

Licence Modifications Pursuant to the GD17 Final Determination and other Regulatory Decisions

**Consultation Paper
15 September 2016**



About the Utility Regulator

The 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; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

Our Mission

Value and sustainability in energy and water.

Our Vision

We will make a difference for consumers by listening, innovating and leading.

Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted.

Be a united team.

Be collaborative and co-operative.

Be professional.

Listen and explain.

Make a difference.

Act with integrity.

Abstract

We are publishing a consultation on licence modifications pursuant to the GD17 final determination and to other regulatory decisions.

GD17 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 years from 2017 onwards. The GD17 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 preserve the right of licence holders to challenge our price control decisions and bring them into effect.

Furthermore, we propose to make additional licence modifications that are consequential to other decision papers published by the Authority or required to address known licence errors and some key inconsistencies between the licences held by the GDNs. This is on the basis that licences relating to the same activities ought to include similar provisions, except where there is a reason for a difference of treatment.

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 GD17 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 to the licence modifications proposed pursuant to the GD17 price control, and following-up on a number of other regulatory decisions we have published, we propose 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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ACRONYMS AND GLOSSARY

AGSNI	SSE Airtricity Gas Supply Northern Ireland
Capex	Capital expenditure
Cc	Carbon copy
CMA	<p>Competition and Markets Authority.</p> <p>The Competition and Markets Authority (CMA) is a non-ministerial government department in the United Kingdom, responsible for strengthening business competition and preventing and reducing anti-competitive activities. The CMA began operating fully on 1 April 2014, when it assumed many of the functions of the previously existing Competition Commission and Office of Fair Trading, which were abolished.</p>
Competition Commission	<p>The statutory body that deals with rejections of price controls and makes a new determination and decision after listening to the evidence from all related parties.</p> <p>From 1 April 2014, this organisation has changed its name to the Competition and Market Authority (CMA).</p>
DAV	Depreciated Asset Value
Domestic Premises	Premises where the supply of gas is taken wholly or mainly for domestic purposes
Domestic New Build	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.
DPA	Data Protection Act 1998
e.g.	For example
etc.	Et cetera (and so forth)
FD	Final Determination
FE	firmus energy (Distribution) Ltd
FOIA	Freedom of Information Act 2000

Forecasting Horizon	Designated parameter embedded in the conveyance licence of each NI GDN to designate the point in time by which the GDN should have recovered their cost, plus a reasonable rate of return and minus any remaining non-depreciated asset values
Gas Order	The Gas (Northern Ireland) Order 1996
GD14	This is the name given to the price control for PNGL and FE. It covers the period 2014 – 2016 (calendar years).
GD17	This is the name given to the next price control for the NI GDNs. It is proposed to cover the period 2017 – 2022 (calendar years).
GDN	Gas distribution network operator – FE, PNGL and SGN
i.e.	that is
NI	Northern Ireland
NIHE	Domestic Premises which are (or will be when built) owned by: <ul style="list-style-type: none"> (a) the Northern Ireland Housing Executive; or (b) a housing association in Northern Ireland.
Ofgem	Office of Gas and Electricity Markets. Regulates the electricity and gas markets in Great Britain.
OO (Owner Occupied)	Domestic Premises which do not fall into the definition of: <ul style="list-style-type: none"> • Domestic New Build; or • NIHE.
Opex	Operating expenditure
p.	page
PNGL	Phoenix Natural Gas Limited
Profile adjustment	Mechanism embedded in the conveyance licences for NI GDNs which levelises tariffs and profile costs over the period up to the forecasting horizon
Re	Regarding
RIGS	Regulatory Instructions and Guidance
SGN	SGN Natural Gas Limited
Third Gas Directive	Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural

	gas and repealing Directive 2003/55/EC
TRV	Total Regulatory Value: the Depreciated Asset Value plus any incentive adjustments including the profile adjustment.
WACC	Weighted Average Cost of Capital

1 Introduction

Purpose of this Document

- 1.1 With this document we are consulting on a number of licence modifications we propose to make to the conveyance licences for the three gas distribution network operators (GDNs) in Northern Ireland (NI):
- firmus energy (FE)
 - Phoenix Natural Gas Ltd (PNGL)
 - SGN Natural Gas Limited (SGN)
- 1.2 We (the Utility Regulator, the Authority) consider that the licence modifications proposed in this document are required to comply with our legal and regulatory obligations (summarised in section Legal and Regulatory Framework below), to follow-up on a number of decisions published by the Authority and to address known licence errors as well as some key inconsistencies between the licences held by the GDNs. This is on the basis that licences relating to the same activities ought to include similar provisions, except where there is a reason for a difference of treatment. In particular, including in the FE and PNGL conveyance licences a number of provisions which were incorporated in the new SGN conveyance licence will ensure that all of the licences are brought up to date with the latest regulatory thinking on a range of key issues. This ensures fairness and equality between licensees on those matters, and secures that equivalent regulatory powers are available to us (and thus an equivalent level of protection is provided for consumers) in respect of each network.
- 1.3 This licence modification consultation paper is presented against the background of a number of consultation outcomes and regulatory decisions in different areas:
- GD17 price control
 - Change of form of control for FE
 - Gas to the West project
 - Extension of the PNGL Licensed Area to East Down (also referred to as Gas to the East)
 - Licence Modifications pursuant to Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015 (LMA)
- 1.4 GD17 is the price control for the three NI GDNs for the years from 2017 onwards. This consultation on licence modifications pursuant to the GD17 final determination and other regulatory decisions is published together with our final determination¹ on the GD17 price control². As part of this price control package, we made a number of decisions which are detailed in the GD17 final determination and need to be implemented through

