

# **Policy on the Resolution of Complaints, Disputes and Appeals** **and** **Guide for Applicants**

## **Background Information**

### *The Regulator*

The Utility Regulator is Northern Ireland's first cross-utility regulator. We are both an independent economic and customer services regulator, and are accountable to government as a Non-Ministerial Government Department.

We were established under the Energy (Northern Ireland) Order 2003 (the **Energy Order**) as the Northern Ireland Authority for Energy Regulation to regulate gas and electricity in Northern Ireland.

When the Water & Sewerage Services (Northern Ireland) Order 2006 (the **Water Order**) came into force on 1<sup>st</sup> April 2007, our name changed to the Northern Ireland Authority for Utility Regulation. From this date, we became additionally responsible for the regulation of water and sewerage related services in Northern Ireland.

### *Dispute resolution powers*

As a direct result of EU Directives<sup>1</sup> aimed at improving the way internal markets in energy are structured, the Utility Regulator was given the legal authority to act as a dispute resolution authority for certain matters in relation to electricity and gas.

Prior to the implementation of these Directives into national law, the Utility Regulator had been, as it still is, able to determine certain complaints or disputes, such as disputes arising between an electricity distributor and any person requiring a connection to that distributor's distribution system.<sup>2</sup>

On the implementation of the Directives, the Utility Regulator's dispute resolution remit was extended further, as now individuals and companies are able to refer certain disputes or complaints regarding the transmission and distribution of gas and electricity in Northern Ireland to us for resolution.

The Water Order extends our dispute resolution function even further. The Utility Regulator can now determine relevant complaints, disputes, and even some appeals relating to water and sewerage services.

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<sup>1</sup> The Gas Directive (Directive 2003/55/EC of the European Parliament and of the Council Concerning Common Rules for the Internal Market in Natural Gas) and the Electricity Directive (Directive 2003/54/EC of the European Parliament and of the Council Concerning Common Rules for the Internal Market in Electricity) (the **Directives**). The Directives are implemented into national law via a combination of the Gas Order 1996 (Amendment) Regulations (Northern Ireland) 2006, the Electricity Order 1992 (Amendment) Regulations (Northern Ireland) 2005 and the Electricity Regulations (Northern Ireland) 2007.

<sup>2</sup> Article 26 Electricity (NI) Order 1992 as amended concerning determination of disputes between an electricity distributor and a person requiring a connection.

The kinds of complaint or dispute - or 'appeal' in the unique case of water and sewerage services (which term shall be treated as included in a 'complaint' or a 'dispute' for the purposes of this document - which can properly be brought before the Utility Regulator from each utility sector are outlined in the utility specific Annexures at the end of this document.

#### *Complaints outside the scope of this guidance*

Complaints outside the scope of this guidance include those relating to the application of competition law to the energy and water sectors. This will be the subject of separate guidance and is therefore outside the scope of this document. Similarly, complaints under the Single Electricity Market's Bidding Code of Practice are also excluded from scope.

#### *Purpose*

This Policy outlines the procedures which the Utility Regulator will generally follow when dealing with a complaint or dispute which it has been requested to determine. The procedures in this Policy apply in addition to any procedural requirements set out in the relevant legislation or licences.

Anyone who may wish to request the Utility Regulator to determine a complaint or dispute may find this Policy helpful, as it outlines the:

- (a) information which they must provide to support their request; and,
- (b) manner and timeframe in which the Utility Regulator will handle the complaint or dispute.

#### **Please note:**

- ***The Utility Regulator will seek to adhere to this Policy, but for the avoidance of doubt, this Policy does not in itself impose requirements on, or purport to fetter the discretion of, the Utility Regulator.***
- ***This Policy does not provide a comprehensive description of the procedure to be followed in every case. The Utility Regulator will issue a timetable and case management directions to the parties involved on a case by case basis.***
- ***This Policy may be reviewed from time to time in order for the Utility Regulator to keep its procedures relevant and up to date.***

## Section A: Submitting an Application

- 1) As a precursor to the step-by-step guide which follows, the Utility Regulator has noted from experience that the vast majority of complaints or disputes which it has handled have benefited from the early involvement of the Consumer Council. The Consumer Council's involvement is unlikely to be appropriate in certain cases (for example, disputes exclusively between members of an industry) but, as a general rule, the Utility Regulator recommends that potential applicants for a determination should actively consider seeking early advice and assistance from the Consumer Council.
- 2) In order for the Utility Regulator to give proper consideration to a request made by any person for the Utility Regulator to determine a complaint or dispute, the Utility Regulator expects that request (the **Application**) to comply with the following essential requirements (the **Requirements**).
- 3) The Requirements are that the Application must -
  - a) Identify, by providing their names and contact details:
    - (i) the person or body which is requesting that the Utility Regulator make a determination of a complaint or a dispute, or the person or body on whose behalf it is acting in relation to that complaint or dispute<sup>3</sup> (the **Applicant**); and
    - (ii) the person or body about whom the complaint is made, or with whom the Applicant is in dispute (the **Respondent**);

(In this Policy the Applicant and Respondent shall together be referred to as the **Parties**, and each of them separately as a **Party**).
  - b) Identify the provision within the legislation, licence or other document under which the Utility Regulator is being requested to consider the complaint or dispute.
  - c) Be accompanied by:
    - (i) detailed information and supporting evidence regarding the basis of the complaint or dispute and the manner in which the Applicant is affected by it; and
    - (ii) where the complaint or dispute involves any disputed question of law, detailed legal submissions which identify the relevant issue of law and explain why the Applicant considers that it should be determined in favour of the Applicant.
  - d) Provide documentary evidence that the matter has previously been raised with the Respondent without reaching an agreed outcome.

