacement are acknowledged however it is up to NIE to substantiate the requested level of capital expenditure required for RP5. At present this has not been fully justified.</p> <p>NIE T&D did not request to rebuild the 11kV network at a higher specification for the benefit of renewable generation, as under the distribution connection policy this should be funded by generators. Instead they made this request purely for security of supply reasons to protect rural customers in the event of extreme ice accretion events.</p>

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		Opex	<p>Concerns raised about the draft determinations focus on short term cost-efficiency, the delays in the RP5 timetable and the importance of an early conclusion to the price control. Concerns also raised about regulatory uncertainty and the proposed methodology of CBA on a project by project basis which could repel investment in NI. NIRIG is also concerned that the allowance against NIE resources has not been approved. Applications for grid connection have been rising steadily and contact with NIE connections personnel has become increasingly difficult. Given that the current level of connections is likely to increase going forward, the level of interface resource between developers and NIE is grossly inadequate. NIRIG feels that the NIAUR response to the NIE proposals demonstrate a clear lack of anticipation in the number and volume of renewables applications which NIE will be required to manage.</p>	<p>We do not accept that the draft determination focuses on short term cost efficiency. The proposals for Fund 3 specifically address responding in a timely manner to any requirement for grid development to ensure sustainability in the future.</p> <p>The establishment of the Renewables Grid Liaison Group should help address NIRIG's concerns about the regulatory uncertainty and processes. Technical assessment and cost benefit analysis has taken place for projects approved within RP4 and it is intend to increase transparency around these processes.</p> <p>Consideration has been given within the Final Determination to ensure NIE T&D is adequately resourced.</p>
		Connections	<p>There are currently delays specifically around financial authorisation of cluster substations and line upgrades. NIRIG believes that the RP5 Price Control proposals should give an indication of how those delays will be removed and a plan to accelerate the speed of approvals which NIRIG considers is central to the connection of wind farms onto the NI grid.</p>	<p>Ourselves and NIE are both working on finalising the issues surrounding cluster substations and intend to have these issues completed shortly. Once completed it is expected that the speed of approvals will be accelerated. Stakeholders will be informed and consulted upon before any final decisions are presented.</p> <p>There is a requirement to consult on the Methodology for Connecting Groups of Generators to the Distribution System using Cluster Substations. We will complete the process following the outcome of this process.</p>

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		Connections	NIRIG is also concerned that the allowance against NIE resources has not been approved. Applications for grid connection have been rising steadily and contact with NIE connections personnel has become increasingly difficult. Given that the current level of connections is likely to increase going forward, the level of interface resource between developers and NIE is grossly inadequate.	The resources for NIE connections personnel should be covered by the costs of connection. We have benched marked NIE's resources in this area and will look to ensure NIE addresses any shortfalls. The use of a reporter may also be beneficial in this area. Additional reporting requirements on NIE will also help identify under performance.
		Connections	NIRIG feels that the NIAUR response to the NIE proposals demonstrate a clear lack of anticipation in the number and volume of renewables applications which NIE will be required to manage.	As discussed in Section 12 of the draft determination, the assumptions that NIE T&D used to forecast the future need for connections and for business planning in this area are highly simplistic. Very limited information or evidence is provided to support the estimates and explain the rationale for deviating from historical levels. The staff costs associated with connections will not be included in the RP5 determination, as they are not funded by use of system tariffs. We did however assess the proposed resourcing levels that NIE T&D put forward for connections.
		Incentives	The major network outputs that are explicitly identified in the RP5 draft determination primarily relate to cost and number of customer minutes lost. Other incentives for opex efficiency, customer minutes lost, network losses and a Guaranteed Standard are also outlined, but the focus appears to be on controlling the inputs in terms of asset investment decisions.	<p>A modest number of incentive arrangements were proposed in the draft determination over and above RPI-X cost allowances.</p> <p>To increase the focus on outputs we intent to extend the range of incentives to include a distribution loss incentive and health and load indices. We encourage NIE to start measuring and collating data to enable the development of these incentives, with a view to introducing them at the latter end of RP5 or in RP6.</p>
		WACC	NIRIG is concerned that the proposed financial	As discussed in our Final Determination we are

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			rate of return on renewable energy projects will attract a lower return than conventional network projects (5.2% rather than 6.32%). We feel this is a strong disincentive for renewable energy connection to the system for NIE and would support a return commensurate with other network investments.	no longer proposing a separate WACC for renewable investment.
	CBI Northern Ireland	General/Capex	<p>A wide range of comments have been presented in the CBI response many of which appear to be a direct mirror of comments already provided by NIE. Comments worthy of highlight here in relation to the RP5 CAPEX determination include:</p> <ol style="list-style-type: none"> 1) “The regulatory process and assessment appear to be largely desk based – with no site visits”. 2) “Disallowances for load related investments where NIE have shown that plant is already under strain” 3) “The draft determination has taken a very harsh view on the need for replacement of key aged infrastructure even where there is a risk of catastrophic failure and where replacement lead in times are extremely lengthy. For example a third of the proposed replacement of aged power transformers have been disallowed despite them being demonstrably in poor condition. 	<p>Response to outlined issues are as follows:</p> <ol style="list-style-type: none"> 1) Whilst it is accepted that there are indeed condition drivers underpinning the need for asset replacement investment across the NIE network in RP5 it is not typical as part of a price control assessment to require site visits to validate the condition of assets prior to the determination of an appropriate level of capital expenditure for such asset replacement. NIE are the asset owners and should be able to provide the necessary asset condition and supporting investment decision information in support of their RP5 CAPEX proposals. This includes demonstration that the asset condition information has been used appropriately to develop asset replacement expenditure profiles and that an appropriate balance has been achieved between replacing aged assets and maintaining a quality supply to customers. In many instances the balance between asset replacement and customer / system risk has not been fully demonstrated to confirm that the correct level of investment has been proposed. 2) A number of load related CAPEX