¹ http://www.uregni.gov.uk/publications/2016-09-15_GD17_Final_Determination_-_final

² GD17 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 years from 2017 onwards. The GD17 final determination sets the amount the gas distribution companies will have to run their businesses and invest in the gas network.

licence modifications to bring them into effect and preserve the right of the licence holders and other key stakeholders as set out in paragraph 1.27 to challenge our price control determination. This includes decisions on the following:

- Update of designated parameters and determination values³ for FE, PNGL and SGN
- Treatment of under-recoveries for FE
- Extension of forecasting horizon⁴ for FE
- Implementation of post-tax WACC for SGN
- Reference to Uncertainty Mechanism in FE and PNGL conveyance licences

- 1.5 In September 2015, we published, following consultation and due consideration of the responses received, our view to approve the principle of changing the form of control for FE from a price cap to a revenue cap.⁵ We indicated our plans to apply this change for the GD17 price control and to consult on the related licence modifications at the time of the GD17 final determination.
- 1.6 As part of the Gas to the West project⁶ and our preparatory work on the SGN conveyance licence, we identified a number of necessary changes to the FE and PNGL conveyance licences. There were multiple reasons for these change requirements, including lack of clarity or inaccuracies in the current drafting of these licences; new licence requirements arising from changes to the legal and regulatory framework the GDNs are operating in; shortfalls of the current licences in certain areas as well as the general need to treat the NI GDNs in a fair and equal manner. We noted in our Gas to the West Licence Consultation⁷ our intention to follow-up on the required licence modifications in due course.
- 1.7 On 10 December 2015 we granted an extension of the PNGL licensed area to East Down. In our related consultation⁸ and decision⁹ papers we indicated our view that it might be appropriate to formally set out a related development plan, referenced in the PNGL conveyance licence conditions and that this would be consulted on separately.
- 1.8 When making modifications to gas and electricity licences required pursuant to the Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015, a number of changes were made to licence conditions that are in equivalent form also contained in the SGN conveyance licence. Whilst there was no immediate need to

³ Designated parameters include e.g. formula years, rate of return and price base. Determination values include e.g. volumes, capital and operating expenditure, annual depreciation, cash flow, revenues per unit of gas, depreciated asset value and total regulatory value. The exact number and type of designated parameters and determination values can vary between licences and they may comprise of more than those listed here.

⁴ Designated parameter embedded in the conveyance licence of each NI GDN to designate the point in time by which the GDN should have recovered their cost, plus a reasonable rate of return and minus any remaining non-depreciated asset values.

⁵ [Utility Regulator: firmus energy \(Distribution\) Limited Licence, Outcome of Consultation paper on moving to a revenue cap regime, 16 September 2015.](#)

⁶ For further details see: http://www.uregni.gov.uk/gas/projects/gas_to_the_west_initiative/.

⁷ [Utility Regulator: Gas to the West Licence Consultation, 18 December 2014.](#)

⁸ [Utility Regulator: Notice to Extend the Conveyance Licence Area and Modification of the Conveyance Licence of Phoenix Natural Gas Limited – East Down, 16 October 2016.](#)

⁹ [Utility Regulator: Decision Paper on the Extension to the Conveyance Licence Area and Modification of the Conveyance Licence of Phoenix Natural Gas Limited – East Down, 10 December 2015.](#)

change the SGN conveyance licence at the time as it was compliant with the Licence Modification and Appeals Regulations (Northern Ireland) 2015, we indicated in our related decision paper¹⁰ our intention to consider, in the interest of consistency, aligning the SGN conveyance licence with the wording in equivalent conditions in other licences in due course.

- 1.9 The purpose of this document is to follow-up on these proposals and consult on the licence modifications we consider required to bring them into effect.
- 1.10 We also propose to make some additional modifications to the FE, PNGL and SGN conveyance licences to address known drafting errors and some licence inconsistencies.
- 1.11 We note that not all licence modifications proposed are applicable to all GDNs. Table 1 provides an overview over the different types of licence modifications we propose to make and to which GDNs we consider they should apply.

Type of Licence Modification	Relevance			Background
	FE	PNGL	SGN	
Update of designated parameters and determination values	X	X	X	GD17
Change from price cap to revenue cap	X			FE form of control
Treatment of Under-recoveries	X			GD17
Extension of forecasting horizon	X			GD17
Post-tax WACC			X	GD17
Uncertainty Mechanism reference	X	X		GD17
Licence alignment between GDNs pursuant to the Gas to the West project	X	X		Gas to the West project
Licence modifications pursuant to the extension of the PNGL licensed area to East Down		X		Gas to the East project
Licence Modifications pursuant to our decision paper on Modifications necessary due to The Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015			X	LMA
Correction of licence errors and inconsistencies	X	X	X	Various

Table 1: Overview over Proposed Licence Modifications

Document Structure

- 1.12 This consultation document is structured in a number of chapters as follows:
- Chapter 1 Introduction provides an overview of the purpose and structure of this consultation document and summarises our approach to making the proposed licence modifications as well as the legal and regulatory background to the proposed licence modifications

¹⁰ For further details see e.g.: [Utility Regulator: Changes to Gas and Electricity Licences with regards to Appeals to the CMA, Decision Paper on Modifications necessary due to The Gas and Electricity Licence Modifications and Appeals Regulations \(Northern Ireland\) 2015, 4 August 2015.](#)