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<sup>3</sup> The Utility Regulator may ask for a letter of authorisation to be provided which confirms the person or body who on the Applicant's behalf is acting in relation to that complaint or dispute.

- e) Be made in writing and submitted (in hard copy, facsimile transmission or e-mailed electronic form) to the contact listed in Section F of this Policy.<sup>4</sup>
- 4) As soon as practicable after having received an Application, the Utility Regulator will acknowledge receipt to the Applicant.
- 5) Before an application is accepted, the Utility Regulator will, where it considers it appropriate, conduct a preliminary review to establish whether the complaint or dispute is one which can be resolved to the satisfaction of the Parties without the need to engage in a formal determination process.
- 6) Following acknowledgement of receipt, the Utility Regulator reserves the right to treat an Application as not having been properly made for the purposes of the relevant legislation where it does not comply with the Requirements. In such cases, the Utility Regulator may reject the Application and require the Applicant to submit a new Application which fulfils the Requirements.

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<sup>4</sup> Utility Regulator staff will consider whether it is appropriate to give reasonable assistance in special cases to an Applicant. The Utility Regulator will have regard to the characteristics of the Applicant, including whether the Applicant will have difficulty satisfying any of the Requirements (in particular having regard to disability discrimination legislation). Such assistance includes, where most appropriate, the Utility Regulator referring the Applicant to the Consumer Council for further assistance.

## Section B: Decision on Jurisdiction

- 1) Following receipt of an Application which has not been rejected on the basis that it was not properly made, the Utility Regulator will consider if it has the legal capacity to determine the complaint or dispute.
- 2) Where the Utility Regulator decides that the complaint or dispute is not within its jurisdiction, it:
  - a) will reject the Application and inform the Applicant, giving reasons for its decision; and
  - b) may advise the Applicant that it considers the matter is best dealt with:
    - (i) by an alternative body such as the Consumer Council for Northern Ireland or the Information Commissioner's Office; or
    - (ii) under an alternative legal mechanism (such as that prescribed under competition law).
- 3) Where the Utility Regulator considers that the complaint or dispute might be within the jurisdiction of the Single Electricity Market Committee<sup>5</sup> (the **SEM Committee**), the Utility Regulator will:
  - a) refer the Application to the SEM Committee for it to make the decision on jurisdiction; and
  - b) if the SEM Committee determines that the complaint or dispute is within its own jurisdiction, transfer the complaint or dispute to the SEM Committee for a determination.
- 4) The Utility Regulator may, during any period in which it is awaiting a decision from the SEM Committee as to jurisdiction take any steps set out at Section D of this Policy which fall prior to issuing the draft determination in relation to the complaint or dispute.
- 5) The Utility Regulator will, in a case in which the SEM Committee has determined that the complaint or dispute is within the SEM Committee's jurisdiction, take such steps set out at Section D of this Policy as the SEM Committee requests it to take.

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<sup>5</sup> The SEM Committee has jurisdiction over the exercise of certain functions of the Utility Regulator in relation to matters which materially affect, or are likely materially to affect the single wholesale electricity market in the Republic of Ireland and Northern Ireland. Of those matters, the SEM Committee itself has the power to determine what matters are within its jurisdiction (Article 6(2) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (SEM Order)). The SEM Order also sets out at Article 4 what a relevant function for the purposes of the Order means and at Article 5 those functions that are not relevant functions including the determination of disputes under Article 26 between an electricity distributor and a person requiring a connection. However, dispute resolution of certain disputes or complaints regarding the transmission and distribution of electricity in Northern Ireland referred to us under Article 31A of the Electricity (NI) Order 1992 and set out at Annex A to this paper constitutes a relevant function and may raise issues requiring a SEM jurisdictional decision under 3) above.

- 6) In all cases in which the Utility Regulator decides that the complaint or dispute is within the Utility Regulator's jurisdiction, it will proceed in accordance with Sections C to E of this Policy.

## SECTION C: Timetable for accepted applications

- 1) In respect of a dispute or complaint which falls within the scope of one of the Directives<sup>6</sup>, the Utility Regulator will issue its final determination within:
  - a) two months of receiving the Application; or
  - b) four months of receiving the Application where the Utility Regulator considers that it is necessary to request further information or evidence from the Parties in order to assist its consideration of the matter; or
  - c) any such longer timescale as may be agreed by the Applicant.
  
- 2) In respect of a dispute or complaint which falls outside the scope of the Directives, the Utility Regulator will endeavour to issue its final determination on the matter as quickly as is practicable, and in particular will seek to do so:
  - a) within two months of receiving the Application; or
  - b) within four months of receiving the Application where the Utility Regulator considers that:
    - (i) it is necessary to request further information or evidence from the Parties in order to assist its consideration of the matter; or
    - (ii) an extension of time is required in furtherance of its statutory obligations, powers, or objectives; or
  - c) by such later date as the Utility Regulator considers appropriate to ensure the proper determination of the matter.