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				<p>investments are proposed for RP5 by NIE. However, concerns over the accuracy of previous forecasts and future demand trends presented in the original submission information requires that updated demand forecast information is provided by NIE before a revised determination can be made.</p> <p>3) The investment level within the Final Determination is based upon the detailed information provided by NIE T&D to support investment requirements. We would expect a similar level of detail to be required by the NIE T&D board prior to approval and we consider the value appropriate for NIE T&D to carry out its statutory duties.</p>
		Opex	<p>Concerns raised in relation to the short-term nature of the price control process and the lack of focus on outcomes. In particular the wide divergence in Capex could result in a UR Capex programme which NIE will not own. There was criticism of the process given the apparent lack of engagement and the fact that the draft determination was published immediately without discussion. There was also criticism of the retrospective regulation being applied. Concerns were raised about the suggestion that salaries are below NI average given that the majority of NIE staff are specialists (largely engineering, professional, craft and technical roles). Comments were made about the age of the network and the importance of replacement investment. From an Opex perspective there was comment</p>	<p>The Final Determination is structured to ensure appropriate investment for both long term and short term considerations. The Final Determination is based upon the detailed information provided by NIE T&D to support investment requirements. We would expect a similar level of detail to be required by the NIE T&D board prior to approval and we consider the value appropriate for NIE T&D to carry out its statutory duties.</p> <p>During this process there was a significant amount of engagement with NIE T&D and this is detailed within the Final Determination. The process followed in publishing the Draft Determination without discussion with NIE T&D allowed all stakeholders the same opportunity to respond to our Draft</p>

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			about the disallowance of all training costs over the regulatory period.	<p>Determination and we believe this is in line with good regulatory practice.</p> <p>We are not applying retrospective regulation within the RP5 process.</p> <p>Careful assessment of all information provided has allowed us to identify an appropriate allowance for salaries and this is covered further within the Final Determination.</p> <p>With regards to training, the comment relates to the training of new staff that is included within the disallowed Workforce Renewal costs rather than a disallowance of all training costs.</p>
		WACC	NIE's return on investment should be similar to that of equivalent GB companies – this is essential if NIE is to secure the necessary funding (at competitive costs) to allow it to continue to invest	We consider it is more important that NIE's allowed rate of return is set in line with its cost of capital.
	Northern Ireland Chamber of Commerce (NICC)	Capex	General comments relating to the need for investment in infrastructure to support regional economic development.	We have assessed NIE T&D's investment plans in accordance with our statutory duties.
	CCNI	Regulatory Model/Framework	NI model heavily concentrated on economic regulation at the expense of sufficient focus on the customer, environmental and safety aspects. RIIO offers a better model.	<p>The protection of customers' interests is the basis for our principle statutory objective. Environmental and safety considerations are also specified statutory duties, and NIE is required by law and licence to adhere to all environmental and safety regulations.</p> <p>The Final Determination incorporates many of the processes within the RIIO model however RIIO also considers a number of outcomes. It</p>

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				pays particular attention to customer satisfaction. This is something we would like to consider further with CCNI and NIE T&D. However the reporting systems are not current in place to allow this to be introduced within RP5.
		RP5 strategy	The comments provided by the Regulator in relation to the NIE CAPEX request which suggest it was based on 'subjective engineering judgements' and 'heavy on opinion' are worrying. It raises questions both of the company regarding its submission but also of the regulatory framework which did not ensure thorough engagement and clear requirements that information provided should be sufficiently robust.	Having initially reviewed NIE T&D's business plan submission, it was apparent to us that more detailed information was required on aspects of the plan due to significant gaps in the detailed and complex reporting structures within the company. The volume of information requested demonstrates our regulatory objective to engage with and understand NIE T&D's business plan for the RP5 period. We now consider the Final Determination is sufficiently robust and further information can be found within the document.
		RP5 strategy	If information is a problem in this Price Control process was it also a problem in previous Price Control processes and if so why has it not been effectively addressed by now?	In RP4 a different process was followed where NIE T&D submitted a composite proposal that was in substance accepted by the Utility Regulator. This was largely formal driven and therefore required less information.
		RP5 strategy	The Consumer Council would strongly argue that the current regulatory model employed by the Regulator is outmoded when compared to the Ofgem model (RIIO). This has in our view contributed to concerns regarding the accuracy of information and compounded the uncertainty regarding the actual requirements for investment going forward over the next five years.	We do not accept that the model employed is outmoded and we consider it has many similar features to the Ofgem model. However the Ofgem RIIO model introduces additional outcomes and has a particular emphasis on customer satisfaction. Effective incentivisation requires measurements and we look forward to working with the CCNI to develop measurement in this area for future price controls.
		RP5 strategy	The Consumer Council believes the absence of recognised industry standard processes such	NIE T&D does not currently operate to a recognised auditable standard for asset

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			as PAS55 or existing processes being certified in previous Price Controls has contributed to the lack of information and clear difference of opinion between the Regulator and NIE.	management (such as PAS55), although it is currently working towards such a standard. This is widely used in other utility companies and we welcome the work NIE T&D is doing to move to best practice.
		RP5 strategy	Not only should consumers be informed of the expected outputs but actively involved in a process where consumers have contributed to setting the outcomes they expect and value. It is absolutely essential that the regulatory process places a much stronger emphasis on engagement with consumers.	We agree consumers should be explicitly informed of the expected outputs and actively involved in the process. We appreciate the assistance provided by CCNI for RP5 to increase the level of consumer engagement. As part of the regulatory process for RP5 (with CCNI assistance) we have been engaging with stakeholders through numerous workshops. It is intended that this type of interaction will continue throughout the RP5 duration.
		RP5 strategy	It is important that the Regulator confirms that within the current determination, developments on a wide range of strategic issues have been fully considered.	
		Change to Capitalisation Practice	This issue is of great concern for consumers both in its potential materiality and what it may reveal about how NIE has been regulated and how it has conducted its business in previous Price Control periods. It is appropriate that this matter is investigated thoroughly and a full disclosure is provided of how this situation may have arisen.	We consulted on this issue. The detail is now provided in our final determination.
		Change to Capitalisation Practice	The fact that this has only emerged now when the changes NIE made to its capitalisation practice took place in 2005/06 suggests a weakness in the regulatory process and a lack of asymmetrical information. We will await the outcome of the Regulator's investigation before considering how this reflects on the internal management at NIE during the period in question.	It is standard regulatory practice, at each five-year price control review, to examine the reasons for any 'outperformance' in the previous control period. In this case we examined the RP4 period (which lasted from 2007 to 2012). By definition, such an examination can only be conducted retrospectively. We typically wait until the end of the price control period before conducting

