



# Licence Modifications Pursuant to the GD23 Final Determination and other Regulatory Decisions

Decision Paper  
22 February 2023



## About the Utility Regulator

Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of directors representing each of the key functional areas in the organisation: Corporate Affairs, Markets and Networks. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.



### Our mission

To protect the short- and long-term interests of consumers of electricity, gas and water.



### Our vision

To ensure value and sustainability in energy and water.



### Our values

- Be a best practice regulator: transparent, consistent, proportionate, accountable and targeted.
- Be professional – listening, explaining and acting with integrity.
- Be a collaborative, co-operative and learning team.
- Be motivated and empowered to make a difference.



## Abstract

We are publishing our decision on licence modifications pursuant to the GD23 Final Determination and to other regulatory decisions following our consultation on proposed modifications. GD23 is the price control for the gas distribution companies Phoenix Natural Gas Ltd (PNGL), Firmus Energy (FE) and SGN Natural Gas Limited (SGN) for the six years from 2023 onwards.

The GD23 Final Determination sets the amount the gas distribution companies will have to run their businesses and invest in the gas network. Licence modifications are required to bring the price control into effect.

Furthermore, we are making additional licence modifications that are consequential on other decision papers published by the Authority or required to address some inconsistencies between the licences held by the GDNs.

We have consulted on all proposed licence modifications in order to preserve the right of licence holders and stakeholders to challenge our price control decisions to allow consideration of responses before making a final decision on licence modifications to bring them into effect. Our consultation period ended on 25<sup>th</sup> November 2022 and this paper represents our decisions following consideration of the responses received. The licence modifications outlined in this decision paper will apply with effect from 1 January 2023.

## Audience

The licensees affected, other regulated companies in the energy industry, government, other statutory bodies and consumer groups with an interest in the energy industry.

## Consumer impact

The GD23 Final Determination sets out the allowed distribution charges for the gas distribution companies as well as a range of measures designed to increase the number of consumers that can connect to the natural gas network and improve customer service for natural gas customers. The proposed licence modifications will serve to bring this package into effect. In addition, we are making further licence modifications which will serve to apply best regulatory practice and ensure ongoing focus of the GDNs on the development of their networks as well as, where relevant and appropriate, equality in the treatment of licence holders.



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Annex	Annex Title
Annex 1	FE Licence – Licence Modifications
Annex 2	PNGL Licence – Licence Modifications
Annex 3	SGN Licence – Licence Modifications
Annex 4	Decision under Article 14(8)- (10) of the Gas (Northern Ireland) Order 1996 – FE
Annex 5	Decision under Article 14(8)- (10) of the Gas (Northern Ireland) Order 1996 – PNGL
Annex 6	Decision under Article 14(8)- (10) of the Gas (Northern Ireland) Order 1996 – SGN
Annex 7	FE Licence consultation response.
Annex 8	PNGL Licence consultation response.
Annex 9	SGN Licence consultation response.

# 1. Introduction

## Purpose of this Document

- 1.1 GD23 is the name given to the price control for the six-year-period from 1 January 2023 for the three gas distribution network operators (GDNs) in Northern Ireland (NI). On 28<sup>th</sup> October 2022 we consulted on licence modifications to the conveyance licences for the three GDNs:
- Firmus energy (FE);
  - Phoenix Natural Gas Limited (PNGL); and,
  - SGN Natural Gas Limited
- 1.2 Our [consultation on licence modifications](#) was pursuant to the [GD23 Final Determination](#) and other regulatory decisions and was published together with our Final Determination on the GD23 price control. As part of this price control package, we made a number of decisions which are detailed in the GD23 Final Determination and need to be implemented through licence modifications to bring them into effect and preserve the right of the licence holders and other key stakeholders as set out later to challenge our price control determination.
- 1.3 The Utility Regulator considers that the licence modifications in this document are required to comply with our legal and regulatory obligations (summarised below in the Legal and Regulatory Framework section), to give legal effect to several decisions published by the Authority.
- 1.4 The main changes include the following:
- Updating of Designated Parameters and Determination values within the licences to bring into effect the Final Determination allowances for FE, PNGL and SGN.
  - Modifications to change the definitions of "domestic new build" and "NIHE" (Northern Ireland Housing Executive) in the PNGL and SGN licences. These definitions are provided by the Utility Regulator in its guidelines for annual cost reporting.
  - Change of indexation to stipulate that Retail Price Index (RPI) is to be used to 31st December 2022 with Consumer Price Index including Owner Occupied Housing (CPIH) taking effect from 1 January 2023.

- Change from London Interbank Rate (LIBOR) or equivalent to be used up to and including 31 December 2022 and the Bank of England base rate to be used on and from 1 January 2023.
- Additional development areas for FE to be stipulated within the FE licence. We proposed extending the FE Licensed Area to regularise network development already carried out by the company in areas outside its current Licensed Area.
- Other minor licence modifications to the FE, PNGL and SGN licences for the purpose of dealing with incidental and consequential matters and removing drafting errors and inconsistencies

1.5 The purpose of this document is to follow-up on these proposals and enact the licence modifications required to bring them into effect.

1.6 We note that not all licence modifications are applicable to all GDNs. Table 1.1 provides an overview over the different types of licence modifications we are making, and to which GDNs they should apply. In addition, we are taking the opportunity to make several minor licence modifications following GDN consultation responses and feedback.

Type of Licence Modification	Relevance			Background
	FE	PNGL	SGN	
Update of designated parameters and determination values	X	X	X	GD23
Changing from RPI to CPIH	X	X	X	GD23
Granting of Additional Areas	X			GD23
Change from LIBOR or equivalent to BOE Base Rate	X	X	X	GD23
Correction of licence inconsistencies	X	X	X	Various

**Table 1.1: Overview of Licence Modifications**

## Consultation responses

1.7 Our consultation on licence modifications concluded on the 25<sup>th</sup> of November 2022. We have received responses from each of FE, PNGL and SGN. Their respective responses are annexed to this paper as follows:

- FE – Annex 7;
- PNGL – Annex 8; and
- SGN – Annex 9.



## Overview of consultation responses received

- 1.8 We note that in their consultation responses, GDNs provided feedback not only directly relating to the licence modifications, some of the GDN feedback relates to the allowances and decisions made at GD23. We have explained in detail the reasons for our decisions and additional narrative on our reasoning may be found in the Final Determination for GD23 and associated annexes.
- 1.9 Furthermore, we intend on taking cognisance of consultation responses received from GDNs, through a variety of ways going forward:
- By conducting a Lessons Learned from GD23 exercise which will be considered and feed into the GD29 Price Control and other regulatory processes;
  - Through the general operation of the price control process;
  - By utilising the Uncertainty mechanism where required where changes are envisaged/ occur over the course of the price control; and
  - By ongoing engagement and liaison with GDNs and stakeholders as required.
- 1.10 We outline below some of the areas noted in GDN consultation responses which are not directly related to the areas identified for consultation in the licence consultation document and indicate our initial views on them or how we propose to consider them further in the future.

### ***FE***

- 1.11 FE noted that the UR could have improved consultation with stakeholders. We look forward to carrying out a Lessons Learned exercise to see how FE consider we could improve as no detail has been provided to date. We welcome all proposals that can improve this process.

### ***PNGL***

- 1.12 PNGL stated that the UR could have introduced improved procedures for GD23. We will consider PNGL feedback and liaise with GDNs in our Lessons Learned exercise.

### ***SGN***

- 1.13 SGN noted that it is disappointed with the UR's decision to maintain the bid position for the years 2023 to 2027 in relation to the Managed Service

Agreement for services provided by the SGN Group. However, it welcomes the UR's decision to drop the linkage in the year 2028.

- 1.14 In its consultation feedback, SGN stated that the UR has not considered the importance of including the cost of carbon within the economic appraisal at this time. We will liaise further with GDNs and relevant stakeholders in relation to the cost of carbon to determine an appropriate way forward.
- 1.15 SGN stated that there are 'incorrect' and 'inconsistent' connection numbers utilised in the Final Determination. We do not agree with SGN's comments in this area and have considered this in further detail in the designated parameters section below.
- 1.16 SGN provided feedback in relation to the marketing efficiency. SGN stated that the application of marketing efficiency has been applied at 33%, which is the non-additionality factor that was applied to PNGL during GD17 and that applying this efficiency assumption at such an early stage of network development for SGN unfairly penalises consumers. We have considered SGN's feedback and are not changing our approach in this area since there is no error, namely a decision which has been documented within the Final Determination.
- 1.17 We will consider all SGN feedback as part of our Lessons Learned exercise, where relevant and appropriate.

## **Document Structure**

- 1.18 This decision document is structured in several chapters as follows:
- Chapter 1, Introduction, provides an overview of the purpose and structure of this decision document and summarises our approach to making the licence modifications as well as the legal and regulatory background to the licence modifications.
  - Chapter 2, Update of Designated Parameters and Determination Values, details our required licence modifications in this area as well as the associated reasons and effects. We present any consultation responses in this area and the UR's consideration of same in making our decision.
  - Chapter 3, Licence Modifications pursuant to the Granting of Additional Areas to FE details our required licence modifications in this area as well as the associated reasons and effects. We present any consultation responses in this area and the UR's consideration of same in making our decision.

- Chapter 4, Change from RPI to CPIH, details our required licence modifications in this area as well as the associated reasons and effects. We present any consultation responses in this area and the UR's consideration of same in making our decision.
  - Chapter 5, Change from LIBOR (or equivalent) to BOE Base Rate, details our required licence modifications in this area as well as the associated reasons and effects. We present any consultation responses in this area and the UR's consideration of same in making our decision.
  - Chapter 6, Correction of Licence Inconsistencies, details our required licence modifications in the area as well as the associated reasons and effects. We present any consultation responses in this area and the UR's consideration of same in making our decision.
  - Chapter 7, Next Steps, sets out our proposed timelines for the remainder of the licence modification process. We present any consultation responses in this area and the UR's consideration of same in making our decision.
- 1.19 This document is complemented by nine annexes. For each GDN, there is one annex setting out the required licence modifications as tracked changes to the current licence conditions and one annex containing the legislative notices of the required modifications.
- 1.20 Each of the Chapters 2 to 6 detail the licence modifications and follow the same structure. At the start of the document, we set out the background for our proposals and to which GDNs we consider they should relate. We then present the required licence modifications, grouped by GDN as appropriate, and subsequently detail the associated reasons and effects.
- 1.21 We note that in the interest of avoiding duplication, for licence modifications required pursuant to consultation outcomes and regulatory decisions which are published and substantiated in other supplementary documents, we have, where appropriate, cross-referenced the reasons and effects detailed in those documents in the present consultation on licence modifications. This is particularly the case for those licence modifications required pursuant to decisions detailed in the GD23 Final Determination.

## **Approach**

- 1.22 In the interest of transparency and in line with best practice regulation, we consider it important to give the GDNs appropriate notice of any licence modifications we intend to make and to offer adequate opportunities for

engagement on such proposals. We have provided the GDNs with details of the required licence modifications, including advance sight of the proposed changes to their licence, at as early a stage as possible. For some licence modifications, these detailed proposals were included in our GD23 Draft Determination, for other parts, we shared them in the process of preparing this consultation on licence modifications. In preparing this decision paper, we have considered the comments we have received from the GDNs and other stakeholders on the licence modifications and considered whether any amendment to the proposals made in our consultation paper was required.

1.23 Section 7, Next Steps, sets out the key next steps and associated timelines for the remainder of the licence modification process.

1.24 The date for all licence modifications proposed in this document to be made will be on 19 April 2023. However, the modifications will be treated as applying with effect on and from 1 January 2023.

## **Legal and Regulatory Framework**

1.25 Our principal objective in carrying out our gas functions is to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland, and to do so consistently with our fulfilment of the objectives set out in the European Gas Directive<sup>1</sup>, and by having regard to a number of matters, as set out more fully in Article 14 of the Energy (Northern Ireland) Order 2003<sup>2</sup>.

1.26 Each of the three GDNs in Northern Ireland, have been granted a conveyance licence. This sets out rights the GDNs have and obligations they need to comply with when developing and operating a gas distribution network in their licensed areas.

1.27 In fulfilment of our duties, we may propose to make modifications to these licences under Article 14 of the Gas (Northern Ireland) Order 1996<sup>3</sup> (the Gas Order). Article 14 sets out process we need to follow when making licence modifications. We need to give notice of at least 28 days of the proposed modification. We must give due consideration to any representations made during this period and publish our decision and the licence modification, stating the reasons for it and its effects. The date on which the licence modification takes place must be at least 56 days after the publication of the licence modification decision.

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<sup>1</sup> Directive 2009/73/EC of the European Parliament and the Council of 13 July concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

<sup>2</sup> <http://www.legislation.gov.uk/nisi/2003/419/contents>.

<sup>3</sup> <http://www.legislation.gov.uk/nisi/1996/275/contents>.

- 1.28 Since the Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015<sup>4</sup> came into effect on 6 February 2015, we no longer need the consent of the licence holder to make a modification to its licence. In consequence of that, we no longer require a power to refer a licence to the Competition and Markets Authority (CMA) if consent is withheld. Licence modification decisions are automatically effective. However, any licence modification decision made under Article 14 of the Gas Order may be appealed to the CMA by:
- the licence holder concerned;
  - any other licence holder materially affected by the decision;
  - a qualifying body or association representing a licence holder concerned or a licence holder materially affected by the decision; or
  - the Consumer Council for Northern Ireland.
- 1.29 If an appeal is brought to the CMA within 20 working days, the CMA will in a first step decide whether to give permission for the appeal to proceed or not. If permission is granted, the CMA has a period of 4 months, or in the case of licence modifications relating to price controls 6 months, in which to determine the appeal. These timelines can be extended to 5 months, respectively and 7 months for licence modifications relating to price controls, if required.
- 1.30 As indicated in the preceding paragraph, licence modifications made under Article 14 of the Gas Order may relate to price control decisions or other decisions. It should be noted, however, that one consequence of the Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015 coming into effect is that, to preserve the right of licence holders to challenge price control decisions through their referral to the CMA, those decisions now need to be brought into effect through licence modifications. More specifically, for each GDN the relevant designated parameters and determined values need to be updated in the respective licence conditions, in line with the price control Final Determinations.