- Chapter 2 Update of Designated Parameters and Determination Values details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 3 Change from Price Cap to Revenue Cap details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 4 Treatment of Under-recoveries details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 5 Extension of Forecasting Horizon details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 6 Post-Tax WACC details our proposed licence modifications with this regard for SGN as well as the associated reasons and effects
 - Chapter 7 Uncertainty Mechanism details our proposed licence modifications in this area with this regard as well as the associated reasons and effects
 - Chapter 8 Licence Alignment between GDNs pursuant to Gas to the West Project details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 9 Licence Modifications pursuant to the Extension of the PNGL Licensed Area to East Down details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 10 Licence Modifications due to The Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 11 Correction of Licence Errors and Inconsistencies details our proposed licence modifications in this area as well as the associated reasons and effects
 - Chapter 12 Next Steps provides details on how to submit responses to this consultation document and sets out our proposed timelines for the remainder of the licence modification process
- 1.13 The present document is complemented by six annexes. For each GDN, there is one annex setting out the proposed licence modifications as tracked changes to the current licence conditions and one annex containing the legislative notices of the proposed modifications. Table 21 provides an overview of these annexes.
- 1.14 Each of the chapters 2 to 11 details the proposed licence modifications and follows 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 proposed licence modifications, grouped by GDN as appropriate, and subsequently detail the associated reasons and effects.
- 1.15 We note that in the interest of avoiding duplication, for licence modifications proposed 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 in particular the case for those licence modifications proposed pursuant to decisions detailed in the GD17 final determination. Table 22 provides an overview of such supplementary documents.

1.16 Table 23 as below, provides an overview of the responses referred to explicitly in this document. We note that we have received further responses to the GD17 draft determination which are not included in Table 23 as they are not referred to explicitly in this document. For further details see the GD17 Responses Report as below.

Document	Document Link
GD17 Draft Determination Consultation Report ¹¹	Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks GD17, Final Determination – Annex 13, Draft Determination Consultation Report, 15 September 2016
FE Response to GD17 Draft Determination ¹²	Firmus energy: Response to the GD17 Draft Determination, May 2016
PNGL Response to GD17 Draft Determination ¹³	Phoenix Natural Gas Ltd. Response to the Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks, GD17 Draft Determination, May 2016
SGN Response to GD17 Draft Determination ¹⁴	SGN: GD17 Draft Determination Consultation Response, 31 May 2016

Approach

- 1.17 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.
- 1.18 We have provided the GDNs with details on the proposed licence modifications, including advance sight of the proposed tracked changes to their licence, at as early a stage as possible. For some licence modifications, these detailed proposals were included in our GD17 draft determination¹⁵, for others parts, we shared them in the process of preparing this consultation on licence modifications.
- 1.19 In preparing the present document, we have considered the comments we have received from the GDNs and other stakeholders on the proposed licence modifications to date. Table 23 provides an overview of the responses referred to explicitly in this document.
- 1.20 We note that this consultation document presents a further opportunity not only for the GDNs but also for any other interested stakeholders to provide comments on the proposed modifications. Please see section 12 Next Steps, Submission of Consultation Responses for details on how to respond to this consultation.
- 1.21 Section 12 Next Steps, Timelines sets out the key next steps and associated timelines for the remainder of the licence modification process.

¹¹ [Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks GD17, Final Determination – Annex 13, Draft Determination Consultation Report, 15 September 2016.](#)

¹² [Firmus energy: Response to the GD17 Draft Determination, May 2016.](#)

¹³ [Phoenix Natural Gas Ltd. Response to the Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks, GD17 Draft Determination, May 2016.](#)

¹⁴ [SGN: GD17 Draft Determination Consultation Response, 31 May 2016.](#)

¹⁵ [Utility Regulatory: Price Control for Northern Ireland's Gas Distribution Networks GD17, Draft Determination, 16 March 2016.](#)

- 1.22 The proposed effective date for all licence modifications proposed in this document is 1 January 2017.
- 1.23 We note that subject to the responses we receive to this consultation, changes to our proposed licence modifications are possible.

Legal and Regulatory Framework

- 1.24 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 Directive¹⁶, and by having regard to a number of matters, as set out more fully in the Energy (Northern Ireland) Order 2003¹⁷.
- 1.25 Each of the three NI GDNs has 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.
- 1.26 In fulfilment of our duties, we may propose to make modifications to these licences under Article 14 of the Gas (Northern Ireland) Order 1996¹⁸ (the Gas Order). Article 14 sets out, in particular, the 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 effective date for the licence modification must be at least 56 days after the publication of the licence modification decision.
- 1.27 Since the coming into effect of the Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015¹⁹ on 6 February 2015, we no longer need the consent of the licence holder to make a modification to their licence. In consequence of that, we no longer require a power to refer a licence to the 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.
- 1.28 If an appeal is brought to the CMA, 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

¹⁶ 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.

¹⁷ <http://www.legislation.gov.uk/nisi/2003/419/contents>.

¹⁸ <http://www.legislation.gov.uk/nisi/1996/275/contents>.

¹⁹ <http://www.legislation.gov.uk/nisr/2015/1/contents/made>.

months, in which to determine the appeal. These timelines can be extended to 5 months, respectively 7 months for licence modifications relating to price controls, if required.

- 1.29 As indicated in paragraph 1.28, 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 coming into effect of the Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015 is that in order 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.

2 Update of Designated Parameters and Determination Values

Overview

- 2.1 As detailed in Chapter 1, licence modifications are required to update the relevant designated parameters and determination values³ in the GDNs' licences and bring into effect the GD17 price control decisions².
- 2.2 Whilst the designated parameters and determination values to be updated, the values proposed for them and the licence conditions containing them may differ between the GDNs, the need to implement related licence modifications and the reasons for them are the same for all three GDNs: FE, PNGL and SGN.
- 2.3 We set out our initial views on the proposed designated parameters and determination values in chapter 11 of the GD17 draft determination¹⁵. We have since revised these proposals based on stakeholder feedback and further internal analysis, as further detailed in our GD17 final determination¹.
- 2.4 We note that for all three GDNs, the list of designated parameters and determination values to be determined as part of GD17 has changed as a result of other licence modifications proposed in this licence modification consultation document. The reasons and effects for these changes are detailed in the respective chapters; the related values proposed based on our GD17 final determination are discussed in this chapter.
- 2.5 This chapter details:
 - the proposed licence modifications for each GDN (FE, PNGL and SGN); and
 - the associated reasons and effects.

