

Q1: (Ch 3) Do respondents agree with our overall summary of NI energy retail market competitiveness and do you feel we have missed anything of significance that should have been noted at this stage?

Phoenix Distribution (Northern Ireland) Limited (Phoenix) has proactively worked with the Utility Regulator (UReg) over the last 10 years to deliver the requirements of its licence with regards the facilitation of supply competition.

To date Phoenix has produced and received regulatory approval for three different versions of Network Codes. A combined Transmission and Distribution Code was produced in 1999, and then a separate Transmission Code to facilitate Postalisation, and a separate Distribution Code to facilitate competition for all categories of consumers, including domestic. At all times the Codes were produced within the required timescales and in agreement with UReg as well as industry consultation. The Distribution Code was constructed from first principles and took the parts of the GB Network Code that were applicable and modified them to more effectively deliver the rules required for supply competition in a market place of several hundred thousand customers instead of millions. The processes and systems developed from this simplified Code were also developed bearing in mind that all costs incurred would ultimately be borne by customers and as such the aim was always to minimise costs to the appropriate level.

As well as the production of Network Codes, Phoenix was asked by UReg to book and hold all transmission capacity for Greater Belfast Shippers to help support the introduction of supply competition. It was thought that this process ensured that the incumbent could not hoard capacity as well as preventing the double booking of capacity at transmission level. This was undertaken by Phoenix, who receives no financial benefit for carrying out this activity, an activity which we believe is well outside the remit of a normal distribution operation. We have continued to work with Suppliers in Belfast, in particular new market entrants in finding ways to improve upon and simplify further this process to provide greater transparency in Postalised capacity charging.

Phoenix accepts that the Northern Ireland natural gas competitive market is immature and that changes will have to be made if effective competition within the domestic sector becomes a reality e.g. developing an electronic switching process. However whilst it may be convenient to attribute the perceived lack of competition to perceived barriers of entry such as the use of a simplified paper and email based systems to handle the switching process, current processes are sufficient to meet current demand and increases in demand in the medium term. It is difficult to understand why the requirement to fill in a paper based form compared to an electronic form, should prevent Suppliers competing with each other.

The principal objective of the Authority in carrying out gas functions is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland. It is well recognised and accepted that the view of the Authority with regards natural gas has a significant

influence over what ordinary people think about the industry. It is therefore worth pointing out that in this particular document the comment:

“Overall total (non-power station) gas demand in Northern Ireland remains low due to the limited availability of connections and the low take-up of domestic gas connections where they are available.”

could be perceived as having a negative effect on the industry as the connection take up rate is considered by many to be highly successful and well ahead of similar start up natural gas industries and we believe well ahead of the gas industry in the South of Ireland at the same stage in its development.

We also note that the paper credits the Gas Market Opening Group (GMOG) with delivering the following:

- ensuring the necessary processes were put in place to facilitate full gas market opening in the Greater Belfast area from 1st January 2007
- enabling non-domestic customers to switch Supplier during 2007
- Aided the functional, legal and managerial separation of Phoenix with a new supply licence being granted to Phoenix Supply Ltd in December 2006

We would like to point out that these issues were resolved by Phoenix Distribution and Phoenix Supply Ltd, in consultation with UReg and not the GMOG forum as stated in the consultation paper.

Q2: (Ch 3) Are there additional indicators of the current state of competition in the retail markets that we should be considering?

We welcome UReg's indication that it will set up individual workshops to progress operational issues arising from GMOG. We believe that this focus will enable market participants to constructively progress issues to improve the regime and remove complexity as well as increase competition within all market sectors. It is worth noting that if the action points from the last 18 months or so of GMOG meetings were reviewed, it would be found that the main issues that new Suppliers identified were predominately issues that needed resolving between Suppliers. The small numbers of issues raised that needed addressing by the Operator have been addressed through the Code Modification process. This includes amending the Code for nomination times, data availability for the daily metered (DM) customer sector and amendment to the overrun charges.