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<sup>4</sup> <http://www.legislation.gov.uk/nisr/2015/1/contents/made>.

## 2. Update of Designated Parameters and Determination Values

### Overview

- 2.1 As noted in Chapter 1, licence modifications are required to update the relevant designated parameters and determination values in the GDNs' licences and bring into effect the GD23 price control decisions.
- 2.2 The designated parameters and determination values will be updated for each GDN, and, while the values proposed and the licence conditions containing them may differ, the need to implement related licence modifications and the reasons for those modifications are the same for each GDN.
- 2.3 We set out our initial views on the proposed designated parameters and determination values in Chapter 11 of the GD23 Draft Determination. We have since revised these proposals, based on stakeholder feedback and further internal analysis, as detailed in our GD23 Final Determination.
- 2.4 We note that for all three GDNs, the list of designated parameters and determination values to be determined as part of GD23 has changed because of other licence modifications outlined in this licence modification decision document. The reasons for and effects of these changes are detailed in the respective chapters; the related values proposed based on our GD23 Final Determination are discussed in this chapter.
- 2.5 We consulted on proposed GD23 licence modifications in our [consultation document](#).
- 2.6 In this decision document we present the reasons for and effects of the required licence changes, any consultation responses received and our consideration of same in formulating our decision on licence modifications in the respective chapters.
- 2.7 The remainder of this chapter covers designated parameters and determination values required for GD23 and specifically addresses:
  - Details of consultation responses received in this area and the UR's consideration of same in formulating our decision.
  - The licence modifications for each GDN (FE, PNGL and SGN); and
  - The associated reasons for and effects of the modifications.

## Consultation responses and the UR's consideration of responses

### *FE*

- 2.8 The main points made by FE in this area are outlined below.
- 2.9 FE provided feedback in relation to financeability in its consultation response and considered that financeability metrics, even at notional gearing levels of 45% show FE falling below the 1.4 threshold value of PMICR suggested by rating agencies.
- 2.10 FE made several comments in relation to the Rate of Return. These are: that the value for asset beta is at the lower end of the range, gearing is too low and that inflation and cost of debt are inappropriate.
- 2.11 FE has stated that whilst the final determined GD23 allowances for operating costs and capital expenditure are less than its submitted figures, it welcomes movements from the Draft Determination.
- 2.12 FE considers, that in relation to Audit, Finance and Regulation allowances, comparisons were drawn between proposed GD23 allowances and GD17 allowances with no recognition of actual historic costs or the increased allowance provided to PNGL for the same activities.
- 2.13 FE stated that the capital cost sharing mechanism provides protection to consumers and FE on capital cost underperformance. However, FE stated that there is no similar mechanism for operational costs and any underperformance on contractor operational costs will be borne by FE.
- 2.14 FE stated that in view of reduced connection forecasts and excluded work, the capital costs are broadly appropriate to support activities within the GD23 six-year period. Furthermore, FE welcomes the movements in domestic service allowances and the frontier shift, which it considers reflect the cost pressures in the industry, specially passed on to it by its contractor.
- 2.15 FE does not believe it to be appropriate for the Utility Regulator to consider redetermining the published GD23 Final Determination allowed rate of return and revenue figures, updating forecast metrics that are already subject to retrospective adjustment. FE considers this accentuates the procedural shortcomings and adds significantly to the regulatory burden on the company.



## **PNGL**

- 2.16 PNGL stated that it should be able to undertake an assessment based on the UR's final decision at this stage of the price control review. Instead, its review has become extremely difficult given UR's indication that its position on some crucial aspects of its Final Determination may still change prior to the final decision on the proposed licence modifications. This creates uncertainty for PNGL, makes it difficult to fully assess the impact of the Final Determination and the proposed licence modifications and significantly compresses the timeline available to review the UR's final position. As a matter of regulatory principle, it would be wholly inappropriate to introduce material changes into the final text of the licence without sufficient warning, transparency, and/or a proper consultation process, which would ensure that PNGL's views and rights have been properly considered by UR.
- 2.17 PNGL states that the UR did not issue the pre-tax WACC based on the correct corporation tax rate, given that the 25% tax rate was clearly known at the time of the Final Determination. Following the price control, PNGL stated that the impact of using a tax rate of 19% as opposed to 25% relates to a £9m 'shortfall.' There is a mechanism to true up this 'shortfall' in the Price Control process, however, PNGL is stating that this value needs to be adjusted at the outset to improve its financeability and cashflow (for example its financial ratios, its ability to make dividend payments, etc).
- 2.18 PNGL stated that it has concerns regarding the forecast inflation factors used in the Final Determination and the potential impact on financeability metrics. PNGL considers that the UR has erred in how it has utilised the forecast inflation rate for the GD23 period, by using the profiled rather than average inflation to discount the annual cost of debt, in the knowledge that changes to actual inflation flow through to TRV and not income. PNGL considers that this significantly skews income for any year in which the forecast annual inflation is higher or lower than average and artificially alters financeability metrics accordingly. Following its consultation response, we have been engaging with PNGL and it has stated that the impact of the inflation used in the Final Determination is in the region of a £17m deficit. We note that there is a process to true up the inflation in the Price Control process so that the company's allowances are trued up, however, PNGL would prefer this adjustment to be made now, based on latest inflation forecasts to improve financeability and cashflow.
- 2.19 PNGL notes that any downward movement of the risk-free rate would be of concern, particularly when the UR already plans to true-up the value ex-post.
- 2.20 PNGL states that any decision to revise target iBoxx further downward would further weaken an already critical situation for PNGL. PNGL states that the



absence of a within-period trigger mechanism has left PNLG exposed to funding any adverse movement between the reference iBoxx within the Final Determination and the market position at the time of refinancing. Therefore, given such weak financeability metrics, UR needs to consider not just the current market rate but also build in sufficient headroom to deal with current market sensitivities and avoid any potential negative market movements.

- 2.21 PNLG has commented in relation to connection numbers in the Final Determination. It states that it considers this aspect relevant to two areas –in relation to opex connection numbers where it considers that no adjustment is required; and in relation to Connections capex where the current determination values in the licence should reflect UR’s Final Determination for connections and therefore Owner Occupied services and meters capex within the Pi model should be based on the Owner Occupied connections detailed in Annex C.

### **SGN**

- 2.22 SGN has made several comments in relation to financeability aspects. SGN considers the embedded cost of debt is incorrect and that GDNs need to be provided with additional detail for the calculation of equity and debt.
- 2.23 SGN considers there are inconsistent connection numbers throughout the GD23 Final Determination which have resulted in incorrect allowances being proposed and SGN estimate that the additional capex ‘awarded’ arising from the incorrect connection numbers is more than £1.3m for the duration GD23 (post frontier shift).
- 2.24 SGN considers that the use of ‘incorrect’ connection numbers, which result in inflated capital and opex allowances within the GD23 Final Determination, also results in an inflated conveyance tariff for the period. SGN state that if this is not corrected, consumers on the SGN network will be faced with paying more for conveyance charges throughout GD23.

### **UR’s consideration of GDN feedback**

- 2.25 We have considered all GDN feedback in relation to financeability and note that the Final Determination documents comprehensively explain our decisions in this area. We also note that many of the issues raised by GDNs can be addressed via the Uncertainty Mechanism within the price control, without making any adjustments to our proposed licence modifications.
- 2.26 However, we take the opportunity here to make some further observations in support of our decisions in this area. Moreover, we have decided, based on our consideration of the consultation responses, to modify certain aspects of

our earlier decisions and to reflect these changes in the final licence modifications.

### **Corporation Tax and Inflation**

- 2.27 In our licence modification consultation, we noted that some of the data on which we had relied in our Final Determination, being drawn from government and other independent sources, were susceptible to change. We indicated that we would consider the latest relevant information from these data sources, along with the consultation responses, before making final decisions on the licence modifications.
- 2.28 We have considered the latest data and consultation responses from GDNs in this area, particularly having regard to the submissions of PNGL. Following our review, we have decided to amend the Corporation Tax Rate and the inflation forecast for the Price Control. The impact of these two changes will be NPV neutral as it is mainly a timing issue of when an adjustment is made, and there will be minimal effect on customer bills. We outline our reasoning below.
- 2.29 First, we are adjusting the corporation tax rate change from 19 to 25%, in line with the Government's latest policy statements in this area. Corporation tax is a variable value which may be amended by Parliament from time to time. Although it is usually stable for a number of years, it could in principle change more than once during the period of any price control. Usually, when setting a price control, the corporation tax rate would be set at the level prevailing at that time. If changes in its value then took place during the price control period, the licensed companies (and consumers) would be held harmless in relation to those changes (whether up or down) through adjustments having effect by means of the Uncertainty Mechanism.
- 2.30 Accordingly, our original intention was to set the rate for corporation tax at 19% – its level throughout the period when we were consulting on the GD23 price control, and still its level on the date when we are publishing this decision document – and to allow the Uncertainty Mechanism to operate to deal with any changes during the six years of GD23. This was consistent with usual regulatory practice.
- 2.31 The argument for increasing the tax allowance figure to 25% was that the Government signalled some time ago its intention to increase the tax rate to 25% with effect from April 2023, close to the start of the GD23 period. As against this, there has been considerable uncertainty because Government policy changed twice during the autumn of 2022 – first to withdrawing the proposed increase, and then to reinstating it. Consequently, it has been very

difficult to arrive with any level of confidence at a conclusion as to what the likely rate of corporation tax during GD23 would be.

- 2.32 However, there has recently been greater stability, leading to more certainty in this area, and it now appears highly likely that the rate will be increased to 25% in April 2023 and that this rate will prevail for the foreseeable future. Given the proximity of this change to the time at which the UR is making the price control licence modifications – and taking into account the representations made by PNGL in particular that there is a financeability benefit to it of having certainty as to the 25% rate from the start of the price control and not having to rely on the Uncertainty Mechanism to correct the position later - we are changing the corporation tax rate from 19% at the Final Determination to a rate of 25%.
- 2.33 Although PNGL made the strongest submissions on this issue, we are also going to make equivalent amendments to the licences of the other GDNs, since it is appropriate that they should be treated consistently on this matter of common interest. This will also result in amended Pi models and Rate of Return models for all GDNs and we will issue these accordingly.
- 2.34 Should the corporation tax rate be amended a second time during the GD23 period, the Uncertainty Mechanism will be used to adjust for that change.
- 2.35 Second, we are also amending the inflation forecasts for PNGL. Once again, for consistency we must also amend the inflation forecasts for FE and SGN as well.
- 2.36 At the time of the Final Determination, there was a high level of volatility and uncertainty in inflation forecasts, and it was unclear what the pattern of future inflation would be. Some measure of uncertainty is not unusual, of course, and indeed all forecasting must be subject to it. Since regulators can only use the best data available to them at the time of their decisions, and since it is necessary to set a cut-off point for the selection of these data at one time or another, it is most typical to use the data available at the time of the Final Determination. There is the protection of the Uncertainty Mechanism if the forecasts turn out to be wrong. Therefore, in our previous decisions to set the forecast inflation rate based on the data we had at the Final Determination, we acted in accordance with standard regulatory practice.
- 2.37 However, we do accept that the level of volatility and uncertainty last autumn was unusually high, and that there is now an apparently greater degree of stability and certainty than there was then, generating a greater degree of confidence in the reliability of the latest data. We have considered the more recent forecasts from the OBR based on its analysis of the latest data and have made the decision – in the particular circumstances of this case – to

use them as a guide to set amended inflation forecasts. As part of the changes to the inflation forecasts, we have updated the 2022 figures by using the actual inflation figures as they are now available, which has changed the TRV values. This will also result in amended Pi models and the Rate of Return models for the GDNs which we will issue to the GDNs.

- 2.38 PNGL has stated that the combined impact of the tax rate adjustment and the inflation revision equate to around £25m. We took into account its views on the financeability benefits of making the adjustments now, and that was a factor in our decision. However, it is important to note that the impact of these changes will be NPV neutral as the values will be trued up.
- 2.39 For the purposes of consistency and transparency, we will also make amendments to FE and SGN allowances. The result of these changes will be slight amendments to the designated parameters tables in the GDN licences.

### **Other Matters**

- 2.40 In relation to the cost of debt, we observe that movement in markets have led to the cost of debt falling. The GDNs' responses state that we should not update this figure. There is a mechanism within the price control to capture the actual cost when debt is raised. Based upon this reasoning, we consider it is not appropriate to change these values.
- 2.41 In relation to the risk-free rate, we note that movement in markets have led to risk free rating falling. The GDNs' responses are that they are generally content with this area. Furthermore, there is a mechanism within the price control to capture the actual figure and based upon this we recommend that this figure is not updated for the final decision.
- 2.42 We have re-examined the connection numbers used in GD23, particularly considering SGN and PNGL comments in this area. PNGL disagreed with the connection numbers for capex and SGN considered that connection numbers were inconsistent throughout the Final Determination. We note that the UR received more updated data in September 2022 from GDNs and a decision was made to use the more updated numbers in setting Connection Incentives. We are not amending these numbers as we consider they are not inconsistent. However, we recognise that additional clarity could have been provided regarding the basis of the connection numbers and assumptions made. We will consider this going forward and in our Lessons Learned exercise.
- 2.43 SGN indicated that the changes in connection numbers have resulted in an additional £1.3m of capex and are detrimental to consumers. We note that no other GDN has raised this issue as the Uncertainty Mechanisms will

change the forecasts and actuals at the appropriate time. On further examination of this area, we note that it corresponds approximately to around ¼ pence per therm and the UR does not consider this level of materiality is detrimental to customers, even if we were persuaded by SGN's arguments in this area.