Proposed Licence Modifications

FE

- 2.6 We propose to update Condition 4.7: Current Designated Parameters and Determination Values with the values determined as part of the GD17 price control process. As set out in section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Designated Parameters and Determination Values of the GD17 final determination.¹ This is shown in Table 2 and Table 3 below respectively for designated parameters and determination values. We note that for reasons of readability, the GD17 final determination document and Table 3 below only show the determination values up to the end of the GD17 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 – Proposed Modifications to this licence consultation document as well as in Annex 10: PI Models – FE to the GD17 final determination¹.

Designated Parameter	Value
r_i	0.0432
n	2022
m	2016
f_i	0.5
q	2045
RPI	256.0
w	5
g	0
h	1
d	1
l	33

Table 2: FE – Proposed Designated Parameters

Description (for Conveyance Categories <i>i</i> and <i>j</i>)	Determination Values		All Values in £(000's) and Indexed to RPI 2014					
			t=2017	t=2018	t=2019	t=2020	t=2021	t=2022
Volume (therms)	$V_{E,j}$	$i=1$	11,228	12,780	14,462	16,267	18,185	20,197
	$V_{E,j}$	$i=2$	8,336	8,850	9,352	9,844	10,325	10,796
	$V_{E,j}$	$i=3$	6,380	6,374	6,368	6,362	6,355	6,349
	$V_{E,j}$	$i=4$	1,161	927	927	927	927	927
	$V_{E,j}$	$i=5$	13,375	13,361	13,361	13,361	13,361	13,361
	$V_{E,j}$	$i=6$	21,500	18,152	18,152	18,152	18,152	18,152
Capital Expenditure	$C_{E,j}$		17,021	14,216	14,412	14,692	15,041	15,264
Operating Expenditure	$O_{E,j}$		6,334	6,293	6,446	6,656	6,929	7,205
Annual Depreciation	$D_{E,j}$		4,378	4,797	5,209	5,650	6,069	6,356
Cash Flow (calculated in accordance with Condition 4.4.6)	$F_{E,j}$		-5,538	-2,697	-2,163	-1,723	-1,369	-854
Revenue Per Unit	$P_{E,j}$	$i=1$	0.4335	0.4335	0.4335	0.4335	0.4335	0.4335
	$P_{E,j}$	$i=2$	0.3046	0.3046	0.3046	0.3046	0.3046	0.3046
	$P_{E,j}$	$i=3$	0.2730	0.2730	0.2730	0.2730	0.2730	0.2730
	$P_{E,j}$	$i=4$	0.2168	0.2168	0.2168	0.2168	0.2168	0.2168
	$P_{E,j}$	$i=5$	0.2558	0.2558	0.2558	0.2558	0.2558	0.2558
	$P_{E,j}$	$i=6$	0.2324	0.2324	0.2324	0.2324	0.2324	0.2324
Total Conveyance Revenue	$R_{E,j}$		17,818	17,813	18,694	19,624	20,601	21,615
Depreciated Asset Value (calculated in accordance with Condition 4.4.7)	$DAV_{E,j}$		118,306	127,726	136,929	145,970	154,942	163,849
Total Regulatory Value (calculated in accordance with Condition 4.4.8)	$TRV_{E,m}$							202,350

Table 3: FE – Proposed Determination Values

- 2.7 We note that all licence condition numbers referred to in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed in chapter 3 Change from Price Cap to Revenue Cap of this licence modification consultation.
- 2.8 Annex 1: FE Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the FE conveyance licence.

PNGL

- 2.9 We propose to update 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 GD17 price control process. This is set out in section 11 Outputs, Outcomes and Allowances, PNGL – UR Decisions, Designated Parameters and Determination Values of the GD17 final determination¹ and shown in Table 4 below for designated parameters. We note that for reasons of readability, the GD17 final determination document and Table 5 below only show the determination values up to the end of the GD17 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 – Proposed Modifications to this licence consultation document as well as in Annex 11: PI Models – PNGL to the GD17 final determination¹.

Designated Parameter	Value
r_t	0.0426
m	2016
n	2022
q	2046
<i>RPI</i>	257.6

Table 4: PNGL – Proposed Designated Parameters

- 2.10 We furthermore propose to update 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 GD17 price control process. This is set out in section 11 Outputs, Outcomes and Allowances, PNGL – UR Decisions, Designated Parameters and Determination Values of the GD17 final determination¹ and shown in Table 5 below for determination values.

