

GAS PIPELINE DESIGNATION

Notice under Article 59 of the Energy (Northern Ireland) Order 2003

1. The Department for the Economy (the “**Department**”) pursuant to Article 59(4) of the Energy (Northern Ireland) Order 2003 (the “**Energy Order**”) hereby gives notice as follows:
 - (i) The Department proposes to designate, for the purposes of Article 59 of the Energy Order, the pipelines identified in the Schedule to the attached draft Designation Order.
 - (ii) The reasons for, and effects of, the Designation Order are as outlined below.

Reasons

2. In January 2013, the Northern Ireland Executive approved grant aid for a major project to extend natural gas networks to further towns in the West, namely Strabane, Dungannon, Coalisland, Cookstown, Magherafelt, Omagh, Enniskillen and Derrylin.
3. In support of the Gas to the West project, it is proposed that high pressure sections (> 7 bar gauge) of the new gas pipelines in the West should be “postalised” in line with established postalisation policy. This means that the cost of constructing and operating the high pressure sections of the new gas pipelines connecting the above named towns to the natural gas network will be added to a Common (transmission) Tariff and recovered from all NI gas customers through their gas bills over a 40-year period. The first to be designated will be the high pressure section of the new pipeline from Maydown to Strabane which is due for completion in October 2016. The remaining high pressure gas transmission pipelines in the West will be subject to a further Designation Order upon completion in due course.

Postalisation Policy

4. The policy of postalisation was first consulted upon in June 2002 as part of the preparation for implementation of the Energy Order. This was followed by a paper on the ‘Design of the Postalisation System for Northern Ireland Gas Transmission Network’ in December 2002; ‘Recommendations for the Implementation and Operation of a Postalisation System for Natural Gas Transmission Tariffs in Northern Ireland’ in June 2003; and a ‘Decision Letter’ in October 2003.
5. The Energy Order subsequently put in place the powers necessary to give effect to postalisation. In particular, Article 59 gives the Department the power

to designate pipelines for the purpose of securing that the prices charged for conveyance of gas through designated pipelines are in accordance with a Common Tariff (Article 60).

6. The extension of the gas industry in Northern Ireland and the implementation of postalisation policy have been supported by the Northern Ireland Authority for Utility Regulation (NIAUR) which has been consulted about the terms of the proposed Designation Order.

Designation Order

7. The proposed Designation Order will designate the following high pressure pipeline for the purposes of the Common Tariff:

“The pipeline known as the Maydown pipeline which runs from the Maydown Offtake at Maydown to (and including) the Pressure Reduction Station at Maydown, Londonderry.”

8. It is proposed that designation will take effect from an agreed date in October 2016.
9. Article 59(6) of the Energy Order provides that, if a Designation Order contains provision to the effect that the designation of any particular pipeline is for a specified period (referred to as the minimum period for designation), the Department shall not revoke or effectively terminate the designation before the end of that period. NIAUR has recommended that the revenue recovery period under the gas conveyance licence for the above named pipeline (that is the period, explicit or implicit, over which the pipeline owner and operator is expected to recover its investment) should also be the minimum period for designation. The Department accepts this principle which results in a designation period as follows:

West Transmission Ltd – up to 11 February 2055

Effect

10. The proposed Designation Order will facilitate extending the natural gas network to further towns in the West in line with the Department’s overall strategic objectives for gas network extension (as defined in its 2012 economic appraisal) which are:
 - (i) To promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland;
 - (ii) To extend the availability of natural gas, as a more efficient and potentially cheaper fuel, providing additional fuel choice, thus enabling businesses to improve their competitiveness in an increasingly global market place;
 - (iii) To extend the availability of natural gas as a lower carbon fuel, displacing more polluting fossil fuels, thus providing environmental benefits; and

- (iv) To enable domestic consumers within the towns considered to connect to natural gas, thus contributing to reducing fuel poverty.

REPRESENTATIONS ABOUT THE PROPOSED DESIGNATION ORDER MAY BE MADE BEFORE FRIDAY 5 AUGUST 2016 TO GAS BRANCH, DEPARTMENT FOR THE ECONOMY, NETHERLEIGH, MASSEY AVENUE, BELFAST, BT4 2JP OR E-MAILED TO gasbranch@economy-ni.gov.uk

STATUTORY RULES OF NORTHERN IRELAND

2016 No. XXX

GAS

The Gas (Designation of Pipelines) Order (Northern Ireland) 2016

Made - - - - xxth September 2016

Coming into operation - xxth October 2016

The Department for the Economy (“the Department”) in exercise of the powers conferred on it by Article 59(1), (2) and (5) of the Energy (Northern Ireland) Order 2003⁽¹⁾ (“the Energy Order”) and of every power enabling it in that behalf, hereby makes the following Order.