- 2.44 We note GDNs' concerns regarding uncertainty and Final Determination numbers and parameters changing. However, we have procedures in place to deal with such uncertainty and will liaise with GDNs to ensure processes and allowances are equitable and fair.
- 2.45 The Uncertainty Mechanism will be in place throughout GD23 and will address any relevant items. There are procedures in place to deal with price control adjustment. For example, if movements in markets lead to risk free rating falling; there is a mechanism within the price control to capture the actual figure. A similar mechanism is in place for other key areas e.g. if movements in markets lead to the cost of debt falling; there is a mechanism within the price control to capture the actual cost when debt raised. For GD23 we have added a number of categories to the uncertainty mechanism, which will allow the allocation of additional allowances to specific areas of work that fall outside of the scope of the existing mechanisms. The nature of these areas of work mean that the allowances required are not known at the time of final determination publishing and therefore additional allowances, if required, will be provided for within uncertainty mechanism. This should provide assurance to regulated companies and stakeholders in these uncertain times.
- 2.46 In its consultation responses, PNGL commented regarding certain Uncertainty Mechanism inputs and references and, where appropriate we have considered these and amended accordingly, while maintaining the intended purpose of the mechanism consistent with the GD23 Final Determination. We will also engage with the GDNs throughout the price control and amend the Uncertainty Mechanism, where appropriate.
- 2.47 Having considered the responses as set out above we have decided to adopt the principles proposed in our licence modification consultation document and have made no amendments to the licence modifications proposed in this area.
- 2.48 The licence modifications we are making are outlined below.

## Licence Modifications

### FE

- 2.49 We are updating Condition 4.7: Current Designated Parameters and Determination Values with the values determined as part of the GD23 price control process. We note that for reasons of readability, the GD23 Final Determination document and Table 2.2 below only show the determination values up to the end of the GD23 price control period. A list of all the determination values up to the end of the forecasting horizon can be found in Annex 1: FE Licence –Modifications to this licence decision document as well as in Annex J: PI Models – FE to the GD23 Final Determination.

Designated Parameter	Value					
	t=2023	t=2024	t=2025	t=2026	t=2027	t=2028
$r_t$	0.0082	0.0442	0.0627	0.0676	0.0587	0.0571
n	2028					
m	2022					
$q$	2045					
CPIH (Shall be RPI up to and including Formula Year 2022 and CPIH commencing Formula Year 2023).	108.9					
$f_t$	0.5					
$W$	5					
$g$	0					
$h$	0					
$d$	1					
$l$	33					

**Table 2.1: FE - Designated Parameters**

All values in £(000's)	£av. 2020						
Description (For Conveyance Categories i and Formula Years t)	Determination Values	t=2023	t=2024	t=2025	t=2026	t=2027	t=2028
Volume (therms)	$V_{E,i,t} (I)$	22128	24237	27067	29595	31718	33782
Volume (therms)	$V_{E,i,t} (II)$	7004	7276	7466	7911	7911	7911
Volume (therms)	$V_{E,i,t} (III)$	5743	6039	6162	6236	6236	6236
Volume (therms)	$V_{E,i,t} (IV)$	1865	1865	1865	1865	1865	1865
Volume (therms)	$V_{E,i,t} (V)$	12456	12872	13045	13148	13148	13148
Volume (therms)	$V_{E,i,t} (Vi)$	14787	16155	17038	17759	17835	17835
Capital Expenditure	$C_{E,t}$	12736	9807	9667	9932	9491	9486
Operating Expenditure	$O_{E,t}$	8535	8954	9455	9851	9910	10029
Annual Depreciation	$D_{E,t}$	8491	8738	8979	9189	9381	9524
Cash Flow (calculated in accordance with Condition 4.6.6)	$F_{E,t}$	4937	9384	11045	12248	13840	14880
Revenue Per Unit	$P_{E,i,t} (I)$	0.5591	0.5591	0.5591	0.5591	0.5591	0.5591
Revenue Per Unit	$P_{E,i,t} (II)$	0.3928	0.3928	0.3928	0.3928	0.3928	0.3928
Revenue Per Unit	$P_{E,i,t} (III)$	0.3521	0.3521	0.3521	0.3521	0.3521	0.3521
Revenue Per Unit	$P_{E,i,t} (IV)$	0.2796	0.2796	0.2796	0.2796	0.2796	0.2796
Revenue Per Unit	$P_{E,i,t} (V)$	0.3299	0.3299	0.3299	0.3299	0.3299	0.3299
Revenue Per Unit	$P_{E,i,t} (Vi)$	0.2997	0.2997	0.2997	0.2997	0.2997	0.2997
Total Revenue	$R_{E,t}$	26208	28145	30167	32031	33241	34395

Depreciated Asset Value (calculated in accordance with Condition 4.6.7)	$DAV_{E,t}$	220263	221332	222020	222764	222874	222835
Total Regulatory Value (calculated in accordance with Condition 4.6.8)	$TRV_{E,m}$						265344
Profile Adjustment	$PA_{E,m}$						42509

**Table 2.2: FE Determination Values**

2.50 Annex 1: FE Licence –Modifications shows the required licence modifications as tracked changes to the FE conveyance licence.

### **PNGL**

2.51 We are updating Condition 2.3.22: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Current Designated Parameters with the values determined as part of the GD23 price control process. This is shown in Table 2.3 below for designated parameters. We note that for reasons of readability, the GD23 Final Determination document and Table 2.4 below only show the determination values up to the end of the GD23 price control period. A list of all the determination values up to the end of the forecasting horizon can be found in Annex 2: PNGL Licence –Modifications to this licence decision document as well as in Annex K: PI Models – PNGL to the GD23 Final Determination.

Designated Parameter	Value					
	t=2023	t=2024	t=2025	t=2026	t=2027	t=2028
$r_t$	0.0032	0.0517	0.0728	0.0672	0.0583	0.0567
n	2028					
m	2022					
$q$	2046					
CPIH (Shall be RPI up to and including Formula Year 2022 and CPIH commencing Formula Year 2023).	109.2					

**Table 2.3: PNGL – Designated Parameters**

2.52 Furthermore, we are updating Condition 2.3.24: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Current Determination Values with the values determined as part of the GD23 price control process.



All values in £(000's)	£Sept. 2020						
Description (For Conveyance Categories i and Formula Years t)	Determination Values	t=2023	t=2024	t=2025	t=2026	t=2027	t=2028
Volume (therms)	$V_{E,i,t}$ (I)	91524	95535	101070	104823	107235	109600
Volume (therms)	$V_{E,i,t}$ (II)	17757	19241	20150	20415	20540	20664
Volume (therms)	$V_{E,i,t}$ (III)	30088	30770	31058	31117	31180	31243
Volume (therms)	$V_{E,i,t}$ (IV)	12256	13121	13611	13697	13697	13697
Capital Expenditure	$C_{E,t}$	18842	17816	17986	17014	13466	13293
Capital Creditors	$CC_{E,t}$	-5736	-5565	-5593	-5431	-4840	-4811
Operating Expenditure	$O_{E,t}$	18254	18234	18322	18497	18274	18378
Annual Depreciation	$D_{E,t}$	22086	22758	23445	24102	24471	24779
Cash Flow (calculated in accordance with Condition 4.6.6)	$F_{E,t}$	32476	36119	39463	41507	45400	48997
Working Capital	$Q_{E,t}$	-5389	-4911	-4407	-4120	-3898	-3719
Revenue Per Unit	$P_{E,i,t}$ (I)	0.5038	0.5038	0.5038	0.5038	0.5038	0.5038
Revenue Per Unit	$P_{E,i,t}$ (II)	0.4534	0.4534	0.4534	0.4534	0.4534	0.4534
Revenue Per Unit	$P_{E,i,t}$ (III)	0.4271	0.4271	0.4271	0.4271	0.4271	0.4271
Revenue Per Unit	$P_{E,i,t}$ (IV)	0.2149	0.2149	0.2149	0.2149	0.2149	0.2149
Total Revenue	$R_{E,t}$	69647	72818	76247	78302	79601	80876
Depreciated Asset Value (calculated in accordance with Condition 4.6.7)	$DAV_{E,t}$	476672	471729	466271	460017	450661	439175
Total Regulatory Value (calculated in accordance with Condition 4.6.8)	$TRV_{E,m}$						626144

Profile Adjustment	$PA_{E,m}$						195499
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**Table 2.4: PNGL Determination Values**

2.53 Annex 2: PNGL Licence –Modifications shows the required licence modification as tracked changes to the PNGL conveyance licence.

**SGN**

2.54 We are updating Condition 4.11: Current Designated Parameters and Determination Values with the values determined as part of the GD23 price control process. This is shown in Table 2.5 and Table 2.6 below. We note that for reasons of readability, the GD23 Final Determination document and Table 2.6 below only show the determination values up to the end of the GD23 price control period. A list of all the determination values up to the end of the forecasting horizon can be found in Annex 3: SGN Licence – Modifications to this licence decision document as well as in Annex L: PI Models – SGN to the GD23 Final Determination.

Designated Parameter	Value					
	t=2023	t=2024	t=2025	t=2026	t=2027	t=2028
$r_t$	0.0055	0.0428	0.0528	0.0493	0.0424	0.0428
$n$	2028					
$m$	2022					
$q$	2057					
CPIH (Shall be RPI up to and including Formula Year 2022 and CPIH commencing Formula Year 2023).	108.9					
$f_t$	0.5					
$W$	5					
$g$	0					
$h$	0					
$d$	0					
$l$	33					
$\delta_t$	0					
$X_{O,t}$	0					
$X_{U,t}$	0					
$\alpha_t$	0.4					

**Table 2.5: SGN –Designated Parameters**

All values in £(000's)	£Av. 2020						
Description (For Conveyance Categories i and Formula Years t)	Determination Values	t=2023	t=2024	t=2025	t=2026	t=2027	t=2028
Volume (therms)	$V_{E,i,t}$	1071	1274	1576	1924	2248	2567
Volume (therms)	$V_{E,i,t}$ (II)	138	234	389	642	942	1228
Volume (therms)	$V_{E,i,t}$ (III)	439	558	626	730	855	879
Volume (therms)	$V_{E,i,t}$ (IV)	286	286	286	286	286	286
Volume (therms)	$V_{E,i,t}$ (V)	12038	12196	12994	13504	13504	13541
Volume (therms)	$V_{E,i,t}$ (VI)	0	0	0	0	0	0
Volume (therms)	$V_{E,i,t}$ (VII)	11242	11242	11242	11242	11242	11242
Capital Expenditure	$C_{E,t}$	4218	3758	4677	5626	3572	4169
Operating Expenditure	$O_{E,t}$	3069	3367	3577	3855	4023	4203
Annual Depreciation	$D_{E,t}$	1636	1658	1705	1781	1805	1924
Tax	$T_{E,t}$	0	0	0	0	0	0
Cash Flow (calculated in accordance with Condition 4.6.6)	$F_{E,t}$	-1040	-640	-1309	-2068	174	-295
Revenue Per Unit	$P_{E,i,t}$ (I)	0.4772	0.4772	0.4772	0.4772	0.4772	0.4772
Revenue Per Unit	$P_{E,i,t}$ (II)	0.4772	0.4772	0.4772	0.4772	0.4772	0.4772
Revenue Per Unit	$P_{E,i,t}$ (III)	0.4609	0.4609	0.4609	0.4609	0.4609	0.4609
Revenue Per Unit	$P_{E,i,t}$ (IV)	0.2624	0.2624	0.2624	0.2624	0.2624	0.2624
Revenue Per Unit	$P_{E,i,t}$ (V)	0.2624	0.2624	0.2624	0.2624	0.2624	0.2624

Revenue Per Unit	$P_{E,i,t}$ (VI)	0.2624	0.2624	0.2624	0.2624	0.2624	0.2624
Revenue Per Unit	$P_{E,i,t}$ (VII)	0.1986	0.1986	0.1986	0.1986	0.1986	0.1986
Total Revenue	$R_{E,t}$	6247	6486	6945	7413	7769	8078
Depreciated Asset Value (calculated in accordance with Condition 4.6.7)	$DAV_{E,t}$	40828	42928	45901	49746	51514	53759
Total Regulatory Value (calculated in accordance with Condition 4.6.8)	$TRV_{E,m}$						47192
Profile Adjustment	$PA_{E,m}$						-6568

**Table 2.6: SGN –Determination Values**

2.55 Annex 3: SGN Licence –Modifications shows the required licence modifications as tracked changes to the SGN conveyance licence.

### Reasons

2.56 Designated parameters and determination values are established as part of a price control process. The licence modifications to update the conveyance licences with the determined values for the designated parameters and determination values are hence consequential to the final price control determination.

2.57 The licence modifications are required to bring the GD23 Final Determination into effect and ensure consistency between the GD23 Final Determination and the GDN conveyance licences. Furthermore, in line with the Gas (Northern Ireland) Order 2003, by making these modifications to the GDN licences, the GDNs have a mechanism to bring forward an appeal to the CMA against the licence modification and the underlying GD23 Final Determination.