Determination Value		All Values in £(000's) and Indexed to RPI 2014					
		t=2017	t=2018	t=2019	t=2020	t=2021	t=2022
$V_{E,i,t}$	$i = 1$	78,885	82,121	85,375	88,665	91,966	95,217
$V_{E,i,t}$	$i = 2$	21,631	21,885	22,162	22,466	22,789	23,123
$V_{E,i,t}$	$i = 3$	29,598	29,723	29,848	29,973	30,098	30,223
$V_{E,i,t}$	$i = 4$	18,768	18,768	18,768	18,768	18,768	18,768
$C_{E,t}$		10,468	10,927	15,615	18,200	16,828	16,189
$CC_{E,t}$		-5,989	-6,066	-6,847	-7,278	-7,049	-6,943
$O_{E,t}$		14,737	14,422	14,331	14,281	14,179	14,286
$D_{E,t}$		14,748	15,224	15,835	16,563	17,290	17,930
$F_{E,t}$		25,896	27,822	25,265	23,180	24,848	28,339
$Q_{E,t}$		-3,203	-2,954	-2,729	-2,506	-2,274	-2,070
$P_{E,t,t}$	$i = 1$	0.3951	0.3951	0.3951	0.3951	0.3951	0.3951
$P_{E,t,t}$	$i = 2$	0.3556	0.3556	0.3556	0.3556	0.3556	0.3556
$P_{E,t,t}$	$i = 3$	0.3349	0.3349	0.3349	0.3349	0.3349	0.3349
$P_{E,t,t}$	$i = 4$	0.1685	0.1685	0.1685	0.1685	0.1685	0.1685
$R_{E,t}$		51,932	53,343	54,769	56,219	57,679	59,125
$DAV_{E,t}$		421,864	426,373	427,189	400,858	401,760	400,019
$TRV_{E,m}$							592,436
$PA_{E,m}$							201,430

Table 5: PNGL – Proposed Determination Values

- 2.11 Annex 2: PNGL Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the PNGL conveyance licence.

SGN

- 2.12 We propose to update Condition 4.11: Current Designated Parameters and Determination Values with the values determined as part of the GD17 price control process. This is set out in section 11 Outputs, Outcomes and Allowances, SGN – UR Decisions, Designated Parameters and Determination Values of the GD17 final determination¹ and shown in Table 6 and Table 7 below respectively for designated parameters and determination values. We note that for reasons of readability, the GD17 final determination document and Table 3 below only show the determination values up to the end of the GD17 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 – Proposed Modifications to this licence consultation document as well as in Annex 12: PI Models – SGN to the GD17 final determination¹.

Designated Parameter	Value
r_t	0.053
n	2022
m	2017
f_t	0.5
q	2057
<i>RPI</i>	256.0
w	5
g	0
h	0
d	0
l	33
δ_t	0
$x_{0,t}$	0
$x_{U,t}$	0
α_t	0.4

Table 6: SGN – Proposed Designated Parameters

Description (for Conveyance Categories i and Formula Years t)	Determination Values	All Values in £(000's) and Indexed to RPI 2014					
		t=2018	t=2019	t=2020	t=2021	t=2022	
Volume (therms)	$V_{E,t}$	5,055	21,811	28,333	31,391	32,804	
Capital Expenditure	$C_{E,t}$	4,428	12,553	9,554	7,421	7,884	
Operating Expenditure	$O_{E,t}$	843	2,156	1,971	1,694	2,015	
Annual Depreciation	$D_{E,t}$	256	717	1,078	1,371	1,676	
Tax Allowance	$T_{E,t}$	0	0	0	0	0	
Cash Flow (calculated in accordance with Condition 4.6.6)	$F_{E,t}$	-4,482	-11,506	-6,985	-3,875	-4,252	
Revenue Per Unit	$P_{E,i,t}$	$i = 1$	0.2883	0.2883	0.2883	0.2883	0.2883
	$P_{E,i,t}$	$i = 2$	0.2883	0.2883	0.2883	0.2883	0.2883
	$P_{E,i,t}$	$i = 3$	0.2785	0.2785	0.2785	0.2785	0.2785
	$P_{E,i,t}$	$i = 4$	0.1585	0.1585	0.1585	0.1585	0.1585
	$P_{E,i,t}$	$i = 5$	0.1585	0.1585	0.1585	0.1585	0.1585
	$P_{E,i,t}$	$i = 6$	0.1585	0.1585	0.1585	0.1585	0.1585
	$P_{E,i,t}$	$i = 7$	0.1200	0.1200	0.1200	0.1200	0.1200
Depreciated Asset Value (calculated in accordance with Condition 4.6.7)	$DAV_{E,t}$	6,883	18,719	27,195	33,245	39,453	
Total Regulatory Value (calculated in accordance with Condition 4.6.8)	$TRV_{E,m}$					40,786	

Table 7: SGN – Proposed Determination Values

- 2.13 Annex 3: SGN Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the SGN conveyance licence.

Reasons

- 2.14 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.

- 2.15 The proposed licence modifications are required to bring the GD17 final determination into effect and ensure consistency between the GD17 final determination and the GDN conveyance licences. Furthermore, by us making these modifications to the GDN licences, in line with the Gas (Northern Ireland) Order 2003, the GDNs have a mechanism to bring forward an appeal to the CMA against the licence modification and the underlying GD17 final determination.
- 2.16 The overarching reason for modifying the Designated Parameters and Determination Values is that they are required by the GDN licence formulae in order 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 8 to Table 13 addresses each one. We note that detailed substantiation for the proposed licence updates to the designated parameters and determination values is largely contained in the GD17 final determination¹ even though some reasons are also given in the licence consultation paper and this is referred to in the Tables below as appropriate.

Designated Parameter	Description	Document Reference re: Reasons for Proposed Licence Modification
r_t	Rate of return	See chapter 10 Financial Aspects of the GD17 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 GD17 price control period in line with duration of GD17 explained in Chapter 3 Approach of the GD17 final determination.
m	The Formula Year that was n for the preceding review	It sets the last year of the price control period directly pre-ceding GD17.
f_t	Averaging factor to reflect in year accruals (as defined in Condition 4.4.5)	Unchanged from GD14 final determination.
q	The forecasting horizon for review calculations (as defined in Condition 4.2.4)	See chapter 11 Outputs, Outcomes and Allowances of the GD17 price control period and chapter 5 of this licence consultation document.
RPI	The indexation base	Inflation rate established in line with FE licence to ensure inflation is accounted for in revenues.
w	Incentive period (as defined in Condition 4.4.10)	Unchanged from GD14 final determination.
g	A switch for the Operating Rolling Incentive	Unchanged from GD14 final determination.
h	A switch for the Capital	Unchanged from GD14 final

Designated Parameter	Description	Document Reference re: Reasons for Proposed Licence Modification
	Rolling Incentive	determination.
<i>d</i>	A switch for the depreciation component	Unchanged from GD14 final determination.
<i>l</i>	Deemed asset life	Unchanged from GD14 final determination.

