

7th October 2011

Mary Jones
Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED

Dear Mary

Re: Consultation on the Implementation of the EU Third Internal Energy Package

Thank you for providing firmus energy with this opportunity to respond to the above consultation.

firmus energy was awarded a conveyance and supply licence for 10 towns and cities along the routes of the North–West and South–North gas transmission pipelines in March 2005. To date, we have laid c.640 km of gas distribution mains and contracted to connect 11,000 homes and businesses across our franchise area.

We have also switched 11,000 commercial, SME and domestic customers across Greater Belfast and continue to offer first class customer service demonstrated by the fact that we have yet to have one single Consumer Council complaint lodged against us during the last 6 years.

firmus energy's ambition is to build a safe, robust distribution network throughout the 10 towns and compete fully in the competitive Greater Belfast gas market. We are keen to leverage off our parent company's experience in ROI to develop a dual fuel offering (gas and electricity) to homes and businesses across the province as soon as market conditions allow.

Against this background firmus energy welcomes any provisions that help to reinvigorate an economic and co-ordinated roll-out of the gas network to new areas.

firmus energy welcomes this opportunity to comment on the implementation in Northern Ireland of the third European package in relation to gas and electricity and we recognise that the purpose of several aspects of the implementation of IME3 is to help protect, and improve services for, vulnerable customers in relation to assessing energy services in Northern Ireland and it is intended that IME3 should have a positive impact on society.

Therefore, there is a requirement to impose certain public service obligations on electricity and gas companies and we agree that NI undertakings need to comply fully with EU requirements.

We note that member states must ensure that when a customer wishes to change supplier the change is effected within three weeks and that customers should be able to switch suppliers "easily". We feel it is important for all distributors to develop systems that

facilitate Directive requirements and that procedures and processes are sufficiently robust so as to effect a change of supplier within 3 weeks.

An enduring solution for electricity is currently being developed and is due to “go live” in 2012 which will enable all domestic customers to switch freely.

All gas customers in the Greater Belfast area are now able to switch but some problems have been experienced with the first pay-as-you-go switches. Subject to these being resolved promptly and adequate capacity being provided by the Network Operator, we are hopeful that competition in the Belfast market will continue to develop and provide benefits for all gas customers across Greater Belfast.

We understand that the Department has considered a requirement for electricity and gas suppliers to provide a domestic customer a bill at least quarterly rather than once a year. We are fully supportive of this approach and are already fully compliant.

We understand that electricity and gas suppliers should be required to provide domestic customers with a usage comparison with the corresponding period in the previous year. firmus energy is fully compliant in this regard and had moved swiftly to implement this requirement, upon request by the Department.

We welcome that there is an amended requirement for suppliers to send an accompanying statement to each customer showing the MPRN, name of the tariff, consumption for the period, cost of supply, including and excluding VAT and an illustrative projection for the next 12 months. We are generally supportive of this approach.

We are also supportive of showing premium or discount that applies to tariffs on bills, terms of the contract, information about switching and the overall fuel mix. Regarding rights and dispute settlement, we already outline these on the reverse of our bills.

We understand that there is now a requirement to provide a statement for all customers, including prepayment type customers if there is a request by the customer to do so or indeed an appointed representative of the customer. Also, we would also like to understand what would constitute evidence that there has been efforts to read a customer's meter.

Consumer checklist:

We recognise that consumers should be provided with a copy of the consumer checklist. We understand that a new obligation will be placed on suppliers to provide copies of the checklist upon signing a new contract on an annual basis and this could be included on suppliers' websites or upon request by the customer.

We understand the checklist will contain details of suppliers tariffs, customer service details, complaint numbers and availability of suppliers.

Given that this will be a sizable document we feel this should be sent to customers upon request and/or provided via a link on suppliers / Utility Regulator's website.

Customer Information: Dispute Settlement:

Member states should ensure that customers' rights with regards to the means of dispute settlement are communicated on customers' bills and to draw customers' attention to the complaints code of practice and make it available to customers. We consider the requirement to have a code of practice for dealing with complaints from business customers as a reasonable next step. However, business complaints will undoubtedly place a greater workload on the Consumer Council.