2.58 The overarching reason for modifying the Designated Parameters and Determination Values is that they are required by the GDN licence formulae to produce a set of revenues and prices which will drive the tariffs set by the GDNs to operate their businesses. In addition, there is a specific reason for setting each value and parameter. Table 2.7 to Table 2.12 address each of these areas. We note that detailed substantiation for the proposed licence updates to the designated parameters and determination values is largely contained in the GD23 Final Determination, however, some reasons are also

contained within this paper, and these are referred to in the Tables below, as appropriate.

Designated Parameter	Description	Document Reference re: Reasons for Licence Modification
$r_t$	Rate of Return	See Chapter 10, Financial Aspects, of the GD23 Final Determination for detail on the figure.
$n$	Trigger for Reviews (as defined in Condition 4.2.3(a))	It sets the last year of the GD23 price control period in line with duration of GD23 explained in Chapter 2 of the GD23 Final Determination.
$m$	The Formula Year that was $n$ for the preceding review	It sets the last year of the price control period directly preceding GD23.
$q$	The forecasting horizon for review calculations (as defined in Condition 4.2.4)	See Chapter 11, Outputs, Outcomes and Allowances of the GD23 Final Determination for detail.
$CPIH$	The indexation base	Inflation rate established in line with FE licence to ensure inflation is accounted for in revenues.
$f_t$	Average factor to reflect in year accruals (as defined in Condition 4.4.5)	Unchanged from GD17 Final Determination.
$W$	Incentive period (as defined in Condition 4.4.10)	Unchanged from GD17 Final Determination.
$g$	A switch for the Operating Rolling Incentive	Unchanged from GD17 Final Determination.
$h$	A switch for the Capital Rolling Incentive	See Chapter 11, Outputs, Outcomes & Allowances, of the GD23 Final Determination.
$d$	A switch for the deception component	Unchanged from GD17 Final Determination.
$l$	Deemed asset life	Unchanged from GD17 Final Determination.

**Table 2.7: FE – References for Substantiation of Designated Parameters**

Determination Values	Description (for Conveyance Categories <i>i</i> and Formula Years <i>t</i> )	Document Reference re: Reasons for Licence Modification
$V_{E,i,t}$	Volume	See Chapter 4, Volumes & Connections, of GD23 Final Determination.
$C_{E,t}$	Capital Expenditure	See Chapter 6, Capital Expenditure, of GD23 Final Determination.
$O_{E,t}$	Operating Expenditure	See Chapter 5, Operational Expenditure, of the GD23 Final Determination.
$D_{E,t}$	Annual Depreciation	Changed to reflect updated capex allowances calculated as per the principles outlined in Chapter 10, Financial Aspects, of the GD23 Final Determination.
$F_{E,t}$	Cash Flow (calculated in accordance with Condition 4.4.6)	Changed to reflect changes in opex, capex, volumes and allowed revenue, and calculated as a function of those.
$P_{E,i,t}$	Revenue Per Unit	Output of FE Pi model (published as Annex J to the GD23 Final Determination), in line with licence formulae.
$R_{E,t}$	Total Conveyance Revenue	Output of FE Pi model (published as Annex J to the GD23 Final Determination), in line with licence formulae.
$DAV_{E,t}$	Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	Changed to reflect updated capex allowances and annual depreciation and calculated as a function of those.
$TRV_{E,m}$	Total Regulatory Value (calculated in accordance with Condition 4.4.8)	The TRV has changed due to the updated values of the GD23 price control, in terms of costs, allowed revenue and rate of return, which must be returned to the licence holder via conveyance charges paid for by consumers. In Annex 1: FE Licence –Modifications, a value is shown for every sixth year following the end of the GD23 price control period to reflect assumptions about the length of future price control periods. These are subject to change in the future.

**Table 2.8: FE – References for Substantiation of Determination Values**

Designated Parameter	Description	Document Reference re: Reasons for Licence Modification
$r_t$	Rate of Return	See Chapter 10, Financial Aspects, of the GD23 Final Determination.
$n$	Trigger for Reviews (as defined in Condition 4.2.3(a))	It sets the last year of the GD23 price control period in line with duration of GD23 explained in Chapter 10 of the GD23 Final Determination.
$m$	The Formula Year that was $n$ for the preceding review	It sets the last year of the price control period directly preceding GD23.
$q$	The forecasting horizon for review calculations (as defined in Condition 4.2.4)	Unchanged from GD17 Final Determination.
$CPIH$	The indexation base *	Inflation rate established in line with PNGL licence to ensure inflation is accounted for in revenues.

**Table 2.9: PNGL – References for Substantiation of Designated Parameters**



Determination Values	Description	Document Reference re: Reasons for Licence Modification
$V_{E,i,t}$	Volume (for Conveyance Categories $i$ )	See Chapter 4, Volumes & Connections, of GD23 Final Determination.
$C_{E,t}$	Capital Expenditure	See Chapter 6 Capital Expenditure of GD23 Final Determination.
$CC_{E,t}$	Capital Creditors	Changed to reflect changes in capex and calculated as a function of those.
$O_{E,t}$	Operating Expenditure	See Chapter 5 Operating Expenditure of GD23 Final Determination.
$D_{E,t}$	Annual Depreciation	Changed to reflect updated capex allowances calculated as per the principles outlined in Chapter 10, Financial Aspects, of the GD23 Final Determination.
$F_{E,t}$	Cash (calculated in accordance with Condition 4.4.6)	Changed to reflect changes in opex, capex, working capital, capital creditors, volumes and allowed revenue, and calculated as a function of those.
$Q_{E,t}$	Working Capital	Changed to reflect changes in opex, and allowed revenue, and calculated as a function those.
$P_{E,i,t}$	Revenue Per Therm (for Conveyance Categories $i$ )	Output of PNGL Pi model (published as Annex K to the GD23 Final Determination), in line with licence formulae.
$R_{E,t}$	Total Conveyance Revenue	Output of PNGL Pi model (published as Annex K to the GD23 Final Determination), in line with licence formulae.
$DAV_{E,t}$	Depreciated Asset Value (calculated in accordance with Condition 2.3.17)	Changed to reflect updated capex allowances and annual depreciation and calculated as a function of those.

Determination Values	Description	Document Reference re: Reasons for Licence Modification
$TRV_{E,m}$	Total Regulatory Value (calculated in accordance with Condition 2.3.18)	The TRV has changed due to the updated values of the GD23 price control, in terms of costs, allowed revenue, capital creditors, working capital and rate of return, which must be returned to the licence holder via conveyance charges paid for by consumers. In Annex 2: PNGL Licence –Modifications, a value is shown for every sixth year following the end of the GD23 price control period to reflect assumptions about the length of future price control periods. These are subject to change in the future.
$PA_{E,m}$	Profile Adjustment (calculated in accordance with Condition 2.3.19)	Changed to reflect changes in opex, capex, working capital, capital creditors, volumes, allowed revenue and rate of return, and calculated as a function of those.

**Table 2.10: PNGL – References for Substantiation of Determination Values**

Designated Parameter	Description	Document Reference re: Reasons for Licence Modification
$r_t$	Rate of Return	See Chapter 10, Financial Aspects, of the GD23 Final Determination.
$n$	Trigger for Reviews (as defined in Condition 4.4.4)	It sets the last year of the GD23 price control period in line with duration of GD23 explained in Chapter 2 of the GD23 Final Determination.
$m$	The Formula Year that was $n$ for the preceding review	As defined in Condition 4.4.5(a) in combination with Condition 4.4.4. of the SGN licence.
$f_t$	Average factor to reflect in year accruals (as defined in Condition 4.6.5)	Mid-year cashflow to keep investors neutral with regards to the timing of the investment (e.g., no incentive to defer investments to end of price control period or to do them at start).
$q$	The forecasting horizon for review calculations (as defined in Condition 4.4.4)	As defined in Condition 4.12.4 of the SGN licence.
CPIH	The indexation base *	Inflation rate established in line with SGN licence to ensure inflation is accounted for in revenues.
$W$	Incentive period (as defined in Condition 4.6.10)	Unchanged from GD17 Final Determination.
$g$	A switch for the Operating Rolling Incentive	Unchanged from GD17 Final Determination.
$h$	A switch for the Capital Rolling Incentive	Unchanged from GD17 Final Determination.
$d$	A switch for the deception component	Unchanged from GD17 Final Determination.
$l$	Deemed asset life	Unchanged from GD17 Final Determination.
$\delta_t$	A weighting factor to be used in the Primary Constraint	Unchanged from GD17 Final Determination.
$x_{O,t}$	A rate of return adjustment which may be used to encourage or discourage accumulated over-recoveries (as defined in Condition 4.2.6)	Unchanged from GD17 Final Determination.
$x_{U,t}$	A rate of return adjustment which may be used to encourage or discourage accumulated under-recoveries (as defined in Condition 4.2.6)	Unchanged from GD17 Final Determination.

Designated Parameter	Description	Document Reference re: Reasons for Licence Modification
$\alpha_t$	A weighting factor used in the Supplemental Constraint	Unchanged from GD17 Final Determination.

**Table 2.11: SGN – References for Substantiation of Designated Parameters**

Determination Values	Description (for Conveyance Categories <i>i</i> and Formula Years <i>t</i> )	Document Reference re: Reasons for Licence Modification
$V_{E,i,t}$	Volume	See Chapter 4, Volumes & Connections, of GD23 Final Determination.
$C_{E,t}$	Capital Expenditure	See Chapter 6, Capital Expenditure, of GD23 Final Determination.
$O_{E,t}$	Operating Expenditure	See Chapter 5, Operating Expenditure, of GD23 Final Determination.
$D_{E,t}$	Annual Depreciation	Set to reflect updated capex allowances calculated as per the principles outlined in Chapter 10, Financial Aspects, of the GD23 Final Determination.
$T_{E,t}$	Tax Allowance	See Chapter 10, Financial Aspects, of GD23 Final Determination.
$F_{E,t}$	Cash (calculated in accordance with Condition 4.6.6)	Set to reflect changes in opex, capex, volumes and allowed revenue, and calculated as a function of those.
$P_{E,i,t}$	Revenue Per Unit	Output of SGN Pi model (published as Annex L to the GD23 Final Determination), in line with licence formulae.
$DAV_{E,t}$	Depreciated Asset Value (calculated in accordance with Condition 2.3.17)	Set to reflect updated capex allowances and annual depreciation and calculated as a function of those.
$TRV_{E,m}$	Total Regulatory Value (calculated in accordance with Condition 2.3.18)	The TRV is set to reflect the values of the GD23 price control, in terms of costs, allowed revenue and rate of return, which must be returned to the licence holder via conveyance charges paid for by consumers. In Annex 3: SGN Licence –Modifications, a value is shown for every sixth year following the end of the GD23 price control period to reflect assumptions about the length of future price control periods. These are subject to change in the future.

**Table 2.12: SGN – References for Substantiation of Determination Values**

## Effects

- 2.59 The changes detailed above will bring the GD23 Final Determination into effect and ensure consistency between the GD23 Final Determination and the GDN conveyance licences. The overall effect of the Determined Values and Designated Parameters will be to allow the GDNs to charge tariffs consistent with the maintenance and operation of a growing gas network, whilst financing their activities. The amendments to inflation and Corporation tax for GDNs, following the Final Determination, are designed to ensure that the price control is based on latest and most accurate data, will have a minimal effect on bills and will be overall NPV neutral. The modifications will also incentivise the GDNs to further grow the industry in an economic and co-ordinated manner. GDNs are also incentivised to continue to push for efficiencies in how they maintain and operate the network.

### **3. Licence Modifications pursuant to the Granting of Additional Areas to FE**

#### **Overview**

- 3.1 We are extending the FE Licensed Area to regularise network development already carried out by the company in areas outside its current Licensed Area.

#### **Consultation Responses and the UR's consideration of responses**

##### ***FE***

- 3.2 FE did not make any comments in relation to these proposed licence modifications.

##### ***PNGL***

- 3.3 PNGL stated that it notes the inclusion of Ballynure and Ballinderry wards into the firmus Licensed Area. As these wards are already included in the PNGL Licensed Area, PNGL would welcome discussion with UR on shared licence ownership and how this works in practice.

##### ***SGN***

- 3.4 SGN did not make any comments in relation to proposed licence modifications, and we are not making any amendment to the modifications proposed in our consultation document.

#### **UR's consideration of GDN feedback**

- 3.5 The UR notes PNGL's comments in this area and will continue to work with FE and PNGL to address licence area developments awards and how they can be effectively managed.
- 3.6 The UR will enact the modifications in this area proposed in the licence consultation document. These are outlined below.

#### **Licence Modifications**

- 3.7 We are modifying the schedule of Electoral Wards which follows paragraph 1.1(a) of Schedule 1 (Licensed Area) of the FE licence, by adding the following electoral wards:

- a) 95SS01 Ballinderry; and
- b) 95WW06 Ballynure.