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<sup>6</sup> See footnote 1 for the full title of the Directives. Examples of complaints and disputes that fall within the Directives are indicated in the Annexures at the back of this document.

## Section D: Procedure for Accepted Applications

- 1) In certain cases, the Utility Regulator has the power to refer complaints or disputes for determination by an arbitrator in lieu of the Utility Regulator. In such cases, the Utility Regulator would expect to exercise this power as soon as possible after deciding that the complaint or dispute is within its jurisdiction.
- 2) Where a formal determination process is required, the Utility Regulator will as soon as practicable issue to the Parties correspondence which outlines the procedure that it proposes to follow for the purpose of determining the complaint or dispute. This correspondence will specify where appropriate the date by which the Utility Regulator intends that each stage of the procedure should be completed by way of a written timetable.
- 3) This correspondence may incorporate requirements on the Parties to take specified actions - for example, to submit evidence or representations (Submissions) - and to do so by certain specified times.
- 4) The Parties must comply with any requirement specified by the Utility Regulator.
- 5) The Utility Regulator may, at any time prior to making a final determination, by notice to the Parties amend any part of the timetable, including by varying the time by which certain stages of the procedure or requirements of the Parties are to be completed.
- 6) The Utility Regulator may decide to consolidate two or more complaints or disputes for the purpose of considering and determining them together if those complaints or disputes are submitted to the Utility Regulator at approximately the same time and:
  - a) relate to the same or similar subject matter; and/or
  - b) raise the same or similar issues of law; and/or
  - c) involve one or more of the same Parties.
- 7) Where it decides to consolidate one or more complaints or disputes, the Utility Regulator will inform all of the Parties as soon as practicable that it has done so, and inform them of the effect of the consolidation on the procedure to be followed.
- 8) If the Utility Regulator considers the facts and/or circumstances of a particular complaint to be similar and/or the same to a previously determined complaint, it may refer the applicants to this previous determination by way of resolving the current complaint.



- 9) In certain cases, the Utility Regulator has the power to order the Parties to pay some or all of its costs of determining the complaint or dispute (**a Costs Order**). Where the complaint or dispute is one in respect of which this power is available, the Utility Regulator will draw that fact to the attention of the Parties at an early stage (which in most cases will be at the time it issues the statement as to the procedure that it proposes to follow).<sup>7</sup>
- 10) The Utility Regulator will ordinarily consider each complaint or dispute on the basis of written Submissions by the Parties.
- 11) The Utility Regulator will:
  - (a) ensure that the Submissions of one Party are shared with all the Parties; and
  - (b) invite each Party to comment on the Submissions of each other Party.
  - (c) The Utility Regulator may require input from a third party from time to time in certain circumstances. If this is the case the parties to the complaint will be notified and their consent sought, if applicable.
- 12) The Utility Regulator may:
  - (a) where a Party has commented on another Party's Submissions, allow the Party which made the original Submission an opportunity to respond to those comments; and
  - (b) invite the Party who made the comments to further comment on any such response.
- 13) The Utility Regulator may direct that any Party enters into a legally binding agreement with any other Party to treat the Submissions of that other Party as confidential to the complaint or dispute, and oblige that Party not to disclose the Submissions or any details of them to any third person.
- 14) The Utility Regulator may invite the Parties to respond to questions or observations of the Utility Regulator.
- 15) Where it considers it necessary to do so, the Utility Regulator will have recourse to any applicable legal powers to raise formal information requests in order to obtain additional information or evidence<sup>8</sup>.
- 16) If a Party has not complied with a requirement to make Submissions by a specified time, the Utility Regulator reserves the right not to accept any Submissions made after that time and to proceed to determine the complaint or dispute on the basis of

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<sup>7</sup> The Utility Regulator Policy on Cost Recovery for Dispute Settlement Role can be found on our website at: <https://www.uregni.gov.uk/sites/uregni/files/media-files/Information%20Note%20-%20Cost%20Recovery%20for%20Dispute%20Settlement%20Role.pdf>

<sup>8</sup> Including, but not limited to: Articles 67, 243, and 261 of the Water Order, Article 51 of the Energy Order, and various provisions within individual water, gas and electricity licences.

the Submissions made in compliance with the Utility Regulator's requirements.