One issue that has been raised on several occasions is that of meter reading. Meter Reading is a supply activity but the offer was made to other Suppliers that Phoenix Energy Services Limited (who carries out meter reading for Phoenix Supply Ltd) would be willing to undertake metering reading services on a similar basis and at a similar price to that offered to Phoenix Supply Ltd. A meter reading offer was made to firmus and Energia of £3.35 per DM read

and therefore the cost of meter reading for example for a 500,000 therm load would be approximately £40 per annum compared to a total revenue for the load of approximately £0.5million plus. It is therefore difficult to understand how any Supplier could perceive any other Supplier could gain an advantage due to the cost of meter reading services.

Q3: (ch 4) Do respondents agree that the analysis has identified the major potential barriers to competition in the domestic and non-domestic electricity markets or are there additional barriers that you feel we should take into consideration?

Phoenix has no comments to make with regards potential barriers to entry to competition in the domestic and non-domestic electricity markets.

Q4: (ch4) Do respondents agree that the analysis has identified the major potential barriers to competition in the domestic and non-domestic gas markets or are there additional barriers that you feel we should take into consideration?

From a Distribution Operator perspective, Phoenix does not believe that there are any barriers to entry to the natural gas market within the Phoenix Licensed Area. The current process is clear and transparent with clear steps as set out in the Phoenix Distribution Network Code. In Phoenix's opinion, Phoenix Supply Ltd has worked constructively with the Operator and other Suppliers to ensure customers can transfer smoothly and within the timescales set out within the Network Code.

The consultation suggests that the quality and availability of data may be one of the factors preventing other Suppliers entering the market and tendering for projects. Phoenix has already amended its Network Code after receiving a modification proposal raised by Energia to provide the data for the daily metered sector that they felt was necessary. In addition we have already provided considerable levels of data to the two new Suppliers in the market. Firmus has requested and received on two occasions all the data as specified in the Network Code for all DM customers. This has included 365 days of daily metered information for each customer. Energia has also received DM information for each customer that they have requested it for. Therefore in Phoenix's opinion there has already been a considerable level of customer data transparency.

We note the comments associated with obtaining credit cover but do not quite understand the issue that this refers to. All Suppliers have to put in place a level of credit support that is calculated based on the level of transportation charges that they are going to incur. So whether a small Supplier has a particular customer or a large Supplier has that customer the level of Credit Support that needs to be put in place is exactly the same.

We note the comments made with regards the customer transfer process. We do not understand why there is an uncertainty over the timings within the agreed transfer process as in Phoenix's opinion the process is quite clearly set out in its Network Code. Phoenix has also undertaken a customer switching exercise with Suppliers and has had many one on one sessions with Suppliers providing education and explanation on all the key Network Code processes and no Supplier has made Phoenix aware that they do not understand the transfer process.

Phoenix accepts that the Northern Ireland gas market is relatively immature. At the end of 2007, 45% of the properties within its Licensed Area to which it has made gas available have connected to the network. However, Phoenix believes that there is currently a significant opportunity to stimulate the market given spiralling energy costs and the challenge brought by our changing climate. Over the last 10 years, Northern Ireland natural gas consumers have demonstrated significant savings on energy and carbon emissions through their switch to natural gas reducing their emissions of carbon dioxide (CO₂) into the atmosphere by over 1.7 million tonnes to date. A typical household, when converting to modern high-efficiency natural gas heating systems from older heating oil systems, is reducing its heating carbon footprint by more than 50%.

As part of the price control process, Phoenix has engaged in discussions with UReg over its market development plans for the next five years. In addition we believe that it is vitally important for all bodies to come together to promote the benefits of natural gas and further stimulate the market. The situation in Great Britain is different as Northern Ireland has not yet harnessed the CO₂ benefits of switching to natural gas. In Great Britain the attention is turning towards renewable energy. In Northern Ireland however, switching to natural gas remains the most economically and environmentally sensible action for today. Natural gas is the bridge to sustainable renewable energy, but that goal is still some decades away. We therefore welcome UReg's suggestion that ways will be identified that help develop further the take up of connections within the current Licensed Area and the opportunity for further expansion of the Licensed Area. Phoenix has clearly demonstrated that it is capable of identifying opportunities outside the original Licensed Area and working with the Regulator to deliver those new connections.

