

02nd April 2015

Ursula Trolan
Utility Regulator
Queen's House
14 Queen Street
Belfast
BT1 6ER

Dear Ursula,

Consultation on the implementation of the Retail Energy Market Monitoring (REMM) framework

Thank you for the opportunity to respond to this consultation. Firmus energy (FE) is pleased to have the opportunity to engage with the Utility Regulator (UR) at the start of this project and trust that meaningful engagement will continue to be a feature throughout the duration of the project. Such engagement should ensure the implementation of a coherent and fit-for-purpose market monitoring framework for gas supply Northern Ireland (NI).

This consultation response confirms and builds upon the issues FE has raised in meetings with the UR regarding REMM.

UR Objectives

The UR states that the REMM project will develop, consult on and implement a comprehensive framework that will:

- enable UR to monitor the NI retail energy markets (electricity and gas) effectively;
- identify risks in the retail market, and address these proactively at an early stage;
- fulfil UR duties on licence compliance monitoring;
- inform regulatory policy, energy policy and price controls; and
- protect and inform consumers by promoting consumer engagement through increased transparency.

FE recognises these objectives are important to the UR and trust that the UR will ensure this work dovetails with the UR's principal objective of expanding the gas network throughout Northern Ireland. It is also important that this reporting framework does not duplicate current reporting and is consistent with the objectives and reporting requirements of the UR Network Directorates.

FE welcomes the UR's decision to introduce a more streamlined reporting system and fully supports a framework that will be based on the principle of proportionality and hope to work collectively to achieve a reporting system which:

- streamlines information requirements to reduce the production of superfluous information;
- reduces the duplication of information by DNOs and suppliers;
- avoids duplication of reporting to multiple UR directorates;
- provides realistic timelines for the submission of information; and
- avoids requirements for information that can only be gathered through disproportionate levels of effort.

As a regulated business FE supports the implementation of marketplace monitoring and recognises that this practice can be as beneficial to the energy providers as it is to consumers. Nevertheless, FE asks that due consideration is paid to the current provision of information to UR by FE which includes:

- Standards of Performance;
- Individual Guaranteed Standards of Service;
- Overall Guaranteed Standards of Service;
- Quarterly Retail Market Report;
- Regulatory Information Guidelines (RIGS);
- Regulatory Accounts;
- Supply Price Control Information;
- Distribution Price Control Information;
- Properties Passed Data;
- Large I&C Monthly Cost Data;
- Monthly Gas Purchasing Data; and
- Quarterly Switching Reports.

Given this level of information provision FE welcomes the UR's aim to strike an appropriate balance between collecting adequate information to monitor the market effectively, and placing an undue regulatory burden on suppliers and network operators.

Application of Good Regulatory Principles

FE welcomes, in developing the REMM framework, the UR's restatement of its key principles of effective regulation, namely, proportionality, consistency, transparency and accountability. The UR has stated that in accordance with upholding these principles it will consider the following:

- what information UR will collect;
- how often UR will collect the information and how this will affect the relevant companies;
- how UR will use the information;
- how UR will maintain proportionality and decide on what indicators to cover; and

- what information UR will publish and how the published data will be disaggregated.

FE agrees that these issues are imperative to the success of this project. Furthermore, for the purposes of clarification FE suggests that the UR, in its final determination, publishes its findings in terms of how it will use all the information gathered.

Interpretation of Information

As previously highlighted FE holds concerns regarding the collection, interpretation and publication of sensitive commercial data including information regarding margins. This is of specific importance given the unique type of licence FE was awarded in 2005. This licence includes a 'Netback Agreement' which adds additional layers of complexity to assessments made by the UR, to wider comparisons, and to the requirement for publication.

FE requests that the UR works to a concept of not treating any single piece of information, or any indicator, in isolation. REMM should paint an overarching picture of how the retail energy markets in NI are functioning.

How REMM data will be used by the UR

FE welcomes the intention that the information will be used internally to help UR to form policy decisions specific to the NI retail market circumstances which are not present in other jurisdictions. There are numerous disparities between NI and GB networks in terms of age, size, geography and demographics, and FE welcomes the UR's recognition of this.

It is also important to note the differences between individual suppliers in terms of reporting techniques and capabilities. For example, the method of reporting customer groups laid out in the workbooks does not reflect FE customer categories. FE acknowledges that the UR recognised this in its meeting on 23rd March 2015 and understand all energy suppliers will have varying reporting techniques. FE requests that the UR is considerate of companies' different reporting systems and categories.

