



**Consultation: Electricity and Gas Retail Supply Price Controls 2017
(SPC 17)**

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The Consumer Council welcomes the opportunity to respond to the Utility Regulator's (UR) consultation on Electricity and Gas Retail Supply Price Controls 2017 (SPC 17).

The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principle statutory duty is to promote and safeguard the interests of consumers in Northern Ireland (NI).

The cost of energy remains the top concern for consumers in NI¹. Unfortunately, domestic consumer switching levels remain very low² (2.8% electricity and 0.2% gas³). The main reason for not switching, which is cited by 31% of consumers that have never switched, is that it is too much hassle⁴.

Promoting competition to reduce energy costs continues to be a major energy market policy driver⁵. In addition, the Consumer Council recognises the findings from the UR commissioned Cornwall Energy Report⁶ that within NI given, *'the structural characteristics of the energy market and the lack of sufficient critical mass to attract a larger number of suppliers, relying on competition is not enough on its own to effectively protect customers'*⁷.

¹ Consumer Council Tracking Research, November 2015.

² Utility Regulator *Retail Market Monitoring Quarterly Transparency Report Q3 July – September 2015*, November 2015.

³ Domestic Switching rate in Greater Belfast. Domestic switching in the Ten Towns is 0% as Firmus Energy is the only domestic supplier.

⁴ The Consumer Council *Power to Switch: A report into consumers' views and experiences of switching energy supplier*, 2013.

⁵ Strategic Energy Framework, DETI, 2010.

⁶ Cornwall Energy *Review of the Effectiveness of Competition in the Northern Ireland Energy Retail Market*, 2014.

⁷ http://www.uregni.gov.uk/publications/ur_review_of_retail_market_effectiveness_phase_1_next_steps.

The energy market in NI has changed considerably for consumers since the market opened for competition in 2010, and is likely to change further for consumers with developments such as I-SEM and the rollout of natural gas to the West and East Down.

Increasing consumer confidence is a vital element of developing the energy markets in NI. Confident consumers feel empowered to actively shop around for the best energy deal (both in terms of price and levels of service) for them, which in turn increases the competitive offerings available to them.

In December 2014, the Consumer Council commissioned Ipsos Mori⁸ to examine consumers' trust in the energy suppliers in NI. The findings of this research showed:

Question	Electricity Customers	Gas Customers
To what extent do you trust or distrust your supplier to offer customers a fair price?	49% trust or tend to trust	54% trust or tend to trust
To what extent do you trust or distrust your supplier to be open and transparent when communicating with its customers?	51% trust or tend to trust	56% trust or tend to trust
To what extent do you trust or distrust your supplier to be honest when promoting its products and services?	54% trust or tend to trust	57% trust or tend to trust

As the table shows, trust levels amongst energy consumers are around 55%. While higher than in Great Britain where only 30% of customers trust or tend

⁸ 2015 Consumer Energy Research Findings Summary, Consumer Council, May 2015.

to trust energy suppliers,⁹ it is important that the UR maximises the opportunities within these supply price controls to further build consumer trust and confidence in the regulated energy markets in NI.

Q1. Do respondents agree that where this consultation has an impact on the groups listed, those impacts are likely to be positive in relation to equality of opportunity for energy consumers?

Price controls for regulated gas and electricity suppliers have an important role in protecting consumers, especially the more vulnerable within our society. Ensuring that these price controls are undertaken in a robust and transparent manner will help protect consumers, ensuring they pay low prices, and encouraging better levels of service, which will consequently build consumers' trust in the supply companies.

Supply price controls are of particular importance in NI given the region has the highest level of fuel poverty (42% of households) and has the lowest level of disposable household income of the UK countries¹⁰.

Q2. Do respondents consider that the approach needs to be refined in any way to meet the equality provisions? If so, why and how? Please provide supporting information and evidence.

⁹ Office of Fair Trading, Ofgem, Competition and Markets Authority *State of the Market Assessment*, 2014.

¹⁰ <http://www.ons.gov.uk/ons/guide-method/compendiums/compendium-of-uk-statistics/economy/index.html>.

During this process, the UR and the supply companies must engage with consumers at the outset of the process to ensure that the price controls respond to consumers' priorities.

Whilst we recognise that the Cornwall Energy review of the NI energy retail markets provided useful information about consumers' overall engagement in the energy markets, we believe specific consumer engagement is needed by the regulated supply companies to identify consumer priorities within the forthcoming price control periods.

Q3. Do respondents consider that the existing structure and form remains appropriate for the next Power NI price control? If not, please explain what you believe the structure and form should be.

The Consumer Council believes the Power NI price control plays a significant role in protecting the interests of all electricity consumers. The price control ensures Power NI customers pay a fair price for their electricity. It also provides a 'price to beat' for the company's competitors, ensuring the customers of competitors receive a good deal when purchasing electricity.

Uncontrollable costs that are passed through to consumers on a 100% basis, need to be carefully considered by the UR. If there is any influence Power NI can exercise in reducing these costs it must be incentivised to so.

Q4 Do respondents consider that the proposed review of the gas supply licences are appropriate? If not, please explain your reasons.

The Consumer Council supports the UR proposal to introduce a licence modification as part of the price control process to include the price control within the licence. We agree with the UR assessment that the current position poses a risk due to the time gap between the price control final determination and the tariff review. This gap may lead to a delay in a tariff change and to a build up of over or under recovery which would have an impact on the stability of pricing for consumers.

Q5. Do respondents agree with the UR proposal to review price regulation in the 0-50MWh sector of the market? Please provide suitable evidence, including legal opinion if applicable, as to why price regulation should or should not remain in this sector.