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				<p>any examination. This also allows the company some flexibility in its expenditure between years within a control period.</p> <p>It is also standard practice for us to then make adjustments for any outperformance that was not in accordance with the ex-ante rules for the price control period. In the case of RP4, we are proposing to make an adjustment in order to follow the principle that a cost item cannot be recovered through both the opex allowance and the RAB. Doing so would be double counting and not an efficiency gain.</p>
		Change to Capitalisation Practice	<p>The CC state:</p> <p><i>“It has been at times difficult to compare information in the consultation with corresponding information in the earlier ‘Northern Ireland Electricity Transmission and Distribution Price Controls 2012- 2017 Draft Determination’ (the ‘Draft Determination’), on the same issue.”</i></p>	<p>We appreciate that this investigation has been complex and has involved a lot of accounting and mathematical analysis.</p>
			<p>The CC state:</p> <p><i>“The Regulator has powers to impose financial penalties under Article 45 of the Energy (Northern Ireland) Order 2003, and having considered the culpability of NIE and considered regulatory precedent, must publicly state whether a fine or an alternative sanction should be imposed. If no sanction is deemed appropriate, the Regulator must explain why, as giving consumers back their money is not a penalty to the company. A deterrent is required if</i></p>	<p>We are not stating that NIE T&D have broken any accounting rules or regulations therefore we are not of the opinion that any further sanctions should be placed upon NIE T&D. Rather we consider that the RAB should be adjusted, as NIE T&D should not gain from double counting which arises due to a change in capitalisation practice.</p> <p>Changes in capitalisation practice include changes to the extent of capitalisation for any cost item. An improved reporting framework will be put in place within RP5 including a</p>

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			<i>regulation is to protect consumers going forward"</i>	Report role. This framework will add protection for both the company and consumers going forward.
			<p>The CC state:</p> <p><i>"consumers also expect the Regulator to have in place a framework that ensures that this type of practice does not occur in the first place and where it does exist is able to detect and deal with it as quickly as possible. The issue of capitalisation appears to expose a weakness in the past practices of the Regulators office"</i></p>	<p>It is standard regulatory practice, at each five-year price control review, to examine the reasons for any 'outperformance' in the previous control period. In this case we examined the RP4 period (which lasted from 2007 to 2012). By definition, such an examination can only be conducted retrospectively. We typically wait until the end of the price control period before conducting any examination. This also allows the company some flexibility in its expenditure between years within a control period.</p> <p>It is also standard practice for us to then make adjustments for any outperformance that was not in accordance with the ex-ante rules for the price control period. In the case of RP4, we are proposing to make an adjustment in order to follow the principle that a cost item cannot be recovered through both the opex allowance and the RAB. Doing so would be double counting and not an efficiency gain.</p> <p>As identified earlier we also intend to introduce a reporter into the framework of the RP5 process. The main benefits of a reporter include independent verification of performance as well as improved quality and completeness of a wide range of information. This will improve the efficiency of the approval process.</p>
		Reporting	The Consumer Council supports the introduction of 'a Reporter'; an approach that	We note the support for introducing a reporter and on consumer engagement by the

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			has proved useful in the regulation of NI Water. However, the use of a Reporter does not diminish our assertion that the company must develop a comprehensive and coherent Business Plan based on sound data and consumer engagement.	company. We also support the position that the company should plan its activities carefully. The price control process reinforces this principle. For instance the use of the detailed Business Plan Questionnaire (BPQ). We also support basing business plans on confirmed consumer need.
		Review of NIE Powerteam Ltd Costs	The Consumer Council supports the Regulator's proposals for the NIE Powerteam. The Regulator statement 'that customers have been paying higher costs than necessary in relation to NIE Powerteam Ltd during RP4' is another example of where the previous Price Control did not serve customers well.	The support is noted.
		Capex	Comments are provided CCNI on a range of aspects of the RP5 Draft Determination including CAPEX, where comment is made regarding the large difference between NIE proposals and the Draft Determination. Further comment is made regarding the introduction of PAS55 which is suggested should be introduced by NIE going forwards to ensure NIE follows industry best practice for asset management.	The suggested introduction of PAS55 to the NIE business in relation to asset management (whether under NIE's own decision or directed through NIAUR) would indeed provide an industry wide benchmark for best practice that would be expected to provide benefits to both NIE and consumers. However, such a methodology / standard has not been implemented by NIE to date and while useful to avoid similar questions / divergent opinions in future price control submissions does not impact on the current determination.
		Opex	The Consumer Council NI is supportive of the base year approach which they state is sound. They welcome the proposal of a nine per cent efficiency factor and note that this is based on a detailed benchmarking exercise carried out by consultants which shows NIE as being the ninth most efficient organisation compared to GB Distribution Network Operators. They state that, the fact that such a high efficiency factor has been proposed and that	We note the CCNI agreement to our approach and proposed efficiency targets. We agree more emphasis should be placed on outcomes going forward however these need to be measureable to allow effective incentivisation. Further work is required in this area to allow this to be incentivised for RP6.