Q5: (ch 5) Have we missed anything important in relation to potential actions - are there additional regulatory actions that the Utility Regulator should consider beyond those described above?

We have detailed our comments on the proposed options in our response to question four and do not have any additional regulatory actions to contribute to the list.

Q6: (ch 5) Do you agree with the initial assessment of the impact of the proposed regulatory actions on the electricity and gas retail markets? Do you think we have materially mis-estimated potential impacts?

The consultation suggests that meter reading services are a high fixed cost and one of the barriers to entry for independent Suppliers. We re-iterate our response provided to Question 2 that due to the size of the meter reading cost compared to the final selling price to customers we believe this issue to be a 'red herring' and has limited, if any, impact on competition.

The consultation highlights the fact that customer transfer systems in gas are operated manually. Whilst this system is currently sufficient to meet market demand in the medium term, Phoenix recognises the need to develop an electronic process should effective competition become a reality. Phoenix has always been of the very strong opinion that costs should only be incurred when they are needed and as such until there is a clear indication that there will be a reasonable level of competitive activity it is entirely sensible and prudent not to incur unnecessary costs. Any significant scaling up of systems may require a significant investment of time, resources and finance from the outset. Phoenix and UReg will need to consider how this may be achieved effectively and efficiently. UReg should also consider the long-term viability of synchronising European market processes to ensure that any requirement to set up an electronic process for Northern Ireland is not quickly superseded by the requirement to set up a European process. This also applies to the fact that presently there are two pieces of work ongoing, this consultation paper and the Common Arrangement for Gas Workstream on Retail Markets. It is important that the two pieces of work are kept consistent and that the outcome of this consultation is taking into consideration in the context of the All Island Retail Market.

Q7: (ch 6) Do respondents agree with our analysis above in relation to scenarios and their interplay with options, and with our proposed actions?

Setting objectives or restricting the market may not always be in the best interest of consumers as this may stem innovation. As an asset business that has a fundamental objective to grow customer numbers, Phoenix would be concerned that any changes to the current market might have a detrimental impact on the numbers choosing to connect to the natural gas network. Increased complexity may provide consumers with an additional reason for not converting to natural gas. It is vitally important for UReg to determine whether alternative Suppliers are really serious about competing in this market place because it would be somewhat ironic if measures put in place to stimulate competition for the benefit of consumers resulted in the incumbent Supplier not being able to offer what the consumer really wanted because of greater regulatory controls, and the consumer not having any alternative Supplier to choose from. There is a simple economic argument that says a truly competitive market should be allowed to develop naturally. We have already mentioned the dramatic changes in the energy markets over the last

few years and it is difficult to envisage how a Regulator would be able to provide a long-term regulatory process that would allow utilities enough flexibility to develop their businesses to meet changing customer demands.

We do not believe that the size of the market in Northern Ireland would allow competition to stem from the three market segments – non-domestic gas, non-domestic electricity and domestic energy or from a competitive fringe of Suppliers offering innovative, niche products.

We reiterate our response to Question 4 in that Phoenix has already provided considerable levels of data to the two new Suppliers in the market.

We have highlighted the current potential for natural gas market development within Northern Ireland and welcome indication that UReg will engage with DETI and Government in this regard. Oil is the predominant fuel for heating homes in Northern Ireland and a co-ordinated approach by all market participants should ensure that more consumers understand the environmental benefits which natural gas has to offer and allow natural gas to compete with oil in terms of market penetration within the domestic sector. Phoenix is always looking at further opportunities to extend its Licensed Area and is very keen to work with UReg and DETI to look at ways that could increase the number of customers connecting within its current area and to roll out its network beyond its current Licensed Area.

A number of groups are already being convened to review specific areas highlighted during GMOG and we welcome indication from UReg that it will review the key operational and technical issues raised. As Phoenix has clearly demonstrated to date it is willing to constructively contribute and facilitate the evolution of the current market structure to facilitate growing competition.