

Graham Craig
Utility Regulator
Queens House
14 Queens Street
Belfast
BT1 6ED

10 May 2017

Consultation on the proposed modification of gas conveyance licences – Gas Transmission Price Control Process Amendments

Dear Graham,

Mutual Energy Limited is grateful to have the opportunity to respond to this consultation on behalf of its three wholly owned subsidiaries Premier Transmission Limited (PTL), Belfast Gas Transmission Limited (BGTL) and West Transmission Limited (WTL), which hold licences to convey gas granted pursuant to the Gas (NI) Order 1996.

We request that you note the following:

Chapter 4 Forecast Uncontrollable Operating Expenditure

Whilst we are fully supportive of a modification to require the submission of details on our Uncontrollable Operating Expenditure in addition to Controllable Operating Expenditure we are not supportive of the inclusion of the definition of Uncontrollable Operational Expenditure as drafted in the proposed modification. Previously, any expenditure that did not fall within the Controllable Operating Expenditure definition was, by default, considered to be Uncontrollable Operating Expenditure, eliminating the potential of a mystery third category. However, with the proposed modifications, expenditure must fall within either definition which introduces risk as costs could fall outside the definition of eligible pass through costs hence undermining the construct of the licence.

If Uncontrollable Operating Expenditure must be defined, we suggest that it is defined as "shall comprise those categories of expenditure that are outside the reasonable control of the Licensee." Reference to the list of "Uncontrollable Operating Expenditure" should be removed or noted as a non-exhaustive list, to eliminate the risk of items of expenditure falling outside the Controllable Operating Expenditure and Uncontrollable Operating Expenditure list. Ex ante we would not expect it to be possible to determine a complete list of either controllable or uncontrollable expenditure as it is impossible to foresee everything and the licence should refer to the principle test.

Chapter 8 First Operational Commencement Date

We understand that the intention of the change to the First Operational Commencement Date (FOCD) in the WTL licence is to ensure that the completion of Early Sections would not trigger the FOCD.

However, the consultation paper also states in 7.3 that prior to the FOCD the rate of return the licence holder receives on their investment is limited to a rate equal to LIBOR + 0.5%.

This should not be the case for sections which are deemed to be an Early Section. Under condition 4.5.9 (b) the rate of return should be applied in relation to Early Sections between the date when each Early Section is operational and the FOCD. The concept of Early Sectional Completion was subject to a long period of discussion with NIAUR as the licence was developed, with the intention to incentivise early provision of gas to customers. The LIBOR +0.5% return was designed as a working capital allowance for assets being built but not put into use. We expect that there has been an oversight on this important matter and that NIAUR did not intend to propose such a change to a key licence condition which was previously agreed. We would expect a rate of return of 1.98% to be applied to the Early Sections as was originally intended, instead of LIBOR + 0.5% as indicated in the consultation paper.

We don't believe that (under the existing definition of FOCD in the Licence) the fact that a short length of high pressure pipeline and an AGI are installed will trigger the occurrence of FOCD. It is necessary to construe the reference to Network in the existing definition of FOCD as a reference to the entirety of the Network which will come into existence after completion of the construction activities. The alternative construction is not plausible as it would produce an outcome which clashes with the carefully worded provisions in relation to Early Sectional Completion and make other key conditions of the Licence practically inoperable – for example (i) Condition 4.2.1(c), (ii) the calculation of the Am term in the formula in Condition 4.5.2 (iii) the calculation of the Allowed Capital Expenditure (AC) term in the formula in Condition 4.5.6 and (iv) the calculation of the Capitalised Interest (CI) term in the formula in Condition 4.5.7.

Chapter 5 Timelines

As acknowledged in 5.8 of the consultation paper, the earlier submission of cost estimates for a longer period will inevitably lead to a reduction in the accuracy of such estimates.

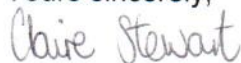
The requirement on the Authority to notify licence holders of the BCO within a 28 day timeframe has been removed. We would welcome the inclusion of a commitment to a timeframe as this would facilitate business planning in the licence holders.

Other Comments

We note minor typing errors in 3.1.4 of the BGTL licence which has a double minus symbol in the ARR formula and also in 3.1.6(f)(i) there is an additional 0 in 2011, 2014 and 2017.

Should you wish to discuss any aspect of our response please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in blue ink that reads "Claire Stewart".

Claire Stewart