- 17) The Utility Regulator may at any time invite the Parties to comment on the accuracy of any document prepared by the Utility Regulator which summarises the facts relevant to the complaint or dispute or the representations made by the Parties.
- 18) In a case where it considers it appropriate to do so, the Utility Regulator may decide to allocate to different representatives of the Utility Regulator:
  - a) the responsibility for all of the procedural stages up (but not including) the preparation of a draft determination (Case Management); and
  - b) the responsibility for making the draft and final determinations (**Decision Making**).
- 19) Where the Utility Regulator allocates these responsibilities to different representatives, those responsible for Case Management will:
  - a) be responsible for compiling a bundle of relevant and material Submissions, and preparing a summary of the key facts relevant to the complaint or dispute and of the representations made by the Parties;
  - b) disclose the summary and a list of the documents in the bundle to the Parties, invite the Parties to comment on their respective accuracy and completeness within a period considered appropriate by the Utility Regulator of up to 10 working days, and take into account any comments received;
  - c) provide the bundle and the summary (subject to any revisions made following the comments of the Parties) to those responsible for Decision Making.
- 20) Where the Utility Regulator considers it appropriate it may instruct the services of an expert technical adviser, to provide expert advice on aspects of the complaint. The parties may be required to provide information, as necessary to the adviser and/or to meet with the adviser as appropriate. If this is the case, the adviser will work within a scope of works, as agreed by the parties and the Utility Regulator in order to comply a report. Both parties will usually have an opportunity to consider and comment on any draft report produced.
- 21) Where the Utility Regulator considers it appropriate, it may call for an oral hearing at which the Parties, and any other select invitees (by Utility Regulator invitation only) may be invited to:
  - a) give oral evidence; and/or
  - b) make oral representations; and/or
  - c) respond to questions and issues raised by the Utility Regulator.

In such cases, the Utility Regulator will inform the Parties in advance of the hearing of the procedure that it intends to follow at the hearing.

- 22) In all cases, the Utility Regulator will ensure that, prior to the making of the final determination:

- a) there is issued to both Parties a draft determination, which includes:
    - (i) a summary of the key facts of the case;
    - (ii) a summary of the Parties' principal representations; and
    - (iii) the Utility Regulator's preliminary assessment of the merits of the case,
  - b) the Parties are invited to make comments for consideration by the Utility Regulator within a period considered appropriate by the Utility Regulator in relation to:
    - (i) the accuracy of the summaries of the facts and representations in the draft determination; and
    - (ii) any matters of law arising in relation to the draft determination.
- 23) The Utility Regulator will issue a final determination as soon as practicable having received the Parties' responses to the draft determination. The final determination will set out the Utility Regulator's reasons for reaching its decision, and shall be binding upon the Parties.
- 24) The Utility Regulator may, in certain cases where it has the power to do so, include in its determination such incidental, supplemental and consequential provisions (including a Costs Order) as it considers appropriate in all the circumstances.
- 25) Where the Utility Regulator is considering whether to make a Costs Order, or the terms of any Costs Order that is to be made, it will have regard to:
- a) the nature and complexity of the complaint or dispute;
  - b) the resources of the Parties;
  - c) the conduct of the Parties in relation to the complaint or dispute (whether before or after the date of the Application);
  - d) the outcome of the complaint or dispute; and
  - e) what is fair and proportionate in all the circumstances of the case.

## Section E: Publication

- 1) The Utility Regulator supports transparent and open regulation. In accordance with its statutory duties, the Utility Regulator's decision regarding any dispute or complaint shall be published on the appropriate public register.
- 2) The Utility Regulator may, and in certain cases has a legal duty to, publish a notice stating the reasons for its determination of a complaint or dispute. Where it does publish a notice, it will do so in such a manner as the Utility Regulator considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be interested.<sup>9</sup>
- 3) In making a decision as to whether to publish its reasons the Utility Regulator will have regard to the need for excluding any matter which would, or might, seriously and prejudicially affect the interests of an individual or body.
- 4) The Utility Regulator will liaise with the parties to the complaint prior to publication, in order to ascertain their views as to what if any information is commercially sensitive and/or confidential.

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<sup>9</sup> Article 62 of the Energy Order, Article 61 of the Water Order and Articles 26 and 42A of the Electricity Order.

## Section F: Further Contact

Further information regarding this document, or applications regarding a particular dispute or complaint (electricity, gas, or water), should be directed to the Utility Regulator:

### By post

The Utility Regulator  
Queens House  
14 Queen Street Belfast  
BT1 6ED

### By phone and fax

Tel: +44 (0) 28 9031 1575  
Fax: +44 (0) 28 9031 1740

### By email

[info@uregni.gov.uk](mailto:info@uregni.gov.uk)

## **Annex A: Electricity Disputes/Complaints**

Article 23(5) of EC Directive 2003/54/EC (the **Electricity Directive**) provides for the Utility Regulator to act as the dispute settlement authority for certain complaints made against an electricity transmission or distribution system operator.

Each of the following –

- Northern Ireland Electricity Networks Ltd. (**NIE Networks**)
- SONI Limited
- Moyle Interconnector Limited

are currently an operator of either an electricity transmission or electricity distribution system in Northern Ireland.

Directive 2003/54/EC has since been repealed, however, the requirements of Article 23(5) of the Electricity Directive are implemented in Northern Ireland through Article 31A of the Electricity Order. Article 31 A of the Electricity Order was amended on 29 April 2013<sup>10</sup> to also bring disputes concerning electricity suppliers who are exempt from the need to operate a licence within the scope of the Article.

It also gives the Utility Regulator the power to make a costs order in respect of any determination under Article 31A.

In addition, Article 26 of the Electricity Order also provides for the Utility Regulator to determine certain disputes arising between an electricity distributor and any person requiring a connection to that distributor's distribution system. In Northern Ireland, the activity of electricity distribution is undertaken only by NIE Networks.