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			<p>the Regulator is suggesting only a two year glide path provides for potentially two scenarios. It may firstly suggest that NIE has been operating relatively inefficiently for a number of years. Secondly such a tight period (two year glide period) could suggest that the Regulator is being unrealistic in the likelihood of the company achieving these efficiencies. The practice during RP4 whereby 'the allowed controllable opex in any year was the actual controllable opex five years previously' failed to capture in the longer term efficiency gains for consumers. Any efficiencies the company produces must be shared appropriately between the company and consumer and captured for consumers into the future. The Regulator's proposals in relation to 'new opex' costs are generally sound and it is good to see that the Regulator is challenging NIE's cost. However, it could be argued that there is an element of micro-management in the Regulator's approach and the balance must be struck between allowing the company to manage itself and challenging all costs. We would prefer to see more emphasis based on outcomes rather than inputs and this again reflects our concern with the regulatory process adopted in NI as compared to developments elsewhere.</p>	
		Pensions	Pensions risks should be shared between consumers and NIE.	We considered this point during our review and concluded that 100% of the relevant costs should be borne by consumers.
		Connections	The Consumer Council welcomes and supports the Regulator's proposals for new connections.	The removal of the 40% subsidy is not part of the RP5 consultation. As discussed in Section 12 of the Draft Determination the decision of the removal of the 40% subsidy has been

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			However with the removal of the 40 per cent subsidy for domestic connections, there must be a scheme that provides financial assistance for vulnerable customers who are unable to afford to pay the full cost of a connection.	<p>decided on. Our position with regard to RP5 is to reflect this situation.</p> <p>As discussed in the original consultation on connections a vulnerable customer seeking to connect to the distribution system is currently treated no differently than any other customer and will be required to pay NIE for the cost of connection. This is regardless of whether or not the customer in question has the ability to pay for his or her connection. The removal of the 40% subsidy would possibly increase the number of occurrences of this situation, however the affordability threshold for vulnerable customers is low and there is a concern that even a subsidised cost of connection could be deemed excessive. In the next steps paper on connections we have proposed not to make any changes to policy in relation to vulnerable customers. We may however, consider any future proposals on a cross directorate level.</p>
		Connections	We support the development of competition in connections as this is the best way of assuring the best deal. We urge the Regulator to prepare options for competition for connections as soon as possible. In the meantime, the Regulator needs to require NIE to produce an itemised menu of its scheduled costs, which is reviewed and agreed by the Regulator annually.	<p>We agree that the introduction of contestability is required and will use its best endeavours to ensure that contestability is introduced at the earliest available opportunity.</p> <p>We and NIE are currently working towards the introduction of a new statement of charges that will provide greater detail in terms of costs etc. This will be reviewed annually.</p>
			The Regulator has stated that it intends to review the current Guaranteed Standards of Service (GSS), creating a new GSS for ' <i>worst served customers</i> ', and creating new	Our review is aimed at improving expected service levels for all customers, however it is recognised the positive impact would likely be greater for vulnerable consumers.

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			incentives for distribution loss, health and load indices. This a welcome development but the Regulator must develop a clear approach for engaging with consumers to ensure it fully understands consumer needs and to test proposed changes to service standards.	We note CCNI's comments and aim to ensure that we continue to develop a clear approach for engaging with consumers to ensure we fully understand consumer needs and where appropriate test proposed changes to service standards.
		Innovation	<i>We would like to see a cost benefit analysis undertaken before it (vulnerable customer fund) is discarded. The reported £7m of unclaimed benefits the scheme has helped identify suggests that it may provide a cost effective use of money.</i>	<p>We have not carried out a Cost Benefit Analysis on the Vulnerable Customer Fund. Whilst we recognise the success of the scheme and the fact that NIE and Power NI have assisted greatly in driving performance over the years since the VCP's inception in 2007, we have questioned whether industry participants of this kind are the most appropriate organisations to receive funding for its continuance in the future.</p> <p>NIE T&D has not suggested implementing a similar programme in RP5 and we would be in agreement with this position. If a similar programme is to be implemented the responsibility for it should sit with an appropriate external body funded through other means.</p>
		Innovation	CCNI agree with the Regulator's conclusions on the cost of developing the use of advancing technology.	We note CCNI's agreement with our conclusions.
		Environment and Safety	We are disappointed that the RP5 draft determination does not provide any outputs on environmental and safety issues. As discussed earlier the Ofgem approach contained in its RIIO programme identifies both the Environment and Safety as output categories. The types of outputs envisaged by Ofgem relate particularly to carbon emissions	<p>As discussed in Chapter 15 of the Draft Determination NIE T&D is not required to report to the Utility Regulator on its environmental and safety performance.</p> <p>While outputs were not discussed in the Draft Determination these will be agreed with NIE. Where suitable the approach by Ofgem will be</p>

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			and initiatives that are beyond those required by the Health and Safety Executive but are in the public interest.	adopted. As part of any new reporting requirements the company will be obliged to produce performance and benchmarking figures.
		Environment and Safety	We urge the Regulator to bring forward suggestions for monitoring outputs in environment and safety issues as soon as possible and ensure that they are subject to full public consultation.	We are in agreement with the CCNI that reporting in these areas is implemented as soon as possible. Suggestions for monitoring outputs in environment and safety issues will be subject to full public consultation where deemed necessary.
		Financeability	<p>Whilst we support the Regulator's Price Control Determination where it delivers identifiable benefits to consumers, we also recognise that it is in the consumer's interests that NIE is financially robust and able to finance its current business and future development.</p> <p>The Regulator has a vital role to provide certainty that an ongoing pressure on costs is maintained balanced against the long term sustainability of the network and its operator. In this respect we note the assurance provided by the Regulator that NIE is able to finance its business now and in the future and that the proposals contained in the draft determination do not undermine this.</p>	We welcome CCNI's support for our draft determination and our assurances that NIE T&D will be able to finance its business now and in the future and that our proposals contained in the draft determination do not undermine this.
		Impact on Electricity Prices	The cost of electricity in Northern Ireland is a crucial issue as consumers already face the highest energy bills in the UK.	The impact of the RP5 Price Control on electricity prices has been given in impact on tariffs section of the final determination.
	Viridian Group Limited	Pensions	Raised concerns over the March 2011 valuation date, the principle that only legally unavoidable costs should be covered, the calculation of NIE Powerteam's share of the deficit and retrospectively reviewing actions.	The final determination applies a different approach and this is discussed in the main paper.
	Manufacturing	General	Manufacturing NI consider that the Utility Regulators proposals fully reflect the need to	We appreciate the time and effort taken by Manufacturing NI in providing a response and