We agree that an obligation placed on suppliers to inform customers via bills and promotional material that consumers can complain using the suppliers' complaints procedure is welcome.

firmus energy has, over the last 6 years, never received a single Consumer Council complaint. We believe the current regime works and that by following our core brand values of Clarity, Integrity and Empathy we have been able to offer customers a first class service.

Enhanced Customer Protection provisions:

There is a new requirement for member states to define vulnerable customers and to prevent disconnection of vulnerable customers at critical times. firmus energy is already compliant in this regard. We do not cut off vulnerable customers in winter months between 1st October and 31st March.

We see that the Utility Regulator has proposed that the amount that can be recovered from each "top up" purchased by a customer as payment towards debt should be limited to 40% of the total payment purchased unless a higher amount has been specified by the customer. *We are comfortable with this approach.*

Electricity licensees are obliged to assist those having difficulty paying their bill. A similar provision is made in Condition 2.23 of the gas supply licence. The Fuel Poverty Strategy for Northern Ireland defines vulnerable customers as those who are aged over 60, chronically sick or disabled and those with children under the age of 16.

We believe this seems a reasonable position to take in regard to targeting groups in most need. However, we feel that it is important to point out that it is people who are elderly – over 60 and living alone who are in most need. With limited resources, if households with children under 16 are targeted, we run the risk of not addressing the primary aim of heating the homes of the most vulnerable in society – namely, the elderly.

A key tool for addressing fuel poverty in Northern Ireland is the Warm Homes Scheme, which helps thousands of vulnerable households each year. firmus energy continues to work closely with Warm Homes. However, we are also keen to see the introduction of boiler replacement schemes to remove old inefficient heating systems and replace them with new high efficiency boilers with 90%+ efficiency. Only by doing so will we address one of the fundamental long term problems - energy inefficient homes.

Regarding Guaranteed Standards of Performance for gas conveyance and supply, we have provided comment under separate cover.

Gas supply licence Condition 2.10 requires that licensees have arrangements in place for the provision of advice to household customers on the efficient use of gas. firmus energy is the only supplier in the UK to have had all of our staff undertake the NEA's City & Guilds energy efficiency course. This enables firmus staff to offer free and impartial energy efficiency advice to customers. We also work with Heatsmart and Bryson Energy to offer first hand energy efficiency advice to customers.

We note that suppliers are not currently obliged to give energy efficiency advice to businesses. We understand that the Department proposes that a licence condition suggests that a new licence condition should be introduced to provide business customers about sources of energy efficiency advice and financial assistance for energy efficiency measures. We are supportive of this approach given that we work closely with both the Energy Saving Trust and the Carbon Trust to provide advice and help to both domestic and commercial customers.

Licensees are required to carefully select sales agents and provide them with sufficient training to understand the electricity supply market contract terms and conditions.

We welcome a revised marketing code of conduct and, as firmus energy has already signed up to the Consumer Council's marketing code of conduct, back in 2006, we have no issue working with the Utility Regulator and in consultation with the key energy players in NI to update any code of conduct.

In line with our brand values of Clarity, Integrity and Empathy we continue to provide customers with clear, factually accurate information, delivered by fully trained professional staff. Testament to this approach has been the fact that we have yet to receive a single Consumer Council complaint. However, keen not to rest on our laurels, we can confirm that we welcome the opportunity to work closely with the Utility Regulator and the wider energy industry to develop robust, fit for purpose marketing codes of conduct.

However, the code of conduct seems to focus on distribution company activities. We feel there needs to be codes of practice developed so that customers are not being misled by suppliers. We have previously sent a draft copy of this to the Utility Regulator.

In summary, we would urge conditions to be put in place so that the incumbent supplier should have the following reasonable obligations placed upon them.