Article 47A of the Electricity Order (as amended by the Electricity & Gas (Internal Markets) Regulations (NI) 2011) also provides for the Utility Regulator to act as the dispute settlement authority for billing complaints against an electricity supplier. The Utility Regulator reserves the right to appoint an arbitrator to deal with any such complaint on its behalf.

A billing dispute is a dispute between the customer and the electricity supplier concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of electricity supply services.

A billing dispute may only be referred to the Utility Regulator under the above legislation. It should initially be referred to the Consumer Council for Northern Ireland and if the matter has not been resolved satisfactorily within 3 months from being referred it may be passed to the Utility Regulator.

A billing dispute may not be referred to the Utility Regulator:

- i. After the end of a 12 month period in which the subject of the dispute applies;
- ii. If the dispute is the subject of proceedings before a Court;
- iii. If judgement has been given by a court in relation to the dispute.

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<sup>10</sup> Regulation 3 of The Electricity (Dispute Resolution) Regulations (Northern Ireland) 2013

The following is a non-exhaustive list of the types of issues which could form the basis of complaints or disputes capable of determination by the Utility Regulator, followed by the authoritative legislative basis in each case:

	<b>Subject Matter</b>	<b>Legislative Basis</b>
(a)	A complaint against a transmission or distribution system operator regarding the rules on the management and allocation of interconnection capacity	Article 31A Electricity Order
(b)	A complaint against a transmission or distribution system operator regarding any mechanism to deal with congested capacity within the national electricity system	Article 31A Electricity Order
(c)	A complaint against a transmission or distribution system operator regarding the time taken by transmission and distribution undertakings to make connections and repairs	Article 31A Electricity Order
(d)	A complaint against a transmission or distribution system operator regarding the publication of appropriate information concerning interconnectors, grid usage and capacity allocation to interested parties (bearing in mind commercial confidentiality)	Article 31A Electricity Order
(e)	A complaint against a transmission or distribution system operator regarding the effective unbundling of accounts to avoid cross subsidies between generation, transmission, distribution and supply activities	Article 31A Electricity Order
(f)	A complaint against a transmission or distribution system operator regarding the terms, conditions and tariffs for connecting new producers of electricity (to guarantee that these are objective, transparent and non-discriminatory, in particular taking full account of the costs and benefits of the various renewable energy sources technologies, distributed generation and combined heat and power)	Article 31A Electricity Order
(g)	A complaint against a transmission or distribution system operator regarding the extent to which transmission and distribution system operators fulfil their specific roles and duties, specifically as identified under the Electricity Directive	Article 31A Electricity Order

(h)	A complaint against a transmission or distribution system operator regarding the level of transparency and competition	Article 31A Electricity Order
(i)	A complaint against a transmission or distribution system operator regarding the methodologies used to calculate or establish the terms and conditions for connection and access to national networks, including transmission and distribution tariffs	Article 31A Electricity Order
(j)	A complaint against a transmission or distribution system operator regarding the methodologies used to calculate or establish the terms and conditions for the provision of balancing services	Article 31A Electricity Order
(k)	A complaint against a transmission or distribution system operator regarding matters relating to the terms and conditions, tariffs, rules, mechanisms and methodologies referred to in (a) - (j) above with regard to whether they are proportionate and applied in a non-discriminatory manner	Article 31A Electricity Order
(l)	Third Party access to transmission and distribution systems based on published tariffs applicable to all eligible customers.	Article 32 Directive 2009/72/EC
(m)	A distribution operator shall not discriminate between system users or classes of system users.	Article 25 (2) Directive 2009/72/EC
(n)	A distribution system operator shall provide system users with the information they need for efficient access to the system.	Article 25 (3) Directive 2009/72/EC



(o)	A dispute between NIE Networks* and a person requiring a connection** to be made and maintained***	Articles 19 and 26 Electricity Order
(p)	A dispute between NIE Networks* and a person requiring a connection** regarding the terms for making and maintaining a connection***	Articles 20 and 26 Electricity Order
(q)	A dispute between NIE Networks* and a person requiring a connection** regarding an exception to NIE Networks' duty to connect or relating to disconnection***	Articles 21 and 26 Electricity Order
(r)	A dispute between NIE Networks* and a person requiring a connection** regarding the expenses reasonably incurred by NIE Networks in making and maintaining the connection, and the extent to which these expenses should be defrayed by the person requiring the connection***	Articles 22 and 26 Electricity Order
(s)	A dispute between NIE Networks* and a person requiring a connection** regarding the level of security required by NIE Networks before making the connection and the treatment of such security by NIE Networks***	Articles 23 and 26 Electricity Order
(t)	A dispute between an electricity distributor and a person requiring a connection** regarding other terms imposed on customers by NIE Networks in respect of the connection***	Articles 24 and 26 Electricity Order
(u)	Disputes concerning the failure of a licensed electricity supplier or NIE Networks* to comply with the provisions relating to performance standards set out in the Electricity Order and the Electricity (Standards of Performance) Regulations (Northern Ireland) 1993 (as amended or otherwise replaced)	Article 42A Electricity Order
(v)	A dispute regarding certain measures taken by an electricity supplier in relation to disabled customers (i.e. altering or replacing an electricity meter) (the Utility Regulator may appoint an arbitrator to determine the dispute)	Schedule 6 Electricity Order (applies Article 26 Electricity Order)
(w)	A dispute between an electricity supplier and a customer regarding electricity meters (including continuity of supply and charges)	Schedule 7 Electricity Order (applies Article 26 Electricity Order)
(x)	A dispute regarding the access to and use of interconnectors agreement (including in relation to disputed variations)	Moyle Interconnector Limited Participant in Transmission System Licence Condition 18
(y)	A dispute between the parties to a Transmission Interface Arrangement (TIA) regarding revisions to the TIA, or any other matter specified as within the Utility Regulator's jurisdiction in the TIA	NIE Networks Transmission Owner Licence Condition 17  SONI Ltd. Transmission Operator Licence Condition 18