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	Northern Ireland		minimise the cost of energy to all users in Northern Ireland, and consequently they support the Utility Regulators decisions in this determination including the “minded to” elements.	welcome the support given to the Draft Determination.
		General	We do however have some concerns about security of supply. These centre around the durability of the existing network, particularly in relation to the lifespan of key physical elements of the network. We understand from NIE that no engineering examination of the existing network has been carried in this regard. We would urge the Regulator to ensure that the proposals in relation to the reduced RP5 capex are sufficient to provide for essential replacement of key assets, ensuring uninterrupted supply over the next five years and beyond.	The reliability of the network is currently measured by the number of the number of customer minutes lost each year. The target for customer minutes lost has been achieved for the past nine years and overachieved in eight of the last nine years. Based on the metrics currently used to measure NIE T&D’s performance, the network is performing to the required standard. Other methods for measuring the performance and condition of NIE T&D’s network are discussed in Section 13 (Incentives).
		Capex	General comments in support of NIAUR Draft Determination. Commentary on system security of supply and more specifically in relation to the durability of the existing network and lifespan of existing assets. Mention of comment from NIE regarding no engineering inspection of assets during RP5 process.	Whilst it is accepted that there are indeed condition drivers underpinning the need for asset replacement investment across the NIE network in RP5 it is not typical as part of a price control assessment to require site visits to validate the condition of assets prior to the determination of an appropriate level of capital expenditure for such asset replacement. NIE are the asset owners and should be able to provide the necessary asset condition and supporting investment decision information in support of their RP5 Capex proposals. This includes demonstration that the asset condition information has been used appropriately to develop asset replacement expenditure profiles and that an appropriate

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				balance has been achieved between replacing aged assets and maintaining a quality supply to customers. In many instances the balance between asset replacement and customer / system risk has not been fully demonstrated to confirm that the correct level of investment has been proposed.
	Energia	Capex	General comments relating RP5 price control process including delays in relation to the Final Determination and the requirement to adequately balance short term cost pressures with longer term network planning.	We have assessed NIE T&D's investment plans and the evidence provided to support them in accordance with our statutory duties.
	Firmus Energy	General	<u>Meter reading</u> As a supplier on the NIE T&D network we accept there are inaccessible meters eg. ATM machines or hilltop sites. However, we feel it appropriate that NIE T&D take steps to obtain meter reads from all sites in a timely manner as this will help to thwart continued estimated billing and assist in health and safety checks.	We note Firmus Energy's comments regarding Meter Reading.
		Incentives	<u>Standards of service</u> We acknowledge that NIE T&D have drafted new service standard metrics. We feel industry and consumers would require clarification on timescales relating to the resolution of any supplier issues.	Work is ongoing on the development of Service Level Agreements between suppliers and NIE T&D. This is beyond the scope of RP5.
	Commissioner for Older People	General	Overall, the Commissioner for Older People welcomes the transmission and price control proposals outlined in the consultation document	We appreciate the time and effort taken by the Commissioner for Older People in providing a response and welcome the support given to the Draft Determination.

Ref	Organisation	Chapter	Comment	Our response
		RP5 strategy	<p>Given that 50% of people over 60 years old are in fuel poverty, the Commissioner urges the Utility Regulator to fully consider the equality and social implications of its proposals on older people.</p> <p>What consideration has been given to equality and social factors and has an Equality Impact Assessment been carried out?</p>	<p>As highlighted in our corporate strategy, one of our strategic priorities is the protection of vulnerable customers and as part of that work we have developed a Social Action Plan¹ which articulates our commitment to protecting customers and it identifies projects and work-streams which we believe will help us in this goal. We are currently reviewing the 2009 – 2012 Social Action Plan and developing a new plan for 2013 – 2016 which will involve robust consultation with stakeholders.</p> <p>As a part of our consultation engagement we held a number of workshop sessions. Each of these was targeted at a specific audience and included a workshop specifically aimed at ‘Section 75’ representative groups and bodies. We use a screening template, approved by the Equality Commissioner for NI, to determine if a full Equality Impact Assessment is necessary for policies. The results of the screening for the RP5 DD were that a full EQIA was not necessary.</p>
		Reporting	The Commissioner welcomes the appointment of a Reporter to address the issue of “asymmetry of information between the regulator and the regulated company” as this will assist the Utility Regulator in identifying areas of concern that may have implications for overall consumer tariffs.	<p>We note the support for introducing a reporter.</p> <p>The increased governance proposed by us will improve the reporting received from the regulated company and should result in increased transparency for all stakeholders.</p>
		Capex	General comments made relating to fuel poverty in NI and potential implications if full NIE requested RP5 CAPEX is approved.	We have assessed NIE T&D’s investment plans and the evidence provided to support them in accordance with our statutory duties.

¹ http://www.uregni.gov.uk/uploads/publications/2009-11-09_Social_Action_Plan_FINAL.pdf

Ref	Organisation	Chapter	Comment	Our response
		Connections	Removal of 40% subsidy for new domestic connections. Concern that increased connection charges will further increase the financial burden on new domestic consumers who are of pensionable age. What consideration was given to the equality implications of removing the subsidy on older people of pensionable age and what actions have been undertaken to mitigate any potential impact.	The 40% subsidy is applied mostly to new-build dwellings, where the connection costs are part of building/purchasing a new-build house. This is the case for any purchaser/builder of a new house. The exception may be for an existing dwelling that does not have a mains electricity connection. While strictly speaking this is possible, dwellings like this are few, as most of Northern Ireland is electrified.
		Connections	We support the development of competition in connections as this is the best way of assuring the best deal. We urge the Regulator to prepare options for competition for connections as soon as possible. In the meantime, the Regulator needs to require NIE to produce an itemised menu of its scheduled costs, which is reviewed and agreed by the Regulator annually.	<p>We agree that the introduction of contestability is required and will use its best endeavours to ensure that contestability is introduced at the earliest available opportunity.</p> <p>We and NIE are currently working towards the introduction of a new statement of charges that will provide greater detail in terms of costs etc. This will be reviewed annually.</p>
		Connections	It is the view of the Commissioner that the Utility Regulator should, monitor and review connection charges in the RP5 period to ensure that these are not disproportionate for older consumers. The Utility Regulator should also encourage Northern Ireland Electricity to mainstream equality and social responsibility initiatives in policy and practices to tackle the financial burden of electricity utilities on vulnerable older consumers.	<p>NIE T&D's licence conditions 15 deals with non discrimination to ensure that it shall not unduly discriminate as between any persons, or any class or classes of person or persons, or unduly prefer itself (or any affiliate or related undertaking) over any other person or persons, or any class or classes of person or persons, in meeting its obligations. See link below for a copy of NIE's current licence.</p> <p>http://www.uregni.gov.uk/uploads/publications/2009-08-26_NIE_plc_-_Licensing_Scheme_Transmission_Licence_-_Consolidated.pdf</p> <p>In the next steps paper on connections we had proposed not to make any changes to policy in</p>