Table 8: FE – References for Substantiation of Proposed Designated Parameters

Determination Values	Description (for Conveyance Categories i and Formula Years t)	Document Reference re: Reasons for Proposed Licence Modification
$V_{E,i,t}$	Volume	See chapter 5 Volumes and Connections of GD17 final determination.
$C_{E,t}$	Capital Expenditure	See chapter 7 Capex of GD17 final determination.
$O_{E,t}$	Operating Expenditure	See chapter 6 Opex of GD17 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 GD17 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 10 to the GD17 final determination), in line with licence formulae.
$R_{E,t}$	Total Conveyance Revenue	Output of FE Pi model (published as Annex 10 to the GD17 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 GD17 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 – Proposed Modifications, a value is shown for every fifth year following the end of the GD17 price control period to reflect assumptions about the length of future price control periods. These are subject to change in the future.

Table 9: FE – References for Substantiation of Proposed Determination Values

Designated Parameters	Description	Document Reference re: Reasons for Proposed Licence Modification
r_t	Rate of return	See chapter 10 Financial Aspects of the GD17 final determination.
n	Trigger for Reviews (as defined in Condition 2.3.11)	It sets the last year of the GD17 price control period in line with duration of GD17 explained in Chapter 3 Approach of the GD17 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 GD17.
q	The forecasting horizon for review calculations (as defined in Condition 2.3.12)	Unchanged from GD14 final determination.
RPI	The indexation base *	Inflation rate established in line with PNGL licence to ensure inflation is accounted for in revenues.

Table 10: PNGL – References for Substantiation of Proposed Designated Parameters

Determination Values	Description	Document Reference re: Reasons for Proposed Licence Modification
$V_{E,i,t}$	Volume (for Conveyance Categories i)	See chapter 5 Volumes and Connections of GD17 final determination.
$C_{E,t}$	Capital Expenditure	See chapter 7 Capex of GD17 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 6 Opex of GD17 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 GD17 final determination.
$F_{E,t}$	Cash Flow (calculated in accordance with Condition 2.3.16)	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.

Determination Values	Description	Document Reference re: Reasons for Proposed Licence Modification
$P_{E,i,t}$	Revenue Per Therm (for Conveyance Categories <i>i</i>)	Output of PNLG Pi model (published as Annex 11 to the GD17 final determination), in line with licence formulae.
$R_{E,t}$	Total Conveyance Revenue	Output of PNLG Pi model (published as Annex 11 to the GD17 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.
$TRV_{E,m}$	Total Regulatory Value (calculated in accordance with Condition 2.3.18)	The TRV has changed due to the updated values of the GD17 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: PNLG Licence – Proposed Modifications, a value is shown for every fifth year following the end of the GD17 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 11: PNLG – References for Substantiation of Proposed Determination Values

Designated Parameters	Description	Document Reference re: Reasons for Proposed Licence Modification
r_t	Rate of return	See chapter 10 Financial Aspects of the GD17 final determination.
n	Trigger for Reviews (as defined in Condition 4.4.4)	It sets the last year of the GD17 price control period in line with duration of GD17 explained in Chapter 3 Approach of the GD17 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	Averaging 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.
RPI	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)	Set at 5, as for FE, although this will not matter as for SGN the opex and capex rollers are switched off.
g	A switch for the Operating Rolling Incentive	UR has never applied an opex risk sharing mechanism on GDNs. UR views the high level of incentive on the GDNs associated with setting this to zero as in the long term interests of customers as any resultant efficiencies will be passed through in future price controls. We also note limited appetite for changing to a 50/50 mechanism from the draft determination consultation responses as discussed in Chapter 11 of the GD17 final determination.
h	A switch for the Capital Rolling Incentive	This has been turned off as set out in Chapter 11 of the GD17 final determination.
d	A switch for the depreciation component	This is set to zero, due to being the 1st price control and establishing the network for the first time, as no depreciation has occurred.

Designated Parameters	Description	Document Reference re: Reasons for Proposed Licence Modification
l	Deemed asset life	This is required to be set as part of the licence formulae. This is set at 33, which is the average calculation of the depreciation profiles set out in Chapter 10 of the GD17 final determination.
δ_t	A weighting factor to be used in the Primary Constraint	This is set at zero due to GD17 being the first price control for SGN, and establishing the network for the first time, to prevent any under or over recovery in the respect of different conveyance categories to be offset.
$x_{O,t}$	A rate of return adjustment which may be used to encourage or discourage accumulated over-recoveries (as defined in Condition 4.2.6)	This is set due to zero, due to being the first price control. At this point in SGN's development, we have no reason to encourage or discourage accumulated over-recoveries.
$x_{U,t}$	A rate of return adjustment which may be used to encourage or discourage accumulated under-recoveries (as defined in Condition 4.2.6)	This is set due to zero, due to being the first price control. At this point in SGN's development, we have no reason to encourage or discourage accumulated under-recoveries.
α_t	A weighting factor used in the Supplemental Constraint	Gives flexibility to the licence holder to allow charging over and above the set conveyance charges to account for market conditions and enable recovery of any under recoveries built up.