(z)	A dispute between parties to the Power Procurement Business/Transmission Owner Interface Agreement (PTIA) regarding revisions to the PTIA, or any other matter specified as within the Utility Regulator's jurisdiction in the PTIA, or where NIE Networks and Power NI Energy Ltd. disagree	NIE Networks Transmission Owner Licence Condition 25 Power NI Energy Ltd. Supply Licence Condition 66
(aa)	A dispute between parties to the Power Procurement Business/Transmission System Operator Interface Agreement (PSIA) regarding revisions to the PSIA, or any other matter specified as within the Utility Regulator's jurisdiction in the PSIA, or where SONI Ltd. and Power NI Ltd. disagree	SONI Ltd. Transmission Operator Licence Condition 19
(bb)	A dispute between the parties to a System Operator Agreement (SOA) regarding a proposed amendment to the SOA, or any other matter specified as within the Utility Regulator's jurisdiction in the SOA	SONI Ltd. Transmission Operator Licence Condition 24
(cc)	A dispute between a transmission licensee and any person regarding a use of system agreement or connection agreement relating to the transmission licensee's transmission system (including in relation to disputed variations)	NIE Networks Transmission Owner Licence Condition 31 SONI Ltd. Transmission Operator Licence Condition 26
(dd)	A dispute between the transmission system operator and a Republic of Ireland system operator regarding a use of system agreement or connection agreement relating to the all-island transmission network (including in relation to disputed variations)	SONI Ltd. Transmission Operator Licence Condition 28
(ee)	A dispute between a supply licensee and any person regarding the terms of an agreement for the supplier to provide top-up or standby to that person	Power NI Ltd. Supply Licence Condition 52A
(ff)	A dispute between a supply licensee or an authorised electricity generator regarding a spill agreement	Power NI Ltd. Supply Licence Condition 53
(gg)	A dispute between a supply licensee and an owner or operator of a generating station regarding a 'Relevant Arrangement' (relating to the Renewables Obligation (Northern Ireland) Order 2007)	Power NI Ltd. Supply Licence Condition 53A
(hh)	A dispute between the transmission system operator and a supply licensee on the terms offered by a generation licensee for system support services (from any generation set of the generation licensee) which is capable of operating	Generation Licences Condition 7
(ii)	A complaint against an electricity supplier in relation to a billing dispute	Article 47A Electricity Order (NI) 1992

\* As NIE Networks is the only licensed electricity distribution operator (and owner) in Northern Ireland.

\*\* Reference to a connection in this table includes the provision of electrical lines and plant and means a connection between NIE Networks' distribution network and premises, or between NIE Networks' distribution network and the distribution system of another (unlicensed) distributor.

\*\*\* Such a dispute must be referred to the Utility Regulator before the end of 12 months beginning with the time when the connection is made. In addition, the Utility Regulator may appoint an arbitrator to determine the dispute.

## **Annex B: Gas Disputes/Complaints**

Article 25(5) of Directive 2003/55/EC (the **Gas Directive**) provides for the Utility Regulator to act as the dispute settlement authority for certain complaints made against a gas transmission or distribution system operator.

Each of the following –

- Premier Transmission Limited,
- GNI (UK) Ltd
- Belfast Gas Transmission Limited
- West Transmission Limited
- Firmus Energy Distribution Ltd
- Phoenix Natural Gas Ltd, and
- Scotia Gas Networks Northern Ireland Ltd.

are currently an operator of either a gas transmission or gas distribution system in Northern Ireland.

Directive 2003/55/EC has since been repealed, however, the requirements of Article 23(5) of the Directive are implemented in Northern Ireland through Article 27A of the Gas Order.

Unlike electricity, the Gas Order does not provide for any other disputes to be referred to or determined by the Utility Regulator. However, the Utility Regulator does have a role in determining certain disputes which are referred to it by virtue of provisions contained in gas conveyance and/or gas supply licences.

Article 24A of the Gas (NI) Order 1996 (as amended by the Electricity & Gas (Internal Markets) Regulations (NI) 2011) provides for the Utility Regulator to act as the dispute settlement authority for billing complaints against a gas supplier. The Utility Regulator reserves the right to appoint an arbitrator to deal with any such complaint on its behalf. A billing dispute is a dispute between the customer and the gas supplier concerning the amount of the charge which the supplier is entitled to recover from the customer in connection with the provision of gas supply services.