Ref	Organisation	Chapter	Comment	Our response
				relation to vulnerable customers. The Utility Regulator may however, consider any future proposals on a cross directorate level.
		Incentives	<p>Concerned that the Utility Regulator did not consider social obligations and customer service incentives to be required as survey evidence has suggested that “customers are content with current standards of service”.</p> <p>The Commissioner would like to know the rationale for not considering social and equality obligations when considering incentives.</p>	<p>Through licence provisions, we oblige utility suppliers to put processes in place to assist customers in difficulty and to provide services for vulnerable customers to ensure that they have equal access to services. Furthermore we monitor compliance with these licence conditions on an ongoing basis. In recent years we have worked with energy companies on developing their critical care registers which protect customers dependant on electrical life supporting equipment and priority services registers which ensures that vulnerable customers, including older customers, receive enhanced customer support.</p> <p>Our recent research reports on helping customers to avoid and manage debt and customer views on the Guaranteed Standards Scheme have supported policy development regarding customer protection. Currently, we are implementing the Third Energy Package which mandates increased protection for consumers of electricity and gas. As part of this process there will be a full review of energy suppliers’ Codes of Practice to ensure that customers, and in particular vulnerable customer, are afforded proper and appropriate protection in their relationship and dealings with suppliers. We will be consulting on the Codes of Practice and will have full stakeholder engagement as part of the process.</p>

Ref	Organisation	Chapter	Comment	Our response
		Incentives	The Commissioner would like to verify how the customer survey was carried out including sampling methodology used and whether a representative sample of older people was obtained. Also whether vulnerable groups, including older people and their representatives were consulted as part of the process	Representative sampling was used for the survey; this included older people, single parent families and people living with a disability. A copy of the survey and methodology can be obtained from our website using the following link: http://www.uregni.gov.uk/news/view/publication_of_research_into_utility_customer_views_on_the_guaranteed_stand/
		Incentives	Incentives offer a means by which the Utility Regulator can fulfil its duties under Section 75 of the Northern Act 1998 to encourage utility companies to mainstream equality and social obligations into their business.	This is acknowledged as a possible means for fulfilling Section 75 duties, and is built in to our strategy and work plan.
		Incentives	In addition research has indicated that people in the most vulnerable groups, and in particular, older consumers are less likely to be aware of and/or avail of benefits / compensation where offered, for example within the General Standards Scheme (GSS).	This point is noted. A possible solution to this is to make the payments to consumers automatic where possible, thereby mitigating the possibility of some customer groups not knowing about/not claiming the payments due to them.
		Incentives	Recommend that customer service enquiries, complaints and uptake of compensation under the GSS should be monitored by Section 75 equality grounds to determine whether, particular groups, including older people are more or less likely to avail of these mechanisms,	The recommendation is noted. It may be possible to mitigate this by proactive promotion of the standards amongst customers including targeting of particular groups. This could mitigate the risk of any consumer, including older people, not availing of or being aware of the GSS. NIE T&D as an electricity networks business would not hold or have access to all information needed for this monitoring to take place, as consumers are billed by their supplier rather than directly by NIE T&D.
		Innovation	UR has social and equality responsibilities towards older people under Section 75 of the NI Act 1998 and the UN Principles for Older People. Encouraging NIE to address fuel	As highlighted in our corporate strategy, one of our strategic priorities is the protection of vulnerable customers and as part of that work we have developed a Social Action Plan which

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			poverty (including social tariffs) would, therefore, assist the UR in fulfilling its statutory duties towards older people.	<p>articulates our commitment to protecting customers and it identifies projects and work-streams which we believe will help us in this goal.</p> <p>In January 2010 we issued a consultation paper on energy affordability which dealt with social tariffs and included questions on our statutory remit, purpose and scope of assistance, targeting and identification of beneficiaries and how it should be paid. There was no consensus on issues over who should pay; how assistance should be targeted; the amount of assistance that should be provided and how funds should be collected and paid out. The paper was sent to the Ministers for Social Development and Enterprise Trade and Investment. As the introduction of social tariffs would require legislative change, the decision rests with the executive.</p>
		Innovation	What consideration was given to the equality implications, costs and social benefits of discontinuing the vulnerable customer programme	Although the Vulnerable Customers Programme which took the form of a Benefits Maximisation Scheme was deemed a success, we believe it is more appropriate for such schemes to be developed and managed by other external organisations. Currently there is provision for benefits or income maximisation through Bryson Energy, Citizens Advice and Advice NI among others. There is also an Innovation Fund for Increasing Benefit Uptake funded by DSD and The Atlantic Philanthropies which funds five organisations to run benefit entitlement projects.
		Innovation	The Commissioner for Older People is concerned that, <i>given the programme “delivered good results</i>	We note the Commissioner for Older People’s concerns and assure the Commissioner that we continue to work in a manner that fulfils