Table 12: SGN – References for Substantiation of Proposed Designated Parameters

Determination Values	Description (for Conveyance Categories i and Formula Years t)	Document Reference re: Reasons for Proposed Licence Modification
$V_{E,i,t}$	Volume	See chapter 5 Volumes and Connections of GD17 final determination.
$C_{E,t}$	Capital Expenditure	See chapter 7 Capex of GD17 final determination.
$O_{E,t}$	Operating Expenditure	See chapter 6 Opex of GD17 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 GD17 final determination.
$T_{E,t}$	Tax Allowance	See chapter 10 Financial Aspects of GD17 final determination.
$F_{E,t}$	Cash Flow (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 12 to the GD17 final determination), in line with licence formulae.
$DAV_{E,t}$	Depreciated Asset Value (calculated in accordance with Condition 4.6.7)	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 4.6.8)*	The TRV is set to reflect the values of the GD17 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 – Proposed Modifications, a value is shown for every fifth year following the end of the GD17 price control period to reflect assumptions about the length of future price control periods. These are subject to change in the future.

Table 13: SGN – References for Substantiation of Proposed Determination Values

Effects

- 2.17 The changes detailed above will bring the GD17 final determination into effect and ensure consistency between the GD17 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 its activities. The proposed modifications will also incentivise the GDNs to further grow the industry in an economic and co-ordinated manner. It is also incentivised to continue to push for efficiencies in how it maintains and operates the network.

3 Change from Price Cap to Revenue Cap

Overview

- 3.1 In our GD14 final determination²⁰, we set out our intention to change FE from a price cap to a revenue cap and stated that we would consult on this matter as part of GD17.
- 3.2 In June 2015, we published a related consultation paper²¹. This was followed, in September 2015, by our view⁵ to approve the principle of changing the form of control for FE from a price cap to a revenue cap. We indicated in our paper on the outcome of the consultation our plans to apply this change for the GD17 price control period onwards and to consult on the related licence modifications at the time of the GD17 final determination.
- 3.3 In chapter 12 Licence Implications of the GD17 draft determination¹⁵ we reiterated our intention to provide further information on the related proposed licence modifications in preparation of the GD17 final determination. In line with this statement, we have shared initial drafting of our licence modifications proposals relating to the change from price cap to revenue cap with FE.
- 3.4 As part of the FE consultation response to the GD17 draft determination⁵³ and as part of our ongoing engagement with FE on the proposed licence modifications to facilitate the change from a price cap to a revenue cap form of control, FE raised some concerns on the proposed modifications.
- 3.5 We have considered the comments received and have responded to them, as appropriate, in the GD17 draft determination consultation report⁵², the GD17 final determination paper as well as in this Chapter.
- 3.6 This chapter details, with consideration of the above:
- the proposed licence modifications for FE; and
 - the associated reasons and effects.

Proposed Licence Modifications

FE

Overview

- 3.7 In order to implement the revenue cap form of control, we propose to make modifications to Part 4: The Price Control Conditions of the FE conveyance licence. These modifications will impact in particular on Condition 4.1: Charging methodology for the conveyance of gas, Condition 4.2: The Primary Constraint and Condition 4.3:

²⁰ [Utility Regulator: GD14 Price Control for Northern Ireland's Gas Distribution Networks for 2014-2016, Final Determination](#), 20 December 2013, paragraphs 16.16 and 16.17.

²¹ [Utility Regulator: Consultation on modifications to the Price Control conditions of the firmus Energy \(Distribution\) Limited Licence, 18 June 2015](#).

Supplemental Constraint of the FE conveyance licence. However, consequential amendments will also be required for other licence conditions contained in Part 4: The Price Control Conditions of the FE conveyance licence as further detailed below.

3.8 We note that, as further detailed below, the proposed licence modifications involve renumbering of all conditions contained in Part 4: The Price Control Conditions of the FE licence. In the interest of ease of reading, and to avoid the complexity that would result from referring to both old and new numbering, all licence condition numbers referred to in this section are to be interpreted as follows:

- Any licence references contained in section Charging methodology for the conveyance of gas, Primary and Supplemental Constraint below are based on the numbering of the current licence.
- Any other licence references are based on revised numbering of FE conveyance licence conditions.

3.9 Annex 1 shows the proposed licence modifications as tracked changes to the FE conveyance licence.

Charging methodology for the conveyance of gas, Primary and Supplemental Constraint

3.10 We propose to replace Condition 4.1: Charging methodology for the conveyance of gas of the FE conveyance licence with the following wording which reflects the revenue-cap formula for setting annual controlled charges:

“Condition 4.1 Charging methodology for the conveyance of gas

4.1.1 *The price control set out in this Part 4 allows the Licensee to recover Expenditure reasonably expected to be incurred and the designated rate of return, r_t , over the duration of the relevant recovery period.*

4.1.2 *The Licensee shall use all reasonable endeavours to set the Controlled Charges so as to ensure that, in respect of each Formula Year, the amount it recovers under its conveyance charging methodology for the use of the Network by gas suppliers shall not exceed the amount calculated in accordance with the following formula:*

$$M_t = R_{E,t} (RPI_{iy_t} / RPI_E) - K_t$$

4.1.3 *For purposes of Condition 4.1.2:*

M_t = the maximum amount recoverable under the Licensee’s conveyance charging methodology in that Formula Year t ;

RPI_{iy_t} = the sum of the values of the Retail Prices Index for each month in Formula Year t divided by twelve (in order to establish a mean value for RPI during that Formula Year);

RPI_E = the Designated Parameter of that name established at the most recent Review (as the base reference point for the Retail Prices Index);

$R_{E,t}$ = the Determined Total Conveyance Revenue for that Formula Year t calculated in accordance with Condition 4.1.4;

K_t = a value representing a correction factor as set out in Condition 4.1.6.