## **Reasons**

- 3.8 The FE licence defines a Licensed Area by reference to a set of Electoral Ward Boundaries and one further specific area. The Licensed Area is further sub-divided into the Towns (again by reference to a set of Electoral Wards) and the Remaining Licensed Area.
- 3.9 To develop the gas distribution network in the Remaining Licensed Area requires the approval of an Additional Development Plan by the Utility Regulator. The area covered by an approved Additional Development Plan becomes an Additional Development Area under the licence.
- 3.10 FE does not have permission to develop the network outside its Licensed Area. The Licensed Area can only be changed by modifying the Licence.
- 3.11 In May 2019, and in subsequent correspondence, FE notified the Utility Regulator that it had laid pipelines in areas which required further approvals under its licence. This related to the following areas:
  - a) Development of the network in 15 electoral wards in the Remaining Licensed Area which had not been approved as Additional Development Plans.
  - b) Development of the network in two Electoral Wards which were outside the Licensed Area.
- 3.12 This extended pipeline was identified when FE updated its network maps on GIS backgrounds and through subsequent verification work by the company. The scope of pipelines laid outside the then current Development Area and Licensed Area ranged from:
  - a) Minor lengths of pipe (say at road junctions) which crossed the boundary of an electoral ward by a few metres.
  - b) Pipelines from the High-Pressure network connections (AGIs) to the approved Development Area which were necessary to bring gas to the towns to be served.
  - c) Distribution pipes laid to serve properties on the edge of towns which fell just outside the ward boundaries which initially defined those towns in the Licence.



- d) Connections of large commercial premises which lay in rural areas outside the Approved Development Areas or Licensed Area.
- 3.13 In the circumstances we consider it appropriate, going forward, to regularise the development which has taken place by either granting approval of Additional Development Plans within the existing Licensed Area or by extending the existing Licensed Area to include additional Electoral Wards as necessary.
- 3.14 We consider that it is reasonable, in certain areas outside FE's licensed areas, to regularise the treatment of FE's operations. We have undertaken a review of relevant processes and procedures associated with the relevant network extension and are of the view that, such activity would be allowable by the Utility Regulator. In addition, we are engaging with FE to ensure regulatory processes and licence requirements are adhered to going forward.
- 3.15 In November 2021, following a request from FE, the Utility Regulator approved an Additional Development Plan covering 15 electoral wards in the Remaining Licensed Area.
- 3.16 Taking account of the effort and impact of modifying the Licence to cover minor developments outside the Licensed Area, we concluded that the modifications necessary to extend the Licensed Area should be made as part of the GD23 Licence modifications. The modifications proposed here give effect to that by adding the electoral wards of 95SS01 Ballinderry and 95WW06 Ballynure to the Licensed Area.
- 3.17 In accordance with Schedule 3 (Exclusivity) of the Licence, FE does not have an exclusive right to convey gas to premises in the electoral wards covered by the proposed extension of the Licensed Area.
- 3.18 Parts of the southern section of Electoral Ward 95WW06 Ballynure are included in the PNGL Licensed Area as defined by the map included in Schedule 1 of the PNGL Licence. Electoral Ward 95SS01 Ballinderry is also included in the PNGL Licensed Area as part of Licence modifications in respect of East Down network extension effective date of 4 January 2016. The exclusive right which PNGL had to convey gas to premises in sections of its Licensed Area expired on the 31 December 2016.
- 3.19 There is already one example of an electoral ward where both FE and PNGL have non-exclusive rights to convey gas. In extending the FE licensed area we do not consider it appropriate to limit the area of the relevant wards included in the extension. In practice, there are significant rural areas

between the developments each company currently serve and could serve economically from their existing networks.

## **Effects**

- 3.20 These modifications would, going forward, regularise existing network development already undertaken by FE by bringing them within the scope of the Licensed Area as part of the Remaining Licensed Area. At that point it would be necessary for FE to apply for an Additional Development Plan for these developments to finalise the approvals necessary under the licence.
- 3.21 The extensions will add to the areas where both FE and PNGL have non-exclusive rights to convey gas under their licences.

## 4. Change from RPI to CPIH

### Overview

- 4.1 We are amending the general measure of inflation used in the Licences for FE, PNGL and SGN from the Retail Prices Index (RPI) to the Consumer Prices Index including owner occupiers' housing costs (CPIH).

### Consultation responses and the UR's consideration of responses

#### *FE*

- 4.2 FE stated that it supported the need to switch from RPI to CPIH. However, it noted the 'long and detailed consultations took place in the Great Britain sectors prior to these policy changes, to ensure that stakeholders' concerns had been adequately considered and addressed.'

#### *PNGL*

- 4.3 PNGL has made several suggested amendments in relation to the move from RPI to CPIH indexation in the licence. We outline the main points below.
- 4.4 PNGL has suggested drafting in relation to Condition 2.3.8, namely, that (i) the proposed additional drafting after the equation is removed; and (ii) the proposed deletion of "commencing Formula Year 2007" in the first paragraph is reinstated with the year 2007 replaced with 2023.
- 4.5 In relation to condition 2.3.9, PNGL has suggested a formula amendment to remove the term  $G F, t 3$  as all other references to the connection incentive revenue arrangements were removed from Licence in the October 2016.
- 4.6 In relation to condition 2.3.22, PNGL has suggested removing the drafting from the designated parameters table: "shall be RPI up to and including Formula Year 2022 and CPIH commencing Formula Year 2023."
- 4.7 PNGL have suggested amendment to the drafting of condition 2.3.23. It states that: '...the move to CPIH from 2023 negates the requirement for the drafting "each month" and "; or" in the first paragraph and sub-paragraphs (a) and (b).'
- PNGL is therefore suggesting that this drafting is removed from the definition.

## **SGN**

- 4.8 SGN's comments in relation to the RPI-CPIH changeover were mainly limited to how the changeover would work in practice and to the transition from RPI on 31 December 2022 to CPIH from 1 January 2023. SGN commented in relation to the following licence conditions:
- 4.9 Condition 4.2.18 (a) and 4.2.27 –SGN considered that further drafting in the licence is required to address the initial cross-over from GD17 to GD23 of RPI to CPIH. SGN considers that as we are dealing with rolling forward figures from the PY at CPIH, i.e. if  $t-1 = 2022$ , there should be some account of RPI to 31st December 2022, and CPIH thereafter.
- 4.10 Condition 4.6.7 (b)- SGN has stated that if  $DAV_{e,a}$  in the equation is a determined value on an RPI basis, it is not clear how this would work without further clarity being added to explain what occurs in the cross-over period.
- 4.11 Conditions 4.6.9, 4.6.10 and 4.6.11- SGN consider that further drafting is required in the licence as to the crossover period from RPI to CPIH in these licence conditions.
- 4.12 SGN has also stated that it considers that the licence should clarify how the switch from RPI to CPIH, at the end of December 2022, has been accounted for in the conveyance tariff licence formulae.

## **UR's consideration of GDN feedback**

- 4.13 We consider that the UR engaged extensively with GDNs at all stages of the proposal to change from RPI to CPIH including both verbal and written communication modes. The proposed changes were also consulted on within the licence consultation process, in line with normal regulatory processes. In addition, GDNs were provided with proposed licences and given the opportunity to provide feedback in advance of the licence consultation being drafted. In addition, there was a need to move from RPI to CPIH as RPI is no longer appropriate and this move was progressed for the GDNs to remain consistent with other regulated companies in Northern Ireland and Great Britain.
- 4.14 PNGL has suggested drafting in relation to Condition 2.3.8, namely, that (i) the proposed additional drafting after the equation is removed; the replacement of the formula year 2007 replaced with formula year 2023. We have considered this amendment and consider that this amendment should not be made as the year 2007 relates to the commencement of a Price Control and should not be changed in the licence as it relates to a point in time.

- 4.15 We have considered PNGL’s comments in relation to condition 2.3.9, and the formula amendment to remove the term  $G F, t 3$ . We have decided that this amendment should be made to the licence as this is an oversight and should have been made in line with previous modification processes.
- 4.16 In relation to condition 2.3.22, PNGL have suggested removing the drafting relating to RPI from the designated parameters table. We have considered PNGL’s suggested drafting and are not enacting the change for GD23 as we consider it is useful for the initial changeover from RPI to CPIH. However, we will revisit this drafting at GD29
- 4.17 In relation to condition 2.3.23, PNGL has suggested the removal of the drafting “each month” and additionally removal of the “; or” in the first paragraph and sub-paragraphs (a) and (b). We have considered PNGL’s feedback and are not proposing to amend this drafting as we consider it is still required. We will retain this drafting to allow for future uncertainty, for example, if CPIH is not representative or unavailable. However, we will still be required to engage with the GDNs in the case of such eventuality or any amendment to indexation.
- 4.18 Overall, we have considered SGN’s comments in relation to the ‘crossover’ from RPI to CPIH and do not consider it appropriate to include additional licence drafting in these areas as it would be too prescriptive. The workings for crossover and changeover from RPI to CPIH will be managed outside of the licence via spreadsheets and the Pi model, which have already been provided to GDNs. Furthermore, SGN consider that we have made an error in the capex allowances by this changeover. We have considered this and disagree on this aspect, and we have provided further clarification to SGN of how this works in practice. Therefore, we are not persuaded to change from our current drafting in this area.
- 4.19 We note that the Pi models and Uncertainty models were presented to GDNs as part of the GD23 process. These spreadsheets illustrate the RPI/ CPIH changeover and SGN did not raise any concerns with the crossover or workings at any stage. However, we will work with GDNs to discuss the workings of this crossover from RPI to CPIH and how this will work in practice. We will also consider any relevant implications in our Lessons Learned exercise.

## **Licence Modifications – FE**

- 4.20 The licence modifications include modifications to the definition of terms and equations which are itemised in Table 4.1.

Condition	Location	Modification
1.12.3	1 <sup>st</sup> paragraph after the 'to be adjusted annually by reference to...'	Drafting to be amended to: '...Retail Prices index (as defined in Condition 4.8) until 31 December 2022 and then the Consumer Prices Index including owner occupiers' housing costs from 1 January 2023) ...'
1.12.3(b)	1 <sup>st</sup> paragraph after the 'to be adjusted annually by reference to...'	Drafting to be amended to: '...Retail Prices Index up until 31 December 2022 and then the Consumer Prices Index including owner occupiers' housing costs from 1 January 2023.'
2.3.10	Sub-paragraph (b)	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs".
2.7.3	After '...costing more than £5.00....'	Drafting will be '...adjusted annually in line with the Retail Prices Index from the month of the date of the Grant and moving to the Consumer Prices Index including owner occupiers' housing costs from January 2023.'
4.1.2	Equation	Replace $RPI_{iy,t} / RPI_E$ with $CPI_{H_{iy,t}} / CPI_{H_E}$
4.1.2	After equation	Include the following drafting: 'Save that this formula, and all references in this Part 4 to CPIH and to the BOE Base Rate, shall apply only on and from 1 January 2023, in substitution for the formula and prior references to (respectively) RPI and LIBOR which shall be treated as having been applicable up to and including 31 December 2022 in accordance with previous versions of this Part 4.'
4.1.3	3 <sup>rd</sup> paragraph	Replace $RPI_{iy,t}$ with $CPI_{H_{iy,t}}$
4.1.3	3 <sup>rd</sup> paragraph	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs".
4.1.3	3 <sup>rd</sup> paragraph	Replace RPI with CPIH
4.1.3	4 <sup>th</sup> paragraph	Replace $RPI_E$ with $CPI_{H_E}$
4.1.3	4 <sup>th</sup> paragraph	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs."
4.1.8	Equation below the first paragraph	Replace $RPI_{iy,t} / RPI_E$ with $CPI_{H_{iy,t}} / CPI_{H_E}$
4.1.11	First line	Replace $RPI_{iy,t}$ with $CPI_{H_{iy,t}}$
4.3.2	8 <sup>th</sup> paragraph	Replace $RPI_{iy_{B,t}}$ with $CPI_{H_{iy_{B,t}}}$
4.3.2	8 <sup>th</sup> paragraph	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs."
4.3.3	Equation following 1 <sup>st</sup> paragraph	Replace $RPI_B$ and $RPI_{iy_{B,t}}$ with $CPI_{H_B}$ and $CPI_{H_{iy_{B,t}}}$
4.3.3	2 <sup>nd</sup> paragraph	Replace $RPI_B$ with $CPI_{H_B}$

Condition	Location	Modification
4.3.3	2 <sup>nd</sup> paragraph	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs.”
4.4.7	Equation before section commencing ‘Where a denotes...’	Replace $RPI_B$ and $RPI_E$ with $CPIH_B$ and $CPIH_E$ respectively
4.4.7	Equation following 2 <sup>nd</sup> paragraph	Equation reformatted
4.4.8	Equation following 6 <sup>th</sup> paragraph defining $DA_B$	Replace $RPI_B$ and $RPI_E$ with $CPIH_B$ and $CPIH_E$ respectively
4.4.8	Equation following 6 <sup>th</sup> paragraph defining $DA_B$	Equation reformatted
4.4.9	Equation following 6 <sup>th</sup> paragraph defining $PA_B$	Replace $RPI_B$ and $RPI_E$ with $CPIH_B$ and $CPIH_E$ respectively
4.4.9	Equation following 6 <sup>th</sup> paragraph defining $PA_B$	Equation reformatted
4.4.10	Equation following 11 <sup>th</sup> paragraph defining $O_{S,t}$	Replace $RPI_B$ and $RPI_E$ with $CPIH_B$ and $CPIH_E$ respectively
4.4.10	Equation following 11 <sup>th</sup> paragraph defining $O_{S,t}$	Equation reformatted
4.4.11	Equation following 5 <sup>th</sup> paragraph defining $C_{S,t}$	Replace $RPI_B$ and $RPI_E$ with $CPIH_B$ and $CPIH_E$ respectively
4.4.11	Equation following 5 <sup>th</sup> paragraph defining $C_{S,t}$	Equation reformatted
4.7	Table following the 1 <sup>st</sup> paragraph	Replace RPI with CPIH (Shall be RPI up to and including Formula Year 2022 and CPIH commencing Formula Year 2023).
4.8.1	After the definition of “Capital Expenditure”	<p>Add additional definition for “Consumer Prices Index including owner occupiers’ housing costs” or “CPIH.”</p> <p>Means the Index of that name published by the Office of National Statistics each month in respect of all items, or:</p> <p>(i) if that Index for the specified month in any year shall not have been published on or before the last day of the sixth month after the specified month, such alternative index for such month as the Authority may after consultation with the Licensee determine as appropriate in the circumstances; or</p> <p>(ii) if there is a material change in the basis of the Index, such alternative index as the Authority may after consultation with the Licensee determine as appropriate in the circumstances;</p>
4.8.4	Table	Replace RPI with CPIH
4.8.4	Paragraph following the table	Replace $RPI_{iy_t}$ with $CPIH_{iy_t}$

Condition	Location	Modification
4.8.4	Paragraph following the table	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs”.
4.8.5	14 <sup>th</sup> paragraph	Replace $RPI_E$ and $RPI_B$ with $CPIH_E$ and $CPIH_B$ respectively
4.8.5	14 <sup>th</sup> paragraph	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs”.
4.8.5	15 <sup>th</sup> paragraph	Replace $RPI_{iy_t}$ with $CPIH_{iy_t}$
4.8.5	15 <sup>th</sup> paragraph	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs.”