Quarterly Reporting Frequency of Collection and Publication

It is important to highlight that the summation of the quarterly reports may require an overall annual reconciliation in order to equal to the values produced in the annual report. While this should not be required in areas such as switching and complaints, for information submitted quarterly in areas relating to finance and accounting, the summation of the quarters often requires reconciliation with the end of year regulatory (accrual) accounts.

FE also holds concerns that the timelines for submission are overly constrained. FE closes out quarterly accounts two weeks after the Quarter End. This would result in a two week period in which to meet the proposed REMM submission deadline of four weeks after quarter end. FE therefore requests that the UR considers extending the submission deadline to six to eight weeks following the Quarter End.

Freedom of Information

FE holds significant concerns regarding possible public disclosure of any non-price controlled energy suppliers' profit margins. This information can be clearly defined as falling under the Freedom of Information Act 2000 (FOIA) 'commercial interests' exemptions. This exemption protects a company where a disclosure is likely to:

- damage its reputation or the confidence that consumers, suppliers or investors may have in it;
- have a detrimental impact on its commercial revenue or threaten its ability to obtain supplies or secure finance; or
- weaken its position in a competitive environment by revealing market sensitive information or information of potential usefulness to its competitors.

Given the propensity for financial data to be misinterpreted, FE welcomes the UR's decision to be especially prudent when deciding what should and should not be published. Furthermore, FE believes that alongside deciding what data should be published, the UR considers the commercial sensitivity of this data.

Conclusion

FE welcomes the use of the REMM testing phase which allows for regulatory engagement with suppliers and network companies on the interpretation of the test data received. Annex one, appended to this letter, contains further specific information detailing the areas within the spreadsheets which FE feels is especially complex, sensitive or open to misinterpretation. FE looks forward to continued engagement with the UR over the next year to ensure the implementation of a structured and fully considered Retail Reporting Framework. FE is confident that, given the current dialogue between stakeholders and the promise of significant testing and continued review, this project will satisfy the requirements of the UR, all energy suppliers, Network Operators, and consumers throughout NI.

Yours Sincerely,

Peter.

Peter McClenaghan.

Regulatory Affairs Manager.

Annex One

A) Electricity Supply Companies – Quarterly;

At present FE has not entered the domestic electricity market and agree with the UR's current opinion (page 35, para 1) that, ...[the UR] *expect that REMM returns will only be completed for those sectors in which a particular company is active, for example a supplier may be active only in the I&C market and will therefore only complete returns for that sector.*

FE recognises the importance in using customer groupings that can facilitate satisfactory comparison analysis between the individual energy providers across the UK and EU, however FE does not use these groupings for its own internal reporting. To rearrange the FE reporting to reflect these groupings will result in modification to the current reporting systems which will have cost implications.

Cornwall Energy propose three cost allocation and apportionment methodologies, the third of which is their 'preferred' methodology. At its meeting of 23rd March, FE requested greater clarification on the techniques to be used in allocation, and highlighted the problems that may occur in terms of comparison, should energy suppliers use different methods.

In terms of specific issues within the spreadsheet, FE highlighted the following at its meeting of 23rd March:

1. **Debt Contact Notifications** – FE does not collate and report this information at present but could manually carry this out if required due to low customer numbers.
2. **Complaints** – The categories are not in line with current FE reporting however due to low number of customers/complaints this could be carried out manually.
3. **Diversity of Tariffs** – Confirmation provided by UR that as a result of FE having no published electricity tariffs, FE may report this as being 'Not Applicable'.
4. **Final prices** – FE's main concern, as discussed at its meeting on 23rd March, is the calculation of volume sold given the differing quarterly cycles and the requirement to estimate unused volume, which will be a lengthy and complicated manual calculation process based on FE's current reporting system.
5. **Retail Margins** – Allocation methodology and Publication/FOIA issues as discussed in the main body of this letter.

Finally, FE draws attention to the concerns it has with collecting information that gives margins for customer groups rather than an actual overall company margin. It is accepted by the UR that these customer margins will be "approximate" (page 103 para 4) due to the various methodologies that can be used, and FE would question the benefit realised by publishing them. Furthermore it would be FE's opinion that these margin figures should not be placed in the public domain and should be considered as Commercially Sensitive exemptions under FOIA.

B) Electricity Supply Companies – Annually;

FE currently does not operate in the domestic electricity market. Should this remain the case, FE appreciates the UR's suggestion that FE will be able to discuss with the UR what items on the compliance checklist will be deemed 'Not Applicable'.