The Department has consulted with the Northern Ireland Authority for Utility Regulation in accordance with Article 59(1) of the Energy Order and has given notice in accordance with Article 59(4) of that Order and has considered any representations or objections which are duly made and not withdrawn.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Gas (Designation of Pipelines) Order (Northern Ireland) 2016 and shall come into operation on xxth October 2016.

(2) In this Order

“assigned” has the same meaning as in Article 12 of the Gas Order;

“the Energy Order” means the Energy (Northern Ireland) Order 2003;

“the Gas Order” means the Gas (Northern Ireland) Order 1996⁽²⁾; and

“the Insolvency Order” means the Insolvency (Northern Ireland) Order 1989⁽³⁾

Designated pipeline

2. The pipeline specified in column (1) of the Schedule, being a high pressure pipeline, is hereby designated as a pipeline to which Article 60 of the Energy Order applies for the period beginning on and including the date of commencement of this Order and ending on the date specified opposite thereto in column (2) of the Schedule.

¹ S.I. 2003/419 (N.I. 6)

² S.I. 1996/275 (N.I. 2) as amended by S.R. 2002 No. 291 and the Energy Order (in particular Article 30)

³ S.I. 1989/2405 (N.I. 19)

Cessation of Designation

3.—(1) This Order shall, subject to paragraph (2), cease to have effect where—

- (a) the licence granted under Article 8(1)(a) of the Gas Order authorising the holder to convey gas through the pipeline designated by Article 2 is assigned or revoked; or
- (b) there is an insolvency event in relation to the holder.

(2) This Order shall not cease to have effect by virtue of paragraph (1)(a) where a licence granted under Article 8(1)(a) of the Gas Order authorising the holder to convey gas through the pipeline is assigned or revoked but is immediately replaced by a further such licence granted to the same person so as to preserve the continuity of the authorisation of that person to convey gas through the pipeline.

(3) For the purpose of paragraph (1)(b) an “insolvency event” occurs in relation to the licence holder referred to in that sub-paragraph if it:

- (a) is deemed unable to pay its debts (within the meaning of Article 103(1) or (2) of the Insolvency Order) or if any voluntary arrangement is proposed in relation to it under Article 14 of the Insolvency Order;
- (b) has a receiver (which expression shall include an administrative receiver within the meaning of Article 5(1) of the Insolvency Order) of the whole or any material part of its assets or undertaking appointed;
- (c) has an administration order under Article 21 of the Insolvency Order made in relation to it;
- (d) has any resolution for winding up passed in relation to it; or
- (e) becomes subject to an order for winding up by a court of competent jurisdiction.

(4) In paragraph (3)(a) the reference to Article 103(1) of the Insolvency Order shall be construed as, a reference to that provision as if in sub-paragraph (a) for “£750” there was substituted “£250,000”.

(5) For the purposes of paragraph (3)(a), a person shall not be deemed to be unable to pay his debts if any such demand as is mentioned in Article 103(1)(a) of the Insolvency Order, is being contested in good faith by that person with recourse to all appropriate measures and procedures.

Sealed with the Official Seal of the Department for the Economy
on xx September 2016.

SCHEDULE 1

Description of the Pipeline

Date designation ending

The pipeline known as the Maydown Pipeline which runs from the Maydown Offtake at Maydown to (and including) the Pressure Reduction Station at Maydown, Londonderry.

11th February 2055

EXPLANATORY NOTE

(This note is not part of the Order)

Article 8(1) of the Gas (Northern Ireland) Order 1996 (“the Gas Order”) authorises the holder of a licence issued under sub-paragraph (a) to participate in the conveyance of gas from one place to another.

Such licences are subject to standard conditions. There may also be conditions attaching to a particular licence. Article 60(1) of the Energy (Northern Ireland) Order 2003 provides for the Department for the Economy (“the Department”), after consultation with the Northern Ireland Authority for Utility Regulation (“the Authority”), or the Authority with the consent of the Department, to modify the conditions of a particular licence, or the standard conditions where it considers it necessary or expedient to do so, for the purpose of implementing or facilitating the operation of arrangements designed to secure that prices charged in connection with the conveyance of gas through certain designated pipelines are in accordance with a common tariff which does not distinguish (whether directly or indirectly) between different parts of Northern Ireland or the extent of use of any such pipelines.

Article 2 and the Schedule to this Order designates a pipeline to which this power of modification applies.

The pipeline in the Schedule is designated from the date of coming into operation of the Order until the date specified opposite the reference to the pipeline in the Schedule. However, the Order specifies certain events on the happening of which the Order will cease to have effect. These events are set out in Article 3.