**Table 4.1: Modifications to the FE licence to change the general measure of inflation from RPI to CPIH**

### Licence Modifications – PNGL

- 4.21 The licence modifications include modifications to the definition of terms and equations which are itemised in Table 4.2.



Condition	Location	Modification
1.13.3	1 <sup>st</sup> paragraph after the 'to be adjusted annually by reference to...'	Paragraph amended to the following: ....'to the Retail Prices Index (as defined in Condition 2.3.23 until 31 December 2022 and then the Consumer Prices Index including owner occupiers' housing costs from 1 January 2023.'
1.13.3(b)	1 <sup>st</sup> paragraph after the 'to be adjusted annually by reference to...'	Paragraph amended to the following... 'the Retail Prices Index up until 31 December 2022 and then the Consumer Prices Index including owner occupiers' housing costs from 1 January 2023.'
2.3.8	1 <sup>st</sup> paragraph	Delete 'Formula Year 2007.'
2.3.8	Equation following 1 <sup>st</sup> paragraph	Replace $RPI_{F,t} / RPE$ with $CPIH_{F,t} / CPIHE$
2.3.5	After equation	Include the following drafting: 'Save that this formula, and all references in this Condition 2.3 to CPIH shall apply only on and from 1 January 2023, in substitution for the formula and prior references to RPI which shall be treated as having been applicable up to and including 31 December 2022 in accordance with previous versions of this Condition 2.3.  And for the purposes of this formula...'
2.3.8	4 <sup>th</sup> paragraph	Replace $RPI_{F,t}$ with $CIH_{F,t}$
2.3.8	4 <sup>th</sup> paragraph	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs" in two places.
2.3.8	5 <sup>th</sup> paragraph	Replace $RPI_E$ with $CPIHE$
2.3.8	5 <sup>th</sup> paragraph	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs."
2.3.8	Final paragraph	Replace $RPI_{F,t}$ with $CPIH_{F,t}$
2.3.9	Equation for $Z_{F,t}$ following 1 <sup>st</sup> paragraph	Replace $RPI_{F,t} / RPE$ with $CPIH_{F,t} / CPIHE$
2.3.9	Equation for $Z_{F,t}$ following 1 <sup>st</sup> paragraph	Equation reformatted
2.3.14	9 <sup>th</sup> paragraph defining $RPI_{B,t}$	Replace $RPI_{B,t}$ with $CPIHB,t$
2.3.14	9 <sup>th</sup> paragraph defining $RPI_{B,t}$	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs"
2.3.14	Equation following 3 <sup>rd</sup> paragraph before the end of the clause	Replace $RPI_B$ and $RPI_{B,t}$ with $CPIHB$ and $CPIHB,t$ respectively
2.3.14	Penultimate paragraph	Replace $RPI_B$ with $CPIHB$
2.3.14	Penultimate paragraph	Replace phrase "Retail Prices Index" with "Consumer Prices Index including owner occupiers' housing costs".

Condition	Location	Modification
2.3.18	Penultimate paragraph	No change – Note that the $TRV_{E,t}$ started for Formula Year $t=2006$ is indexed to $RPI_{F,2006}$ . The definition of RPI is retained in 4.3.34 for this purpose.
2.3.18	Final paragraph.	No change -Note that for Formula Years after $t=2011$ the $TRV_{F,2011}$ is reduced by £13.6m, a reduction which is indexed to $RPI_{F,2010}$ . The definition of RPI is retained in 4.3.34 for this purpose.
2.3.19	Equation following the 2 <sup>nd</sup> paragraph	Replace $RPI_B$ and $RPI_E$ with $CPIH_B$ and $CPIH_E$ respectively
2.3.19	Equation following the 2 <sup>nd</sup> paragraph	Equation reformatted
2.3.22	Table following the 1 <sup>st</sup> paragraph	Replace RPI with CPIH
2.3.23	After the definition of “Capital Expenditure”	Add additional definition for “Consumer Prices Index including owner occupiers’ housing costs” or “CPIH.” Means the Index of that name published by the Office of National Statistics each month in respect of all items, or: (a) if that Index for the specified month in any year shall not have been published on or before the last day of the sixth month after the specified month, such alternative index for such month as the Authority may after consultation with the Licensee determine as appropriate in the circumstances; or (b) if there is a material change in the basis of the Index, such alternative index as the Authority may after consultation with the Licensee determine as appropriate in the circumstances;
2.3.26	Table of designated parameters	For “The indexation base” replace RPI with CPIH
2.3.26	Table of designated parameters	The following clarification to be added: ‘Shall be RPI up to and including Formula Year 2022 and CPIH commencing Formula Year 2023.’
2.3.26	Paragraph following the table of designated parameters	Replace $RPI_{F,t}$ with $CPIH_{F,t}$
2.3.26	Paragraph following the table of designated parameters	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs”.
2.3.26	In the section “Key to other formula parameters:”	In respect of $RPI_E$ , $RPI_B$ , replace $RPI_E$ , $RPI_B$ with $CPIH_B$ and $CPIH_E$ respectively
2.3.26	In the section “Key to other formula parameters:”	In respect of $RPI_E$ , $RPI_B$ , replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs”.
2.3.26	In the section “Key to other formula parameters:”	In respect of $RPI_{F,t}$ , replace $RPI_{F,t}$ with $CPIH_{F,t}$

Condition	Location	Modification
2.3.26	In the section “Key to other formula parameters:”	In respect of RPI <sub>F,t</sub> , RPI <sub>B</sub> , replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs.”
2.4.10	Sub paragraph (b)	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs.”
2.8.3	After the text ‘...costing more than £4.00...’	Paragraph will be amended to it appears as ‘...adjusted annually in line with the Retail Prices Index from September 1996 and moving to the Consumer Prices Index including owner occupiers’ housing costs from January 2023.’

**Table 4.2: Modifications to the PNGL licence to change the general measure of inflation from RPI to CPIH**

### Licence Modifications – SGN

- 4.22 The licence modifications include modifications to the definition of terms and equations which are itemised in the table below:

Condition	Location	Modification
1.12.3	1 <sup>st</sup> paragraph after the term 'such sum to be adjusted annually by reference...'	The paragraph will now state: '...to the Retail Prices Index (as defined in Condition 4.12) until 31 December 2022 and then the Consumer Prices Index including owner occupiers' housing costs from 1 January 2023.'
1.12.3 (b)	1 <sup>st</sup> paragraph after the term 'such sum to be adjusted annually by reference.'	The paragraph will now state: '...to the Retail Prices Index up until 31 December 2022 and then the Consumer Prices Index including owner occupiers' housing costs from 1 January 2023...'
2.3.10	Paragraph (b)	Replace retail price index with Consumer Prices Index including owner occupiers' housing costs.
2.7.3	After the text '...costing more than £4.00...'	The paragraph will now state '...adjusted annually in line with the Retail Prices Index from September 1996 and moving to the Consumer Prices Index including owner occupiers' housing costs from January 2023.'
2.8.3	After the term retail price index.	Add the following drafting: "...and the Consumer Prices Index including owner occupiers' housing costs from January 2023."
2.3.10(b)	1 <sup>st</sup> paragraph	Replace retail price index with Consumer Prices Index including owner occupiers' housing costs.
4.2.10	Equation following 1 <sup>st</sup> paragraph	Replace $RPI_{iy_t} / RPI_E$ with $CPI_{Hiy_t} / CPI_{HE}$
4.2.10	After equation	Insert the following drafting: 'Save that this formula, and all references in this Part 4 to CPIH and to the BOE base rate, shall apply only on and from 1 January 2023, in substitution for the formula and prior references to (respectively) RPI and LIBOR which shall be treated as having been applicable up to and including 31 December 2022 in accordance with previous versions of this Part 4.'
4.2.11	3 <sup>rd</sup> paragraph	Replace $RPI_{iy_t}$ with $CPI_{Hiy_t}$
4.2.11	3 <sup>rd</sup> paragraph	Replace Retail Price Index with Consumer Prices Index including owner occupiers' housing costs
4.2.11	3 <sup>rd</sup> paragraph	Replace RPI with CPIH
4.2.11	4 <sup>th</sup> paragraph	Replace $RPI_E$ with $CPI_{HE}$ .
4.2.11	4 <sup>th</sup> paragraph	Replace $RPI_{iy_t}$ with $CPI_{Hiy_t}$
4.2.14 (b)	1 <sup>st</sup> paragraph	Replace $RPI_{iy_t}$ with $CPI_{Hiy_t}$
4.2.14(b)	1 <sup>st</sup> paragraph	Replace $RPI_E$ with $CPI_{HE}$
4.2.14(b)	Equation	Replace $RPI_{iy_t}$ with $CPI_{Hiy_t}$
4.2.14(b)	Equation	Replace $RPI_E$ with $CPI_{HE}$
4.2.18(a)	2 <sup>nd</sup> equation	Replace $RPI_{iy_t}$ with $CPI_{Hiy_t}$

Condition	Location	Modification
4.2.18(a)	2 <sup>nd</sup> equation	Replace $RPI_{y_{t-1}}$ with $CPIHiy_{t-1}$
4.2.27	Equation	Replace $RPI_{y_t}$ with $CPIHiy_t$
4.2.27	Equation	Replace $RPI_{y_{t-1}}$ with $CPIHiy_{t-1}$
4.3.4	Equation	Replace $RPI_{y_t}$ with $CPIHiy_t$
4.3.4	Equation	Replace $RPI_E$ with $CPIH_E$
4.3.5	6 <sup>th</sup> paragraph	Replace $RPI_{y_t}$ with $CPIHiy_t$
4.3.5	6 <sup>th</sup> paragraph	Replace retail price index with Consumer Prices Index including owner occupiers' housing costs
4.3.5	6 <sup>th</sup> paragraph before 'during that formula year'.	Replace RPI with CPIH
4.3.5	7 <sup>th</sup> paragraph	Replace $RPI_E$ with $CPIH_E$
4.3.5	7 <sup>th</sup> paragraph	Replace Retail Price Index with Consumer Prices Index including owner occupiers' housing costs
4.5.2	List of definitions	Replace $RPI_{y_{B,t}}$ with $CPIHy_{B,t}$
4.5.2	List of definitions	Replace Retail Price Index with Consumer Prices Index including owner occupiers' housing costs
4.5.2	List of definitions	Replace $RPI_{B,t}$ with $CPIH_{B,t}$
4.5.2	List of definitions	Replace Retail Price Index with Consumer Prices Index including owner occupiers' housing costs
4.5.3	Equation	Replace $RPI_B$ with $CPIH_B$
4.5.3	Equation	Replace $RPI_{y_{B,t}}$ with $CPIHiy_{B,t}$
4.5.3	2 <sup>nd</sup> paragraph	Replace $RPI_B$ with $CPIH_B$
4.5.3	2 <sup>nd</sup> paragraph	Replace Retail Price Index with Consumer Prices Index including owner occupiers' housing costs.
4.6.7(b)	2 <sup>nd</sup> equation	Replace $RPI_B$ with $CPIH_B$
4.6.7(b)	2 <sup>nd</sup> equation	Replace $RPI_E$ with $CPIH_E$
4.6.8	Equation above "Calculating the profile adjustment."	Replace $RPI_B$ with $CPIH_B$
4.6.8	Equation above "Calculating the profile adjustment."	Replace $RPI_E$ with $CPIH_E$
4.6.9	Equation	Replace $RPI_B$ with $CPIH_B$
4.6.9	Equation	Replace $RPI_E$ with $CPIH_E$
4.6.10	2 <sup>nd</sup> equation	Replace $RPI_F$ with $CPIH_F$
4.6.10	2 <sup>nd</sup> equation	Replace $RPI_E$ with $CPIH_E$
4.6.11	2 <sup>nd</sup> equation	Replace $RPI_F$ with $CPIH_F$