- Where requested to provide comment on a competing offer, the incumbent supplier shall only outline to the customer the details of their own offer including information on their own published tariffs
- The incumbent supplier should not make any comment on the terms and conditions of any offers of competing suppliers
- The incumbent supplier shall not discuss, in any circumstance, the financial standing, competence or integrity of a competing supplier
- In all events, the incumbent supplier shall not make comment on a competitor's business or operation
- The incumbent supplier must ensure that any information or services discussed with the existing customer are consistent with the conditions of their supply licence

The incumbent supplier should only contact the customer for the following reasons;

- major conditions relating to gas transportation or supply problems in NI, GB or the EU
- emergency contact at the request of the Network Operator
- any issue in relation to the supply agreement between the incumbent supplier and the customer; e.g.
 - non-compliance with contract terms
 - operational issues impacting billing, meter reading or customer contact
 - future contractual changes as a result of legislative change
 - changes to their customer offer, their tariffs and/or transportation charges

Unbundling Distribution & Supply:

We understand that there is a proposed modification that will place an obligation on the company that any communication which refers to its brand and is issued to customers does not create confusion with regard to the separate identities of the network or supply businesses.

We note that this will apply in the first instance automatically to network businesses that has more than 100,000 connected customers – so to PNG with immediate effect once the modification is made.

The consultation states that as firmus energy has fewer than 100,000 customers this will not apply to firmus until such time as firmus energy's customer base exceeds that number or the UR has directed that the relevant direction shall apply even though the customer base is less than 100,000.

In the first instance for clarity the relevant number is of customers **connected** by firmus distribution not of customers of firmus energy.

This is absolutely clear from the text of the Directive. Furthermore, UR has already confirmed that the exemption will apply to firmus distribution and this is the basis on which it was granted and has accepted its licence. This discretion has accordingly already been exercised. Therefore, we are not in a position to accept any such proposal made by the Utility Regulator's office.

Provision of final bill:

The Department is minded to introduce a new supply licence condition requiring electricity and gas suppliers to send customers a final bill within 6 weeks from when a customer switches to a new supplier.

We would welcome this development but would suggest that a bill could easily be provided within 4 weeks rather than 6 weeks.

We also feel competing suppliers need to be provided with 4 weeks' notice and the actual revised tariff prior to the incumbents tariff changing so as to enable competing suppliers to notify their customers at least 14 calendar days prior to any change.

Gas Systems:

We note that there is currently no linepack service available to users of the gas transmission pipelines and that the Department does not propose to take measures to implement these provisions of the Gas Directive.

firmus energy believes this is a missed opportunity as we have experience of running a Northern Ireland Inventory Product trial. The aim of the Inventory Product service was to buy gas when gas prices were lower and to store it in the pipeline for use at peak times when gas prices tend to be higher.

Business rules were agreed and the trial was operationally successful.

The aim of the trial was to identify volume opportunities for storage within the NW and SN pipelines. It aimed to identify and resolve any operational and code issues associated with storage and it also aimed to quantify potential savings that such a service can offer Northern Ireland gas consumers.

firmus energy believes that the potential for such a service should be reconsidered by the Utility Regulator.

Non-Discriminatory Conduct and Effective Competition:

We understand that the Utility Regulator is proposing to strengthen the obligations relating to matters in which PNG and firmus energy conduct their business such that there are a number of proposed modifications.

One of the proposed modifications is to prohibiting the licensee from giving statements about the state of play in the competitive supply market or about the activities of competing suppliers without such statement having been approved by the Utility Regulator.

Not only should this relate to the distribution businesses it must also relate to the supply entities as well, if such a licence modification is to have any effect.

Customer Information: Transparency of Information:

The Utility Regulator has proposed that gas distribution licensees will be required to prepare jointly a Customer Information Code to include steps customers need to follow for premises to be connected, contractual terms and conditions that may govern a connection and the licensee's complaints handling procedure.

We are unsure as to the merits of this proposed modification given that both firmus energy and PNG have Connection Policies setting out the rules around connecting to the distribution systems and each have their own complaints handling procedures.

I trust you find these comments useful.

Once you had an opportunity to consider this response, we would welcome the opportunity to discuss it with you, either individually or as part of a wider industry forum.

Yours sincerely

Michael

Michael Scott
Acting General Manager