The Consumer Council agrees with the UR assessment that due to Power NI's dominance in the domestic market, price control regulation remains necessary.

The consultation paper also states that Power NI, when taken with its affiliate company Energia, is still the dominant supplier in the non-domestic market up to 50MWh when considered on the basis of market shares. The Consumer Council recognises that given the greater level of competition in the Industrial & Commercial (I&C) market, there may be merit in the UR proposal to review price regulation in the 0-50MWh sector of the market. However, the Consumer Council urges caution and highlights that, without adequate protection, small business consumers are, along with vulnerable domestic consumers, the group most likely to lose out in an unregulated energy market. As with domestic consumers, small I&C customers are unlikely to have the resources or market

power to negotiate with suppliers and do not always have the means or time to assess the whole market.

Q6. Do respondents agree with the UR proposal to review price regulation in the 73,200kWh to 732,000kWh (EUC 2) sector of the market? Please provide suitable evidence, including legal opinion if applicable, as to why price regulation should or should not remain in this sector.

The Consumer Council has no direct experience of dealing with consumers within the 73,200kWh to 732,000kWh gas market. Therefore the only comment we would make is that this market appears to satisfy the criteria for deregulation that the UR laid out in its proposal document for the 2014 Power NI Supply Price Control¹¹. This stated that:

1. Power NI/Energia must have a combined market share (by consumed units) of less than 50% for two consecutive quarters; and
2. There is a minimum of three independent suppliers, each of which has at least 10% share of consumed units in the relevant market. For clarity, what this means in practice is Power NI/Energia plus two other independent suppliers.

Q7. Do respondents agree that it is reasonable to retain the scope of the price control for firmus at the under 732,000kWh sector of the market?

It is essential that the UR retains the scope of the price control for Firmus Energy in the under 732,000kWh sector of the market. As the consultation paper identifies, there are currently no competing suppliers in the domestic

¹¹ The Utility Regulator's proposals for the 2014 Power NI supply price control, 2013.

market in the Ten Towns, and therefore Firmus Energy holds a 100% market share. Firmus also holds over 92% market share in the Ten Towns I&C market.

Although the Ten Towns area is open to competition, until additional suppliers enter the market and there is sufficient competition to safeguard the interests of consumers, price regulation will be needed to ensure gas customers pay a fair price.

Q8. Do respondents agree that a duration of three years for the next price controls for electricity and gas is appropriate?

The proposal appears to strike a fair balance between providing certainty for investment whilst allowing for adjustments to be made in a developing competitive market.

The Consumer Council is open to considering a potential roll-over of the current Power NI price control to help address the uncertainty in relation to the development of the new I-SEM. However, any cost relating to this uncertainty must be fairly allocated between Power NI and its consumer base.

Q9. Do respondents think that a potential roll-over of the current Power NI price control is appropriate to help address the uncertainty in relation to the development of the new I-SEM?

As mentioned in response to Question Eight, the Consumer Council is open to considering a potential roll-over of the current Power NI price control if the UR was able to demonstrate that it would be the most appropriate and cost

effective approach to help address uncertainty in relation to the development of the I-SEM.

The Consumer Council recognises a roll-over of the current price control may allow the UR to make a more informed forecast following the introduction of I-SEM. This would potentially benefit consumers by allowing for greater accuracy in predicting the cost impacts on Power NI.

Q10. Do respondents consider the approach outlined for assessing the Power NI opex is appropriate at this price review? If not, please explain what approach you consider the UR should take to assessing opex and the reasons why.

The Consumer Council considers the approach outlined for assessing the Power NI opex appropriate. It is correct that the burden of proof for additional opex should lie with Power NI.

In terms of bad debt, Power NI needs to be incentivised against the best performing supply companies, to properly manage bad debt both for its impact on business costs but also the societal benefits it provides.

Q11. Do respondents consider the approach outlined for assessing the treatment of costs for the gas supply companies appropriate? If not please explain what approach you do consider to be appropriate and the reasons why.

The Consumer Council considers the approach outlined to be appropriate. The Consumer Council considers it acceptable that network costs, and wholesale gas costs and related transport costs are allowed as pass through costs. It also accepts the UR proposal that the methods for reviewing opex will vary between the two gas supply companies. SSE Airtricity will be subjected to a bottom up/top down combination approach and Firmus Energy to a top down approach on the basis that the Firmus Energy costs have been reviewed in detail for the most recent price control which commenced in April 2015.

As with the Power NI price control, the Consumer Council considers it correct that the burden of proof for additional opex should lie with the gas supply company. The Consumer Council also believes Firmus Energy and SSE Airtricity should have an Economic Purchasing Obligation similar to Power NI.

Q12. What are respondents' views on the proposed approach to establishing a margin for Power NI?

The Consumer Council accepts the UR approach to roll forward the margin of 2.2% as a baseline, with an adjustment for any changes to the working capital and collateral requirements of the business whether positive or negative. We support the overriding principle that any adjustment will need to be justified by Power NI and that the company will need to adequately demonstrate why there is a requirement to adjust the margin.

Q13. What are respondents' views on the proposed approach to establishing a margin for the gas supply companies?

The Consumer Council agrees with the UR suggested approach to carry out a complete review of the margin for this price control in line with the methodology used in the current Power NI price control. We recognise this review may lead to a different margin than that granted to Power NI, and different margins for the separate gas supply companies.

For further information or to discuss any aspect of this response please contact Andy McClenaghan on 028 9025 1621 or andy.mcclenaghan@consumercouncil.org.uk.



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