

Proposed modifications to gas and electricity licences.

Utility Regulator Consultation

Power NI Response

01 March 2016

1. Introduction

Power NI welcomes the opportunity to respond to the Utility Regulator's (UR) consultation on proposed modifications to gas and electricity licences.

2. General Comments

Within the Consultation Paper the UR has positioned the licence changes as a series of updates to reflect the current market context and other necessary "clean ups".

While the protection of consumers is a statutory requirement on the UR, it is important that the licence changes made to give effect to desired outcomes are carefully considered. The market will evolve over time and the UR should make amendments to licences to reflect the changing context. The UR is also obliged to promote competition and therefore changes should not be made to explicitly define how the market should operate (this is beyond the role of a regulator) rather the conditions should be set to prevent harmful behaviour. The UR should be mindful that the electricity market in Northern Ireland is fully open to competition and customers will respond to behaviour they deem unacceptable by switching. It is therefore always in a suppliers best interests to operate in a manner that delivers good customer outcomes; to fail to do so jeopardises their business.

Power NI also notes that the UR has chosen to include both draft licence wording changes and the modification notice within this paper. While the draft wording is helpful as it allows responders to fully assess the changes the UR is proposing, the inclusion of the modification notice would suggest that this is not a consultation per se but rather a minded to decision which is unlikely to change. As this is the first opportunity licensees have to review the wording and engage on many of the topics, Power NI considers this not to meet best practice consultation guidelines.

Power NI has concerns in relation to the current state of its licence. The UR has made a number of amendments during the past 12 months to give effect to a range of decisions papers however a fully updated licence is not yet available. This means that the effective licence must be pieced together from a series of correspondence. Power NI believes that this creates regulatory and compliance risk which could be alleviated by the timely publication of an updated licence. Power NI would welcome the UR reviewing the amendment process with a view to expediting the publication of updated licences following decisions.

Additionally, as the UR is aware, Power NI's licence was written in the early 1990's in an entirely different market context. The licence also at one time was an extract from the network companies licence. Power NI believes a full review is overdue. Many of the conditions are outdated and no longer appropriate to the competitive retail market. The retention of these conditions impact on Power NI's operational model and risk unintended consequences when interpreted within the current market context.

3. Licence modifications

Power NI has a number of specific responses to the drafting proposed by the UR.

- Licence Modification 1

This modification was subject to the pre-consultation discussion referred to by the UR. In responding, Power NI explained the limited number of scenarios in which prevention of vending takes place. It is Power NI's view that these scenarios are reasonable and act as an effective method of ensuring customers register for their electricity consumption and provide appropriate information in relation to attempted debt avoidance. The UR must be mindful that bad debt is a burden on all consumers. Relatively straightforward actions such as a vending block, which can be lifted instantaneously, provides a supplier an effective means of reducing bad debt. Suppliers must have an effective solution for all debt scenarios and Power NI does not believe the disconnection path provides this in all circumstances.

Power NI understands that the UR does not want to allow preventing vending to become a form of "back door" disconnection. Power NI supports this position and as described in our response only uses this method in a limited number of cases. It does however remain important to have this option in the suite of possible actions and the blanket ban proposed by the UR limits a suppliers ability to manage bad debt, ultimately to the cost of other (arguably vulnerable) consumers.

A potential solution which would both prevent the widespread use of this option while providing the protection the UR desires, is to amend the licence wording to make it not conditional on making a payment i.e. shall not prevent the customer purchasing their electricity in advance through a prepayment meter due to an outstanding payment (or equivalent alternate wording).

Such an amendment would still allow suppliers to use the non-vending functionality to ensure that a customer registers for their supply, while ensuring that it does not exacerbate hardship by requiring some form of payment to be made. As stated above, vending can be enabled instantly and can be done while the customer is registering. This allows the supplier to have an important interaction with the customer, assess their needs and if appropriate discuss debt plans, recovery rates, support and energy efficiency. This interaction is not possible if a supplier cannot get the customer to engage.

Power NI strongly believes that this proposal meets the UR's protection objective while still affording a supplier the ability to prompt the interaction with the customer. Power NI therefore urges the UR to make this small but important amendment to the proposed licence wording.

Such an amendment is also consistent with the goal which the UR is seeking to achieve via licence modification 2.

- **Licence Modification 2**

Power NI supports the position taken by the UR in licence modification 2. While the clarification of the UR's interpretation is helpful, Power NI considers amending the wording of Condition 30 would have been preferable. Power NI believes having two distinct references to recovery rates (in Condition 30 and now Condition 34) is not good practice and could potentially lead to future issues if they became misaligned. In short, it creates a consistency issue going forward.

- **Licence Modification 10**

Licence Modification 10 includes amendments to Licence Conditions 44 and 50 of Power NI's licence. Power NI considers both of these conditions to be redundant and a relic of the licence written in the early 1990's in a completely different market context. Rather than make the amendments proposed Power NI believes the UR should set both Condition 44 and Condition 50 to "not used".

- **Licence Modification 11**

In relation to Licence Modification 11 Power NI believes there are two drafting errors contained in the wording on Page 47, Extract of Condition1 of Power NI's Licence:

- "related undertaking"- needs the word "interest" added after "participating" to make the definition work properly.
- "Related undertaking"- this is a mistake, there are not two definitions of related undertaking in the licence, this whole definition needs to be removed as there should only be one definition which is the one above.