A billing dispute may only be referred to the Utility Regulator under the above legislation. It should initially be referred to the Consumer Council for Northern Ireland and if the matter has not been resolved satisfactorily within 3 months from being referred it may be passed to the Utility Regulator.

A billing dispute may not be referred to the Utility Regulator:

- i. After the end of a 12 month period in which the subject of the dispute applies.
- ii. If the dispute is the subject of proceedings before a Court
- iii. If judgement has been given by a court in relation to the dispute.

The following table therefore details a non-exhaustive (but instructive) list of the types of matters that the Utility Regulator can determine.<sup>11</sup>

	<b>Subject Matter</b>	<b>Legislative Basis</b>
(a)	A complaint against a transmission or distribution system operator regarding the rules on the management and allocation of interconnection capacity	Article 27A Gas Order
(b)	A complaint against a transmission or distribution system operator regarding any mechanisms to deal with congested capacity within the national gas system	Article 27A Gas Order
(c)	A complaint against a transmission or distribution system operator regarding the time taken by companies to make connections and repairs	Article 27A Gas Order
(d)	A complaint against a transmission or distribution system operator regarding the publication of appropriate information by the companies concerning interconnectors, grid usage and capacity allocation to interested parties (bearing in mind commercial confidentiality)	Article 27A Gas Order
(e)	A complaint against a transmission or distribution system operator regarding the effective unbundling of accounts to avoid cross subsidies between transmission, distribution, storage and supply activities	Article 27A Gas Order
(f)	A complaint against a transmission or distribution system operator regarding the access conditions to storage, linepack and to other ancillary services	Article 27A Gas Order
(g)	A complaint against a transmission or distribution system operator regarding the extent to which companies fulfil their specific roles and duties, specifically as identified under the Gas Directive	Article 27A Gas Order
(h)	A complaint against a transmission or distribution system operator regarding the level of transparency and competition	Article 27A Gas Order
(i)	A complaint against a transmission or distribution system operator regarding the methodologies used to establish the terms and conditions offered for connection and access to the network, including transmission and distribution tariffs	Article 27A Gas Order

<sup>11</sup> The Gas Directive contains similar provisions to those shown in the table in respect of Liquefied Natural Gas (LNG) system operators. As there are no LNG system operators in Northern Ireland, reference to LNG system operators are omitted from the table.

(j)	A complaint against a transmission or distribution system operator regarding the methodologies used to calculate or establish the terms and conditions for the provision of balancing services	Article 27A Gas Order
(k)	A complaint against a transmission or distribution system operator regarding any modification of the terms and conditions, including tariffs and methodologies, described in (a) – (j) above to ensure that they are proportionate and applied in a non-discriminatory manner	Article 27A Gas Order
(l)	A complaint against a transmission or distribution system operator regarding the provisions under the Gas Directive in relation to access to storage facilities and linepack and ancillary services	Article 27A Gas Order
(m)	A dispute between a gas supplier and a gas network operator relating to the gas network operator's terms and charges for conveyance, and connection charges	* For example Firmus Energy (Distribution) Ltd. Gas Conveyance Licence Condition 2.2
(n)	A dispute regarding the provision or making of a connection to the gas network, including charges and other terms	* For example Firmus Energy (Distribution) Ltd. Gas Conveyance Licence Condition 2.3
(o)	A complaint by a gas network operator regarding whether the representations or objections made by any other party to the Network Code or by any other person in respect of a proposal to modify the Network Code have been properly considered in accordance with the modification rules.	* For example Firmus Energy (Distribution) Ltd. Gas Conveyance Licence Condition 2.4
(p)	A complaint against a gas supplier in relation to a billing dispute	Article 24A Gas (NI) Order 1996
(q)	Third Party access to transmission distribution systems based on published tariffs applicable to all eligible customers.	Article 32 Directive 2009/73/EC

\* The Firmus Energy (Distribution) Ltd. Licence conditions are provided for illustration purposes only, similar conditions are contained within other gas conveyance licenses.

## **Annex C: Water Appeals Complaints, and Disputes**

Northern Ireland (at present) has one licensed provider of water supply services and one licensed provider of sewerage related services – both licences being held by Northern Ireland Water Limited (a government owned company).

From 1<sup>st</sup> April 2007, the Water Order<sup>12</sup> gave the Utility Regulator the necessary powers to determine complaints, disputes and certain appeals relating to water and sewerage services.<sup>13</sup> The following list gives examples of the kinds of complaints, disputes, and appeals that fall under our control:

	<b>Subject Matter</b>	<b>Legislative Basis</b>
(a)	Disputes under any regulations regarding the undertaker's compliance with standards of performance in connection with water supplies (but only if the relevant regulations provide such a role for the Utility Regulator)	Article 66 Water Order
(b)	Disputes concerning the undertakings given or security required by the undertaker in connection with an undertaker's duty to provide a water main	Article 77 (6) Water Order
(c)	Disputes concerning extensions of time for the undertaker to comply with a requisition to provide a water main and/or the places at which any such water main is to be situated	Article 78 (4) Water Order
(d)	Disputes concerning the expenses levied by an undertaker for making connections (including works required) from a service pipe to an undertaker's water main	Article 79 (8) Water Order
(e)	Disputes concerning the terms of the requirements imposed by the undertaker on any person serving a connection notice to it, regarding connection via the fitting of a meter	Article 81 (4) Water Order
(f)	Disputes over the question of compliance by any person with the requirements imposed by the undertaker regarding connection to an undertaker's water main	Article 82 (5) Water Order
(g)	Disputes over the question of the reasonableness or validity of the requirements referred to in (f)	Article 82 (6) Water Order
(h)	Disputes concerning the payments required to be made or the security required to be provided to an undertaker as a condition of agreements relating to connection to an adopted main	Article 88 (5) Water Order

<sup>12</sup> Water & Sewerage Services (Northern Ireland) Order 2006.