Condition	Location	Modification
4.6.11	2 <sup>nd</sup> equation	Replace RPI <sub>E</sub> with CPIH <sub>E</sub>
4.11.1	Designated parameters values	Replace RPI with CPIH
4.11.2	Table headings	Amend RPI to CPIH in table headings
4.12.1	After the definition of “Capital Expenditure”	Add additional definition for “Consumer Prices Index including owner occupiers’ housing costs” or “CPIH.” Means the Index of that name published by the Office of National Statistics each month in respect of all items, or: (a) if that Index for the specified month in any year shall not have been published on or before the last day of the sixth month after the specified month, such alternative index for such month as the Authority may after consultation with the Licensee determine as appropriate in the circumstances; or (b) if there is a material change in the basis of the Index, such alternative index as the Authority may after consultation with the Licensee determine as appropriate in the circumstances;
4.12.4	Designated parameters	Replace RPI with CPIH
4.12.4	Paragraph under table	Replace RPI <sub>iy<sub>t</sub></sub> with CPIH <sub>iy<sub>t</sub></sub>
4.12.4	Paragraph under table	Replace phrase “Retail Prices Index” with “Consumer Prices Index including owner occupiers’ housing costs,” in two places.
4.12.5	Key of parameters	Replace RPI <sub>E</sub> with CPIH <sub>E</sub>
4.12.5	Key of parameters	Replace RPI <sub>B</sub> with CPIH <sub>B</sub>
4.12.5	Key of parameters	Replace Retail Prices Index with Consumer Prices Index including owner occupiers’ housing costs.
4.12.5	Key of parameters	Replace RPI <sub>iy<sub>t</sub></sub> with CPIH <sub>iy<sub>t</sub></sub>
4.12.5	Key of parameters	Replace RPI <sub>ye<sub>t</sub></sub> with CPIH <sub>ye<sub>t</sub></sub>
4.12.5	Key of parameters	Replace Retail Prices Index with Consumer Prices Index including owner occupiers’ housing costs

**Table 4.3: Modifications to the SGN licence to change the general measure of inflation from RPI to CPIH**

## Reasons

- 4.23 Our price control determinations, and the subsequent annual assessments of tariffs take account of a general measure of inflation. RPI has been used in the past, but for GD23, we are adopting CPIH as the general measure of inflation. This change reflects concerns expressed by the UK Statistics Authority (UKSA) over the robustness of RPI. It has been assessed against

the Code of Practice for Official Statistics and found not to meet the required standard for designation as a National Statistic. As a result, the UKSA urges Government and others to cease using RPI. The UKSA has noted that: “We have been clear that the RPI is not a good measure, at times significantly overestimating inflation and at other times underestimating it and have consistently urged all – in Government and the private sector – to stop using it.”

- 4.24 Moving to CPIH provides a more equitable distribution of cost between today's and future consumers, and it helps maintain financeability of the GDNs.
- 4.25 Key decisions in the final determinations for GD23 reflect this proposal, including:
- The determination of a real weighted average cost of capital on a CPIH stripped basis.
  - The determination of a frontier shift on a CPIH stripped basis.
  - The calculation of the opening TRV for GD23 to ensure that the way in which CPIH is applied to future revenues and tariffs determined in 2020 prices reflects the inflation of the TRV to the end of the GD17 period using RPI.
- 4.26 In our approach to GD23, we noted proposals by the chair of UKSA to eventually cease the publication of RPI and, in the meantime, to incrementally adjust RPI to align with CPIH. In response to the UKSA's proposals, the Chancellor of the Exchequer ruled out any alignment beginning until at least 2025, but agreed with further consultations on this subject, before coming to a final decision. Pending the outcome of this work, we stated our intention to continue using RPI for the GD23 Price Control and make provisions for any changes which may be necessary if there is a material change in the methodology used to calculate RPI during the course of the Price Control.
- 4.27 However, following the UKSA's consultation, which closed in November 2020, we note the following:
- The Chancellor of the Exchequer concluded that he would be unable to offer his consent to the implementation of a proposal (such that the UKSA intends to make) before the maturity of the final specific index-linked gilt in 2030.

- Considering the clarification provided by the Bank of England and given the UKSA's position to address the shortcomings in the RPI in full at the earliest practical time, the UKSA's Chair replied to the Chancellor informing him that the UKSA would be able to implement its proposal legally and practically to the RPI in February 2030.
- 4.28 It is now clear that RPI will continue to be calculated and published in its current form until 2030. It is likely that the UKSA will bring the methods and data sources of the Consumer Prices Index, including owner-occupiers' housing costs (CPIH) into RPI shortly thereafter. However, the pace at which this will happen is not yet clear. The decision made to delay any changes to RPI until 2030, means that it is no longer possible to begin a transition to CPIH in GD23 through process which aligns RPI with CPIH. As a result, we have concluded that we should now move to CPIH, as our general measure of inflation for GD23.
- 4.29 A key consideration in our proposal to adopt CPIH as a general measure of inflation in GD23, has been its impact on key measures of financeability as the weighted average cost of capital reduces. One GDN raised concerns about its ability to finance its Business Plan at the rates of return proposed in its Business Plan and this issue would become more pronounced at the lower returns on capital proposed in this draft determination. This GDN suggested either:
- An enhancement to revenue in GD23 through an enhanced rate of return with the additional revenue returned to consumers at the end of GD23 through the debt adjustment mechanism; or,
  - A change from RPI to CPIH as the general measure of inflation which would increase revenues in GD23 but reduce the level of inflation applied to the TRV.
- 4.30 Of these options, we prefer a change to CPIH as this does not require more complex mechanisms to maintain financeability by enhancing revenues in for the GD23 period, only to deduct these additional revenues from the opening TRV at the start of GD29.
- 4.31 A move to CPIH has additional advantages:
- Consumer Price Index (CPI) has become the commonly reported measure of consumer inflation used widely in society for both inflation targets and adjusting various payments by government.



- Consumer Price Index including Housing (CPIH) is becoming increasingly common in regulation, for example: Ofwat and Ofgem have moved, shortly will move, or are in the process of transitioning from RPI to CPIH.
- The application of a robust measure of inflation in our price controls improves the alignment of payments with the way network services are consumed, improving intergenerational equity.

## **Effects**

- 4.32 A change to CPIH ensures that the GD23 price control is based on a method of assessing general inflation which is considered robust by the relevant competent statistical authorities. This improves the alignment of payments with the way network services are consumed, improving intergenerational equity.
- 4.33 Inflation as measured by CPIH is generally lower than inflation measured by RPI. As a result, revenues and tariffs will increase in the short term as the real weighted average cost of capital increases to reflect a lower level of general inflation. Over the longer term, the level of inflation applied to revenues and tariffs will be lower and the TRV will be subject to a lower level of general inflation. As a result, revenues, and tariffs in the future will be lower than they would be if RPI was retained as the general measure of inflation.
- 4.34 A change to CPIH improves financeability in GD23 and avoids using more complex mechanisms to maintain financeability by enhancing revenues in the GD23 period, only to deduct these additional revenues from the opening TRV at the start of GD29.

## 5. Change from LIBOR (or equivalent) to BOE Base Rate

### Overview

- 5.1 On 5 March 2021, the Financial Conduct Authority announced that most LIBOR (London Inter-Bank Offered Rate) panels would cease after 31 December 2021. This meant a replacement rate needed to be selected.
- 5.2 As the LIBOR rate appears in the FE and SGN conveyance licences, we selected the Bank of England (BOE) base rate as this was the most appropriate, accessible, and straightforward replacement for LIBOR. Additionally, we are confident in the longevity of the Bank of England base rate and as local bank base rates already appear in the PNGL licences, this will provide a more consistent approach across the organisation and the GDN licences.
- 5.3 The modifications will therefore replace LIBOR where it appears in the licences with BOE Base rate (or other comparable rate as the Authority may specify).
- 5.4 A Common Utility Regulator letter informing both FE and SGN of the decision to switch from LIBOR to BOE base rate was sent to GDNs on 27 January 2022.

### Consultation responses and the UR's consideration of responses

#### *FE*

- 5.5 FE did not make any suggested amendments or comments in relation to amending the licence conditions for Bank of England base rate, therefore we will enact the changes proposed in our consultation document.

#### *PNGL*

- 5.6 PNGL did not make any suggested amendments or comments in relation to amending the licence conditions for Bank of England base rate, therefore we will enact the changes proposed in our consultation document.

#### *SGN*

- 5.7 In its response to our licence consultation, SGN stated that, in relation to condition 4.2.18(b), there should be additional drafting in the licence for the 'crossover' from LIBOR to the Bank of England base rate- going from LIBOR

on 31<sup>st</sup> December 2022 to Bank of England base rate on 1<sup>st</sup> January 2023. It notes that the reference to LIBOR will still be necessary to the point of 31<sup>st</sup> December 2022.

## **UR consideration of Consultation Responses**

- 5.8 We have considered SGN's comments in this area and would respond that the workings for this 'crossover' will be dealt with in spreadsheets outside of the licence. We will continue to work with GDNs on this issue regarding how the crossover is worked out and implemented through spreadsheets.
- 5.9 However, based on SGN consultation feedback in relation to the changeover from LIBOR to Bank of England base rate from the 31<sup>st</sup> December 2022 to the 1<sup>st</sup> January 2023 we are making the licences clearer on this point. We are therefore including minor amendments to Condition 4.12 of SGN's licence relating to the definitions of LIBOR and Bank of England base rates to provide additional clarity. We are also amending FE's licence condition 4.8 as it has a similar Bank of England definition. We are making this change for the purposes of consistency as SGN's licence contains similar drafting to the FE licence. These amendments are discussed in additional detail below.

## **Licence modifications**

### ***FE***

- 5.10 To implement the change to the BOE base rate, we are making modifications to Part 4: The Price Control Conditions of the FE conveyance licence. These modifications will impact particularly on Condition 4.1: Charging methodology for the conveyance of gas.
- 5.11 The licence modifications will not involve any renumbering of conditions as LIBOR where it appears in each condition, will be replaced with BOE Base Rate, along with the addition to Condition 4.8 Definitions and Interpretation, as mentioned at 5.6.
- 5.12 The sections below indicate the modifications and how these will appear in the licence:
- 5.13 Condition 4.1.9: The Value of  $I_{F,t}$  shall be calculated in accordance with the following formulae:
- a) where  $Z_{F,t} \geq 0$ , then  $I_{F,T} = rt$ ,
  - b) where  $Z_{F,t} < 0$ , then:

$I_{F,t} = \text{BOE base rate}_{t-1} + 0.02$	if $t=2017$
$I_{F,t} = \text{BOE base rate}_{t-1} + 0.02$	if $t=2018$
$I_{F,t} = \text{BOE base rate}_{t-1} + 0.02$	if $t \geq 2019$

5.14 Condition 4.1.10: For the purposes of Condition 4.1.9:

BOE base rate<sub>t-1</sub> = is the daily average of the Bank of England base rate during the Formula year t-1 where data is available.

5.15 In our consultation document we included the following drafting for Condition 4.8.1 (Definitions and Interpretation):

‘BOE base rate: means, in respect of any relevant year t, the average of the daily base rates of the Bank of England during that year, expressed as a percentage (or if such a rate ceases to be published, such other comparable rate as the Authority may specify).’

However, following a minor change to SGN’s licence we are also amending FE’s licence for consistency and adding the term, ‘...in respect of any relevant year, t...’ to include the drafting ‘on and from 1 January 2023’ to provide additional clarity. This amendment is very minor. The revised licence drafting will now be:

‘BOE base rate: means, in respect of any relevant year t, on and from 1 January 2023, the average of the daily base rates of the Bank of England during that year, expressed as a percentage (or if such a rate ceases to be published, such other comparable rate as the Authority may specify).’

**PNGL**

5.16 To implement the change to the BOE base rate, we are making modifications to Condition 2.3.23 Definitions and Interpretation specifically in relation to the definition of ‘Average Specified Rate.’

5.17 We are amending the definition by replacing the term ‘Northern Bank plc with Bank of England so that the definition will now be as follows: ‘means, in respect of a Formula Year, the average of the daily base rates of the Bank of England expressed as a percentage (or if such a rate ceases to be published, such other comparable rate as the Authority may specify).’

5.18 In addition, the following explanation was included to clarify that the Bank of England base rate applies from 1 January 2023: ‘All references to the Bank of England Base Rate shall apply only on and from 1 January 2023.’

## SGN

- 5.19 To implement the change to the BOE base rate, we are making modifications to Part 4: The Price Control Conditions of the SGN conveyance licence. These modifications will impact on Condition 4.2: The Primary Constraint and Condition 4.12: Definitions and Interpretation.
- 5.20 The licence modification will not involve any renumbering of conditions as LIBOR where it appears in each condition will be replaced with BOE Base Rate.
- 5.21 We indicate the modifications below and illustrate how these will appear in the licence:
- 5.22 Condition 4.2.18 (b):

(b) where 
$$\sum_{\text{all } j} Z_{F,j,t-1} + Z_{U,t-1} < 0$$

Then 
$$r_{t-1} = \text{BOE base rate}_{t-1} + 0.02 - x_{U,t-1}$$

- 5.23 Condition 4.2.19:

BOE base rate<sub>t-1</sub> = is the daily average of the Bank of England base rate during the Formula year t-1 where data is available.

- 5.24 In our consultation document, we included the following proposed drafting for Condition 4.12.1 (Definitions and Interpretation):

BOE base rate: means, in respect of any relevant year t, the average of the daily base rates of the Bank of England expressed as a percentage (or if such a rate ceases to be published, such other comparable rate as the Authority may specify).

However, upon consideration of SGN consultation feedback we have decided to introduce additional clarity in this drafting. We are also including the term, '...in respect of any relevant year, t...' to include the drafting 'on and from 1 January 2023' to provide additional clarity. This amendment is very minor and we have made the same change in FE's licence for consistency, since it contains similar drafting. The revised licence drafting will now be:

‘BOE base rate: means, in respect of any relevant year t, on and from 1 January 2023, the average of the daily base rates of the Bank of England during that year, expressed as a percentage (or if such a rate ceases to be published, such other comparable rate as the Authority may specify).’