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			<i>and clearly benefited many of the people categorised as being fuel poor” ; a similar programme will not be funded under RP5.</i>	our social and equality responsibilities.
		Innovation	The Commissioner for Older People would also like to know what consideration was given to the equality implications, costs and social benefits of discontinuing the programme, particularly given the relative vulnerability of particular equality groups, including older people to fuel poverty.	Whilst we recognise the success of the scheme and the fact that NIE and Power NI have assisted greatly in driving performance over the years since the VCP’s inception in 2007, we have questioned whether industry participants of this kind are the most appropriate organisations to receive funding for its continuance in the future.
		Innovation	The Commissioner is of the view that the Utility Regulator should consider Social Tariffs as a means of reducing fuel poverty. The Commissioner proposes that given the serious health implications of fuel poverty, older people in receipt of Pension Credit should be the first focus of any such schemes.	In January 2010 we issued a consultation paper on energy affordability which dealt with social tariffs and included questions on our statutory remit, purpose and scope of assistance, targeting and identification of beneficiaries and how it should be paid. There was no consensus on issues over who should pay; how assistance should be targeted; the amount of assistance that should be provided and how funds should be collected and paid out. The paper was sent to the Ministers for Social Development and Enterprise Trade and Investment. As the introduction of social tariffs would require legislative change, the decision rests with the executive.
		Impact on Electricity Prices	Overall, the Commissioner for Older People welcomes the transmission and price control proposals outlined in the consultation document, as it will lead to an overall reduction in domestic electricity tariffs for all consumers.	The impact of the RP5 Price Control on electricity prices has been given in the impact on tariffs section of the final determination.
	Age Sector Platform (ASP)	Reporting	ASP notes the comments on page 7 of the consultation document in relation to introducing a Reporter to NIE, similar to what is currently done in the water sector, and	We note the support for introducing a reporter. We welcome response from stakeholders

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			<p>believes that this sounds like a very worthwhile measure that can ensure stronger scrutiny and accountability in relation to issues surrounding the Price Control.</p> <p>The introduction of a Reporter could also help improve the supply of information required to enable the Regulator to determine the appropriate amounts of funding required to allow the company to meet all its performance objectives. This is important as it is clear from this consultation that NIE has failed in a number of areas to provide the factual evidence needed to justify its funding requests.</p> <p>Therefore, ASP would strongly support the proposal to introduce a Reporter for RP5 and believes the advantages of doing so would heavily outweigh the additional costs associated with this proposal.</p>	<p>outside of the industry. Our focus on consumers was a contributing factor for the need to propose a Reporter particularly in the current challenging economic climate. It is believed the Reporter's role will enhance the information received by the Regulator and improve decision making and the impact on consumers.</p>
		Change to Capitalisation Practice	<p>ASP would urge the Utility Regulator to carry out a thorough investigation on this matter to ensure that no consumers are paying more than they should.</p>	<p>We welcome support for an investigation into this area. We published and took comments upon a specific draft determination on the capitalisation practice issue. Our conclusions are set out in the RP5 final determination.</p>
		Review of NIE Powerteam Ltd Costs	<p>We note the comments of the Regulator with regard to the work being carried out by the NIE Powerteam and are concerned that this arrangement may not be providing consumers with best value for money. The comments that no market comparisons or benchmarking has been carried out into the services provided by the Powerteam is concerning as the absence of this means there seems to be little ambition from NIE to ensure that these</p>	<p>We continue to believe that the current arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for the Utility Regulator with insufficient evidence of benefits for the consumer.</p> <p>Under the NIE T&D licence, NIE Powerteam Ltd provide exclusive services to NIE T&D. We accept that by setting allowances for RP5, the</p>

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			services are delivered at a competitive and value for money rate for customers. We are also concerned with the comments regarding the higher rates of salaries paid to this company. We believe that it would be in consumers' best interests if current arrangements were changed and support the proposal from the Utility Regulator that the services provided by this company are subject to a competitive procurement process as this provides the best chance for consumers to get value for money in this regard.	onus is on NIE T&D to deliver with those allowances. However as NIE Powerteam Ltd is not subject to competition, we expect NIE T&D to demonstrate that consumers are getting the best value for money from the NIE Powerteam Ltd arrangements. This will then be considered in our assessment for RP6.
		Capex	General comments provided on a wide range of topics, including fuel poverty, the consultation process, the proposed NIE CAPEX increase, capitalization practices, and renewable energy projects.	We have assessed NIE T&D's investment plans and the evidence provided to support them in accordance with our statutory duties.
		Opex	NIE Powerteam - We concerned that this arrangement may not be providing consumers with best value for money. The comments that no market comparisons or benchmarking has been carried out into the services provided by the Powerteam is concerning as the absence of this means there seems to be little ambition from NIE to ensure that these services are delivered at a competitive and value for money rate for customers. We are also concerned with the comments regarding the higher rates of salaries paid to this company. We believe that it would be in consumers' best interests if current arrangements were changed and support the proposal from the Utility Regulator that the services provided by this company are subject to a competitive procurement process as this provides the best chance for consumers to get	We note the concerns of ASP and believe that the current arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for us with insufficient evidence of benefits for the consumer. Regarding the Controllable Opex, the 9% efficiency in the draft determination is based on an econometric benching marking analysis of NIE's costs compared with those of the GB DNOs.

Ref	Organisation	Chapter	Comment	Our response
			<p>value for money in this regard.</p> <p>Controllable Opex - ASP supports the proposal that NIE must make 9% efficiency savings in its controllable opex. However, it raises questions about how efficient NIE has been operating for a number of years and ASP is concerned that the price of inefficient performance is extra costs on already struggling consumers. ASP welcomes the challenge from the Regulator in relation to NIE's costs and hopes that efficiency savings are made as soon as possible. We also note NIE's request for additional funding for new costs but believe that NIE should be required to make the efficiency savings that would appear to be able to make before it is granted additional money.</p>	
		Incentives	<p>The Regulators intention to review Guaranteed Standards of Service is welcome and the new standards need to reflect what customers want from their energy network. Age NI also welcomes the proposal that the existing guaranteed standards will be updated to reflect RPI inflation since the values were originally set. While the price of energy remains the top concern for older people across Northern Ireland it is also vital that reliability and safety standards remain high and that strong and robust 'vulnerable consumer' plans kick into place when there is disruption to supply.</p>	<p>We welcome Age NI's support for our review of the current Guaranteed Standards Scheme. The review is aimed at improving expected service levels for all customers, however it is recognised the positive impact would likely be greater for vulnerable consumers.</p>
		Impact on Electricity Prices	<p>ASP is seriously concerned with the statement that NIE's T&D proposals would result in a 25% increase even before inflation and any subsequent additional costs associated with the development of renewables are added.</p>	<p>The impact of the RP5 Price Control on electricity prices has been given in the impact of tariffs section of the final determination.</p>