FE also welcomes the decision to rely on the signing off of the compliance statement by the CEO/Managing Director.

C) Gas Supply Companies – Quarterly;

The key areas of concern for FE are as follows in the gas quarterly report:

1. Market Shares - Although FE Supply currently collects this data, FE would suggest that this information should be provided by the individual Distribution Network Operators (DNOs). Suppliers will provide different information relating to slightly different points in time and making this information difficult to compare. The DNO's workbook also requests information on market share, and so to avoid duplication and improve accuracy, FE therefore believes this reporting responsibility should lie with the DNO.

2. Switching – FE's reporting systems do not use the customer groups currently proposed by UR and there would be a cost to amend them.

FE asks the UR to consider whether the DNOs and the individual suppliers should all be reporting the same switching information as this seems to be a duplication of effort.

3. The last section on the spreadsheet relates to amounts FE would pay to customers who have switched away. As the outgoing supplier FE is happy to make the payment in line with the SMP schedule however FE would be reliant on this information being supplied by the new supplier. In terms of completing this in the timeframes, if the new supplier does not send the information on balances owed to customers by the end of the reporting month, FE would be unable to report to the UR and believe this needs to be taken into account.

FE's records system can generate customer details of customer loss and gain. Erroneous transfers and DCN's are recorded manually which will allow FE to report on the figures.

4. Complaints – As with the customer groupings, FE's complaints are presently recorded under different categories than will be required for REMM. To report on the UR's suggested categories FE need to manually sort and separate complaints into the different areas, or require significant system development to ensure that the complaints categories are in line with the REMM framework.

5. Margin – The areas of concern for Gas Supply margin mirror those as stated for margin in the Electricity Sector. These areas are:

- classification of customer;
- differences in current internal reporting;
- Cornwall allocation methodology clarification;
- approximate margins relating to Customer Group; and
- commercially sensitive information being made exempt from publishing under the FOIA.

6. Timelines – FE have highlighted some of the areas for which it may be unable to meet deadlines due to the actions of other suppliers. In addition to this FE would emphasise that the billing processes and collation of quarterly financial data usually run into the middle of the next month after the quarter ends. With this in mind FE suggest that the submission of quarterly REMM information should be six to eight weeks after the end of quarter instead of four weeks.

D) Gas Supply Companies – Annual;

FE has no major issues with reporting on Disconnections and Renegotiated Contracts. FE can carry out reporting on its renegotiated contracts manually and as discussed at the meeting 23rd march, FE reiterates its query as to whether disconnections should be reported by DNOs or suppliers.

Again FE welcomes the decision to rely on the signing off of the compliance statement by the CEO/Managing Director rather than supply companies having to provide individual evidence for each compliance item. FE recognises that the supplementary information relates to providing evidence of compliance, but this data would not be deemed burdensome to collect.

E) Gas Network Companies – Quarterly and Annual;

It is important to highlight that the information requested is not readily available and will require significant work to develop the required reports.

At its meeting on 23rd March 2015 FE highlighted that its new semi-automated switching system has just been implemented for market opening and comes into effect on 1st April 2015. However FE's aim is to have REMM reporting processes in place to ensure that the information can be provided for the first test in November 2015.

1. Domestic Disconnections where the DNO made decision to disconnect – As discussed on 23rd March 2015, the UR spreadsheet makes reference to 'disconnected due to vacant premises'. FE does not disconnect SMPs for the reason of being vacant and therefore would question the relevancy of this information request.

2. **Switching – ‘Number of Rejections raised by Network Company in response to SMP Confirmation’** – It is worth noting that the FE switching system has been developed to do an instant validation, therefore, a SMP Confirmation cannot be submitted unless it meets the Code requirements. This means that there will be no opportunity for a SMP Confirmation to be rejected. As a result of this, the FE response to this section will always be zero/not applicable.

If a gas supplier cannot submit a SMP Confirmation into the system due to the information not matching the FE asset register, then the supplier will be required to submit an ‘incorrect information’ notification for investigation.

3. **Market Share – Consumption (therms)** – This requests volumes as invoiced to suppliers, however, the classifications that UR is using relates to neither the Network Code nor the Conveyance Charge classifications as defined in the FE Licence. This is specifically an issue for the domestic section, as the Conveyance Charge Statement does not have a charge specific for the domestic sector. The volumes invoiced will be driven by the models developed to comply with the Network Code and charged using the Conveyance Charge Statement. FE therefore asks that the structure of this section is altered to ensure it is in line with the charging categories as defined in the FE Licence.