- 5.25 As the SGN licence also includes a definition of LIBOR in Condition 4.12.1 (Definitions and Interpretation), it makes sense to correspond the definitions to state when LIBOR ends as the Bank of England base rate definitions includes the date of its commencement, so we are adding a minor drafting amendment to the LIBOR definition as follows:

**"LIBOR"** means the sterling London Interbank Offered Rate as published in the Financial Times from time to time up to and including 31 December 2022 and thereafter Bank of England base rate will apply;

We do not consider additional consultation is required for such a minor amendment, which enhances licence clarity.

## Reasons

- 5.26 As LIBOR was being phased out, an appropriate alternative rate had to be selected for relevant utility licences and this LIBOR issue is not unique to Gas Distribution companies and the Utility Regulator has been considering the implications for other utility companies also and communicating effectively on any proposed approaches.
- 5.27 The Utility Regulator gave due consideration to an alternative to LIBOR and undertook a comprehensive review of appropriate alternatives. After our review, it was decided that the most appropriate approach was to use the Bank of England base rate as a replacement for LIBOR. We currently use an appropriate bank base rate in both the Northern Ireland Electricity Distribution Licence (NIEN) and PNGL Licence and apply a consistent approach across these utility licences.
- 5.28 While we have confidence in the longevity of the BOE base rate, it is important to state “or if such a rate ceases to be published, such other comparable rate as the Authority may specify” in these licence modifications to allow other rates to be used, where necessary. This is indicated by the definitions and interpretation section of the licence modifications.
- 5.29 In addition, we have included a modification to the PNGL licence to bring it in line with the other licences and use the Bank of England base rate as opposed to the Northern Bank plc (now Danske Bank).

## Effects

- 5.30 LIBOR will be used in the calculation of tariffs up to and until 31 December 2022 and the Bank of England base rate will be used on and from 1 January 2023.
- 5.31 Replacing LIBOR with the Bank of England base rate should further incentivise the companies to get their forecasts correct because the interest rate applied will generally be lower than would have been the case previously. The objective of the price control and tariff process is to make sound forecasts and avoid interest charges. We furthermore note that introducing the Bank of England base rate promotes consistency across the FE, PNGL and SGN licences.

## 6. Correction of Licence Inconsistencies

### Overview

6.1 As part of the preparation of this licence modification consultation, we identified licence consistency issues as follows:

- The definitions of “domestic new build” and “NIHE” properties in the PNGL licence are not consistent with the definitions in our Cost Reporting Guidelines.
- The definitions of “domestic new build” and “NIHE” properties in the SGN licence are not consistent with the definitions in our Cost Reporting Guidelines.
- Amendment of the date of the Final Determination and the date when it applies from to all GDNs licences.
- As part of the licence consultation process, some other minor modifications were identified, and we also discuss these below.

6.2 This chapter therefore details:

- The licence modifications for FE, PNGL, and SGN; and
- The associated reasons and effects.

### Consultation responses and the UR’s consideration of responses

#### *FE*

6.3 FE did not make any recommendations or suggestions in this area. Therefore, we will enact the modifications suggested in this area in the licence consultation document.

#### *PNGL*

6.4 In its consultation response, PNGL stated that in relation to the equation for Z F, t following the 1<sup>st</sup> paragraph, the UR should remove the term G F, t 3 as all other references to the connection incentive revenue arrangements were removed from the Licence in the October 2016.

6.5 In its consultation response, PNGL has suggested amendment to condition 2.4.10(b) relating to contractor costs as it believes the term CPIH should be replaced with the generic term ‘applicable indexation base as it states that



each contract will have its own basis for uplifting costs, which may not be CPIH.

## **SGN**

- 6.6 In its consultation response, SGN stated that the proposed modification to its licence does not include an update to the District Development Plan that is currently set out in Annex 2, Part 3 of the licence. SGN states that as GD23 will reset the connection targets in respect of each of the calendar years in the remainder of the licence period it will be necessary to update the District Development Plan to reflect this.
- 6.7 Although not included in the consultation response, SGN noted in a meeting with the UR that the time bands for the 'gas day' in condition 2.19.5 were inconsistent with the other GDNs.

## **UR's consideration of Consultation responses**

- 6.8 In its consultation response, PNGL suggested amendment to condition 2.4.10(b) relating to contractor costs as it believes the term CPIH should be replaced with the generic term 'applicable indexation base as it states that each contract will have its own basis for uplifting costs, which may not be CPIH. We have considered PNGL's comments and are not changing the licence wording as we consider that no amendment is required here as PNGL can use an index other than CPIH, or alternatively, vary its charges in a way that is not related to an index as long as it has UR approval to do so.
- 6.9 The UR notes SGN's comments in relation to the update of the District Development Plan; however, we note that the District Development Plan was issued at GD17 and is not routinely updated for any GDN. Therefore, we do not plan to make amendments currently.
- 6.10 We have considered SGN's comments in relation to the 'gas day' in condition 2.19.5 and will enact the modifications suggested in this area in the licence consultation document.

## **Licence Modifications**

### **FE**

#### ***Overview***

- 6.11 We are making minor amendments to condition 4.8 of the FE licence, in order to replace the GD17 Final Determination publication date with the

GD23 Final Determination publication date and also update the GD23 Price control commencement period. Condition 4.8 will be as follows:

- ““Final Determination” means the document of that title published by the Authority on 28 October 2022 for the purposes of the Review relating to the period commencing with t=2023.”

## **PNGL**

### ***Overview***

6.12 We are amending the classification of properties in Schedule 4 Annex 3, amending the definitions of ‘domestic new build’ and ‘NIHE’ properties, to make them consistent with the definitions used in the Cost Reporting Guidelines we provide to the GDNs.

- This amendment changes the definition of ‘domestic new build,’
  - ◆ from “means domestic premises which have never previously been owned or occupied by any person (that is they are, or are to be, newly built premises) and in respect of which the connection to the Network shall be made prior to the premises first being occupied, but excluding any such premises which fall within the definition of NIHE.”
  - ◆ to “means domestic premises which have never previously been owned or occupied by any person (that is they are, or are to be, newly built premises) and in respect of which the connection to the Network shall be made prior to the premises first being occupied, including any such premises being constructed for the Northern Ireland Housing Executive or a housing association in Northern Ireland.”
- This amendment changes the definition of NIHE,

- ◆ from “means domestic premises which are (or will be when built) owned by:
  - (a) the Northern Ireland Housing Executive; or
  - (b) a housing association in Northern Ireland.”
- ◆ to “means domestic premises (excluding any domestic new build) which are owned by:
  - (a) the Northern Ireland Housing Executive; or
  - (b) a housing association in Northern Ireland.”

6.13 We are making minor amendments to condition 2.3.23 of the PNGL licence, to replace the GD17 Final Determination publication date with the GD23 Final Determination publication date and update the GD23 Price control commencement period. Condition 2.3.23 will be as follows:

- ““Final Determination” means the document of that title published by the Authority on 28 October 2022 for the purposes of the Review relating to the period commencing with t=2023.”

6.14 Annex 2: PNGL Licence –Modifications shows the licence modifications as tracked changes to the PNGL conveyance licence.

## **SGN**

### ***Overview***

6.15 We are amending the classification of properties in Condition 3.1, amending the definitions of “Domestic New Build” and “NIHE” properties to make them consistent with the definitions used in the Cost Reporting Guidelines we provide to the GDNs.

- This amendment changes the definition of ‘domestic new build,’

- ◆ from “means domestic premises which have never previously been owned or occupied by any person (that is they are, or are to be, newly built premises) and in respect of which the connection to the Network shall be made prior to the premises first being occupied, but excluding any such premises which fall within the definition of NIHE.”
- ◆ to “means domestic premises which have never previously been owned or occupied by any person (that is they are, or are to be, newly built premises) and in respect of which the connection to the Network shall be made prior to the premises first being occupied, including premises being built for the NIHE or a housing association.”
- This amendment changes the definition of NIHE,
  - ◆ from “means domestic premises which are (or will be when built) owned by:
    - (a) the Northern Ireland Housing Executive; or
    - (b) a housing association in Northern Ireland.”
  - ◆ to “means domestic premises which are (excluding any Domestic New Build) owned by:
    - (a) the Northern Ireland Housing Executive; or
    - (b) a housing association in Northern Ireland.”

6.16 We are making minor amendments to condition 4.12 of the SGN licence, in order to replace the GD17 Final Determination publication date with the GD23 Final Determination publication date and also update the GD23 Price control commencement period. We have drafted Condition 4.12 as follows:

- ““Final Determination” means the document of that title published by the Authority on 28 October 2022 for the purposes of the Review relating to the period commencing with t=2023.”

6.17 As mentioned above, we are taking the opportunity to amend SGN’s licence to state the duration of the ‘gas day’ in the ‘Additional Definitions’ table in Condition 2.19.5 of SGN’s licence. This is a minor modification and results in an amendment from the start and end time of the gas day from 6am to 5am. The drafting and reasons for this change are shown below:

“day”	means a period beginning at 65am on one day and ending immediately before 65am on the following day and “daily” shall be construed accordingly;
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6.18 Annex 3: SGN Licence –Modifications shows the licence modifications as tracked changes to the SGN conveyance licence.

## Reasons

6.19 The purpose of the licence modifications listed above in section Correction of Licence Inconsistencies is to achieve licence consistency across GDNs.

- The purpose of the change in Schedule 4 Annex 3 of the PNGL licence, amending the definitions of ‘domestic new build’ and ‘NIHE’ properties, is to ensure consistency with other regulatory materials and will achieve consistency with the FE and SGN conveyance licences which both contain similar definitions.
- The purpose of the change in Condition 3.1 of the SGN licence, amending the definitions of ‘domestic new build’ and ‘NIHE’ properties, is to ensure consistency with other regulatory materials and to also achieve consistency with the PNGL and FE conveyance licences.
- The reason for including the date of the GD23 Final Determination publication date for all GDNs and its commencement period is to update the previous dates included for the GD17 price control. This drafting in all three GDN licences supersedes the previous price control narrative for GD17 and refers to aspects of the most recent Price Control, GD23.
- The reason for amending the ‘Gas Day’ limits in Condition 2.19.5 of SGN’s licence is that SGN indicated that the hour was incorrect. The times relating to the ‘Gas Day,’ had been changed in Gas Licences in GD17 and this change was likely omitted when making other amendments. We are making this minor change to the ‘Gas Day’ to make the SGN licence consistent with other GDN licences.

## Effects

- 6.20 We consider that the licence modifications discussed in this chapter 6 Correction of Licence Inconsistencies with respect to the FE, PNGL, and SGN conveyance licences have no immediate impact on GDNs; they merely add clarity to the licence wording and improve licence consistency, both with respect to:
- 6.21 Consistency within a given conveyance licence (changes to the FE conveyance licence, the PNGL conveyance licence, and the SGN conveyance licence are listed above.
- 6.22 Consistency across the distribution conveyance licences (changes to the FE conveyance licence, the PNGL conveyance licence, and the SGN conveyance licence are listed above.
- 6.23 The effect of updating the respective conditions in GDN licences for Final Determination publication and commencement date is minimal. However, in making these changes to GDN licences we are ensuring that licences are up to date and the GDN licences refer to the publication date for the most recent Final Determination relating to the most recent Price Control, i.e., GD23. The effect of updating the Final Determination date for GD23 and its respective commencement provides consistency across GDNs and clarifies GD23's commencement.

## 7. Next Steps

- 7.1 This paper represents the Utility Regulator’s decision on modifications to FE, PNGL and SGN gas conveyance licences and the modifications outlined in this decision paper will apply with effect from the 1<sup>st</sup> of January 2023.

### Timelines

- 7.2 Table 7.1 outlines the next steps and associated timelines for the remainder of the licence modification process.

GD23 Key Milestones	Revised timeline
Decision paper on licence modifications published.	22 <sup>nd</sup> February 2023
GD23 Price control modification is made.	19 <sup>th</sup> April 2023

**Table 7.1: Price Control Timelines**

- 7.3 We note that this timetable allows for the date on which the licence modifications come into force to be at least 56 days after the publication of the licence modification decision, in line with the requirements of Article 14(10) of the Gas (Northern Ireland) Order 1996. This period provides an opportunity for the licence holder subject to the price control, any other licence holder materially affected by the decision, a qualifying body or association representing one of those licence holders, and/or the Consumer Council for Northern Ireland to appeal the decision on the proposed licence modifications to the CMA (Competition and Markets Authority).
- 7.4 An application to the CMA for permission to appeal must be made within 20 working days from the 22<sup>nd</sup> of February 2023.
- 7.5 The anticipated date for the modifications to come into force is therefore the 19<sup>th</sup> of April 2023 (56 days after the licence modification decision notice is expected to be published). However, once the licence modifications are in force, they will apply in respect of the whole of the first year of the new control period (i.e., with effect on and from 1<sup>st</sup> of January 2023). In practical terms, therefore, the timing of the licence modifications coming into legal force is designed to ensure that all the licence formalities are fully satisfied, but the application of the new price control once the modifications are in effect will be such as to ensure that the GD23 allowances and outputs will apply with effect from the 1<sup>st</sup> of January 2023.
- 7.6 This document is available in other accessible formats, such as large print, Braille, audio cassette and a variety of relevant minority languages if

required. Please contact Paul Harland on either 028 9031 1575 or email:  
Gas\_networks\_responses@uregni.gov.uk with cc to  
paul.harland@uregni.gov.uk to request this.