Ref	Organisation	Chapter	Comment	Our response
			We would urge the Regulator to investigate thoroughly NIE's proposals and only increase its proposal if it was convinced the additional funding was essential and could not be made from efficiencies elsewhere in NIE's operations.	
	Age NI	RP5 strategy	Age NI commends the UR for its efforts in reaching out to promote this consultation to the community and voluntary sector through the consultation process. A consultation as technical as this is often not responded to by organisations and charities in the community and voluntary sector but the decision to host an event along with the Consumer Council to explain the consultation in 'lay mans terms' is appreciated and is good practice in terms of consultation.	We welcome the feedback on the RP5 regulatory process and, in particular, the respondent's view that wider stakeholder engagement and the transparency in which the RP5 review has been undertaken has been of benefit for consumer groups' engagement in the regulatory process.
		RP5 strategy	It is important that security of supply is maintained at high levels and that quick and responsive emergency plans are in place to mitigate the effect of electricity outages on vulnerable groups of consumers, including older people who are often reliant on electricity supply for medical reasons.	<p>NIE maintains a local incident centre in each area of Northern Ireland. During severe electricity outages these are staffed by engineers and administrative staff, who co-ordinate the repair and restoration plan. These centres feed information back to NIE's central control centre, which co-ordinates the restoration process and provides up to date information for customers. NIE has invested in communications systems (such as their High Volume Call Answering HVCA system) to keep customers informed when they are without electricity.</p> <p>NIE have demonstrated the effectiveness of their response plans to major outages. NIE undertakes an internal review of the effectiveness of its response to any event which leads to widespread disruption to</p>

Ref	Organisation	Chapter	Comment	Our response
				<p>electricity supplies. Any improvements identified are captured and formally incorporated into NIE's emergency plans and business processes. All reviews are formally reported and made available to the Utility Regulator.</p> <p>Customers dependent on electrical equipment for healthcare should be registered on NIE's critical care register.</p>
		Reporting	<p>Age NI notes the comments on page 7 of the consultation document in relation to introducing a Reporter to NIE, similar to what is currently done in the water sector, and believes that this sounds like a very worthwhile measure that can ensure stronger scrutiny and accountability in relation to issues surrounding the Price Control.</p> <p>The introduction of a Reporter could also help improve the supply of information required to enable the Regulator to determine the appropriate amounts of funding required to allow the company to meet all its performance objectives. This is important as it is clear from this consultation that NIE has failed in a number of areas to provide the factual evidence needed to justify its funding requests.</p> <p>Therefore, Age NI would strongly support the proposal to introduce a Reporter for RP5 and believes the advantages of doing so would heavily outweigh the additional costs associated with this proposal.</p>	<p>We note the support for introducing a reporter.</p> <p>We welcome responses from stakeholders outside of the industry. Our focus on consumers was a contributing factor for the need to propose a Reporter particularly in the current challenging economic climate. It is believed the Reporter's role will enhance the information received by the Regulator and improve decision making and the impact on consumers.</p>
		Opex	NIE Powerteam - We concerned that this	We note the concerns of Age NI and believe

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			<p>arrangement may not be providing consumers with best value for money. The comments that no market comparisons or benchmarking has been carried out into the services provided by the Powerteam is concerning as the absence of this means there seems to be little ambition from NIE to ensure that these services are delivered at a competitive and value for money rate for customers. We are also concerned with the comments regarding the higher rates of salaries paid to this company. We believe that it would be in consumers' best interests if current arrangements were changed and support the proposal from the Utility Regulator that the services provided by this company are subject to a competitive procurement process as this provides the best chance for consumers to get value for money in this regard.</p> <p>Controllable Opex – Age NI supports the proposal that NIE must make 9% efficiency savings in its controllable opex. However, it raises questions about how efficient NIE has been operating for a number of years and Age NI is concerned that the price of inefficient performance is extra costs on already struggling consumers. Age NI welcomes the challenge from the Regulator in relation to NIE's costs and hopes that efficiency savings are made as soon as possible. We also note NIE's request for additional funding for new costs but believe that NIE should be required to make the efficiency savings that would appear to be able to make before it is granted additional money.</p>	<p>that the current arrangements regarding NIE Powerteam Ltd unacceptably complicate the regulatory process for us with insufficient evidence of benefits for the consumer.</p> <p>Regarding the Controllable Opex, the 9% efficiency is based on an econometric benching marking analysis of NIE's costs compared with those of the GB DNOs.</p>
		Incentives	The Regulators intention to review	We welcome Age Sector Platform's support

Ref	Organisation	Chapter	Comment	Our response
			<p>Guaranteed Standards of Service is welcome and the new standards need to reflect what customers want from their energy network. ASP also welcomes the proposal that the existing guaranteed standards will be updated to reflect RPI inflation since the values were originally set. While the price of energy remains the top concern for older people across Northern Ireland it is also vital that reliability and safety standards remain high and that strong and robust 'vulnerable consumer' plans kick into place when there is disruption to supply.</p>	<p>for our review of the current GSS. The review is aimed at improving expected service levels for all customers, however it is recognised the positive impact would be felt more by vulnerable consumers.</p>
		Impact on Electricity Prices	<p>Age NI is seriously concerned with the statement that NIE's T&D proposals would result in a 25% increase even before inflation and any subsequent additional costs associated with the development of renewables are added.</p> <p>We would urge the Regulator to investigate thoroughly NIE's proposals and only increase its proposal if it was convinced the additional funding was essential and could not be made from efficiencies elsewhere in NIE's operations.</p>	<p>The impact of the RP5 Price Control on electricity prices has been given in the impact of tariffs section in the final determination.</p>