<sup>13</sup> In addition to the small number of disputes which can be determined by the Utility Regulator under the Instrument of Appointment granted to Northern Ireland Water Limited by the Department for Regional Development on 1 April 2007.

(i)	Disputes over questions of compliance with the requirements imposed by an undertaker on any person requesting a domestic supply of water	Article 92 (3) Water Order
(j)	Disputes over questions of reasonableness of the expenses-requirement imposed by an undertaker on any person requesting a domestic supply of water	Article 92 (4) Water Order
(k)	Disputes over the undertaker's decisions in response to requests made by persons seeking new supplies of water for non-domestic purposes (the Utility Regulator may appoint an arbitrator to determine the dispute)	Article 95 Water Order
(l)	Disputes over compliance with the statutory requirements imposed on any person requesting a separate service pipe to serve his/her property	Article 104 (3) Water Order
(m)	Disputes under any regulations regarding the undertaker's compliance with standards of performance in connection with its provision of sewerage services (but only if the relevant regulations provide such a role for the Utility Regulator)	Article 150 (4) Water Order
(n)	Disputes concerning the undertakings given or security required by the undertaker in connection with an undertaker's duty to provide a sewer or lateral drain	Article 155 (6) Water Order
(o)	Disputes concerning extensions of time for the undertaker to comply with a requisition to provide a sewer or lateral drain and/or places where such sewers or lateral drains are to be situated	Article 156 (2) (b) Water Order
(p)	Disputes concerning the existence of a further duty to provide a public sewer in a particular locality, what purposes such further duty (if found) should serve, and times for compliance with such duty	Article 157 (7) Water Order
(q)	Disputes concerning provision of and requests for an undertaker to construct a lateral drain once a sewer has been provided, and the associated costs of such lateral drain	Article 158 (4) Water Order
(r)	Disputes as to costs, security requirements and excess sums required by a sewerage undertaker prior to making a communication with an existing sewer	Article 164 (5) Water Order
(s)	Disputes as to the effectiveness of alternate sewer arrangements provided by an undertaker in pursuance of closure or discontinuance of use of an existing sewer	Article 173 (4) Water Order
(t)	Disputes as to whether an undertaker is obliged to give effect to a measured charges notice (i.e. a notice requiring charges to be made on a volumes basis, via a water meter)	Article 204 (4) Water Order
(u)	Disputes over who should bear the expense of, and the level of expenses charged by, an undertaker for the carrying out of works in relation to the installation of meters	Article 208 (7) Water Order



(v)	Appeals of decisions by Northern Ireland Water Limited as to the provision or otherwise of a consent or variation of a consent allowing someone to discharge effluent into public sewers	Article 180 and 184 Water Order
(w)	Appeals regarding Northern Ireland Water Limited's refusal of an application, imposition of conditions for offering grant of application or failure to respond to an application, relating to adoption a new water main or a service pipe	Article 87 Water Order
(x)	Appeals regarding any declaration made or not made by Northern Ireland Water Limited with regard to the adoption of sewers, lateral drains or waste water works or where Northern Ireland Water Limited has refused application, imposed conditions on grant of application or failed to respond to application, relating to adoption of sewers, lateral drains or waste water works	Article 162 Water Order
(y)	Appeals regarding requirements imposed by Northern Ireland Water Limited in relation to construction of drains or sewers which it may wish to form part of the general sewerage system	Article 169 Water Order
(z)	Complaints about laying pipes in private land	Article 243 Water Order
(aa)	Disputed questions as to the level of credit or payment properly owing to a customer of water or sewerage services as a result of interruption to supply as a result of drought	Instrument of Appointment Condition Q
(bb)	Disputes concerning the calculations used in determining the level of infrastructure charge to be charged by an undertaker on the recipient of the infrastructure charge	Instrument of Appointment Condition C

## **Complaints we cannot deal with in the water sector**

Under the Water Order, we cannot deal with some complaints. These include complaints about:

- water billing in respect of non-domestic customers;
- parts of Northern Ireland Water Limited's businesses which are not directly subject to our regulation;
- rivers and coastal waters; and,
- matters between a customer and Northern Ireland Water Limited which could be, or have been previously, dealt with through the courts.

If your complaint concerns the regulation of drinking water quality, or essentially environmental issues (such as safety of water fittings, discharge consents and contamination issues), other regulators should be able to help you:

- 1) the Drinking Water Inspectorate is the independent regulator that monitors the quality of tap water; and
- 2) the Northern Ireland Environment Agency for Northern Ireland is responsible for protecting and improving the quality of rivers, estuaries and coastal waters.