

Notice under Article 15 of the Gas (Northern Ireland) Order 1996

Reference to the Competition Commission

The Northern Ireland Authority for Utility Regulation (the **Authority**), pursuant to Article 15(1) of the Gas (Northern Ireland) Order 1996 (the **Order**), gives notice as follows.

WHEREAS –

- (A) Phoenix Natural Gas Limited (**PNGL**) is the holder of a licence for the conveyance of gas in Northern Ireland under Article 8 of the Order (the **Licence**).
- (B) Conditions 2.3.8 to 2.3.26 (inclusive) of the Licence – the **Price Control Conditions** – establish a restriction on the charges that may be made by PNGL for the conveyance of gas.
- (C) On 10 January 2012 the Authority, in accordance with Condition 2.3.13(c) of the Licence, gave notice to PNGL of its determination of certain values and parameters to have effect for the purposes of the Price Control Conditions (the **Determination**).
- (D) On 10 January 2012 the Authority, under Article 14(3) of the Order, published the Authority's directly related proposal to modify Condition 2.3.18 of the Licence (the **Modification**).
- (E) On 6 February 2012, PNGL –
 - (i) under Condition 2.3.13(d)(i) of the Licence, gave to the Authority a 'Review Disapplication Notice' requesting the Authority not to establish the values and parameters set out in the Determination, and
 - (ii) notified the Authority that it did not consent to the Modification.

NOW –

- (1) In accordance with Article 15(1) of the Order, the Authority by this reference to the Competition Commission (the **Commission**) requires the Commission to investigate and report on the questions –
 - (a) whether the Price Control Conditions operate or may be expected to operate against the public interest, and
 - (b) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the conditions of the Licence.
- (2) In accordance with Article 15(4) of the Order, and for the purpose of assisting the Commission, in the opinion of the Authority –
 - (a) the effects adverse to the public interest which the matters specified in paragraph (1)(a) may be expected to have will include the payment by gas consumers in Northern Ireland of higher prices for the conveyance of gas by PNGL than are necessary or appropriate, to the detriment of:
 - (i) the interests of those consumers; and
 - (ii) the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland, and
 - (b) those adverse effects can be remedied or prevented by modifications of the Price Control Conditions designed to implement the Modification and apply the values and parameters set out in the Determination.
- (3) In accordance with Article 15A(1) of the Order, the Authority specifies that the Commission makes a report on this reference within six months of the date of this notice.



SHANE LYNCH

Authorised on behalf of the Authority

28 March 2012