Calculating $R_{E,t}$

4.1.4 $R_{E,t}$ shall be calculated in accordance with the following formula:

$$R_{E,t} = \sum_i (P_{E,i,t} \cdot V_{E,i,t})$$

4.1.5 For the purposes of Condition 4.1.4:

\sum_i = the summation of the values across all Conveyance Categories i ;

$P_{E,i,t}$ = the Determined Revenue Per Unit in respect of Conveyance Category i for Formula Year t ;

$V_{E,i,t}$ = the determined volume (number of therms) of gas conveyed in the Formula Year t , in respect of each Conveyance Category i ;

Calculating K_t

4.1.6 For the purposes of Condition 4.1.2, K_t shall be calculated in accordance with the following formulae:

$$\begin{aligned} & \text{either, } K_t = Z_{F,t-1} (1 + I_{F,t}/100) \\ & \text{if } Z_{F,t-1} \text{ is greater than } -0.4(M_{t-1}) \\ & \text{or } K_t = -0.4 M_{t-1} (1 + I_{F,t}/100) \\ & \text{if } Z_{F,t-1} \text{ is less than or equal to } -0.4(M_{t-1}) \end{aligned}$$

The $Z_{F,t}$ Term

4.1.7 The principal purpose of the $Z_{F,t}$ term is, in respect of Formula Year t , to:

- (a) establish the value of any:
 - (i) under-recovery of revenue (being the extent to which Actual Revenue is less than Allowed Revenue); or
 - (ii) over-recovery of revenue (being the extent to which Actual Revenue exceeds Allowed Revenue); and
- (b) adjust that value by reference to any under-recovery or over-recovery accumulated in years prior to Formula Year t .

4.1.8 For the purposes of Condition 4.1.6:

$$Z_{F,t} = (M_{F,t} - R_{E,t} (RPI_{iy,t} / RPI_{E})) + Z_{F,t-1} (1 + I_{F,t})$$

where

$M_{F,t}$ = the actual amount recovered by the Licensee under its conveyance charging methodology for the use of the Network by gas suppliers in Formula Year t ;

$I_{F,t}$ = the percentage interest rate in Formula Year t .

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 $I_{F,t} = r_t$,
- (b) where $Z_{F,t} < 0$, then:

$$I_{F,t} = LIBOR_{1year,t-1} + 0.04 \quad \text{if } t=2017$$

$$I_{F,t} = LIBOR_{1year,t-1} + 0.03 \quad \text{if } t=2018$$

$$I_{F,t} = LIBOR_{1year,t-1} + 0.02 \quad \text{if } t \geq 2019$$

4.1.10 For the purposes of Condition 4.1.9:

$LIBOR_{1year,t-1}$ = the average GBP interbank lending rate with a 12 month period of maturity during Formula Year t-1. Calculated by averaging the 1 year LIBOR rates in GBP, on the 15 February, 15 May, 15 August and 15 November of year t-1; if LIBOR is not set on any of these days then the last figure set before the day is used.

4.1.11 For the avoidance of doubt, the Licensee shall forecast values of $RPI_{i,t}$, $V_{F,i,t}$, and K_t (to the extent that the values are not known by 1st October of the Formula Year t-1), so as by its reasonable endeavours it makes a best estimate of them.

Special provisions for the first year of the revenue cap price control

4.1.12 The value of $Z_{F,t-1}$ in respect of Formula Year $t = 2017$ will be calculated as the sum of the $Z_{F,i,t-1}$ terms across all Conveyance Categories i determined in accordance with the formula set out in Condition 4.2.10 of the licence that was in effect on 31 December 2016.

4.1.13 In respect of Formula Year $t = 2017$ and only for the purposes of Condition 4.1.6, M_{t-1} shall be calculated in accordance with the following formula:

$$M_{t-1} = \sum_i (P_{F,i,t-1} \cdot V_{F,i,t-1})$$

where

$P_{F,i,t-1}$ = is the Actual Revenue Per Unit in respect of Conveyance Category i for Formula Year t-1;

$V_{F,i,t-1}$ = is the Actual Volume in respect of Conveyance Category i for Formula Year t-1.”

- 3.11 In summary, the proposed new Condition 4.1: Charging methodology for the conveyance of gas of the FE conveyance licence will require FE to use “reasonable endeavours” to ensure that in setting charges for the conveyance of gas in each year of the price control, it does not recover an amount that exceeds the amount calculated in accordance with the proposed revenue-cap formula.
- 3.12 As per the proposed new Condition 4.1: Charging methodology for the conveyance of gas of the FE conveyance licence, the revenue cap formula will set the maximum amount recoverable by FE during the formula year as a function of the Determined Revenue Per Unit and the Determined Volume set at the price control review and a correction factor K , that allows any under-/over- recovery of the allowed revenue to be rolled forward into the maximum amount recoverable the following formula year.
- 3.13 We furthermore propose to remove Condition 4.2: Review Process & Disapplication Notices and Condition 4.3: Establishing the Basic Best Available Values from the FE conveyance licence, and to renumber any subsequent conditions in the FE conveyance

licence as well as references to these accordingly. In this context, we also propose to replace in the FE conveyance licence any references:

- to “Conditions 4.2 and 4.3” with a reference to “Condition 4.1”; and
- to the “Charge Restriction Conditions”²² with a reference to the term “Charging Methodology Condition”.

Review Process and Disapplication Notices

3.14 We propose to remove paragraph (a) from Condition 4.2.10 of the FE conveyance licence and to renumber the remaining sub-paragraphs of this condition accordingly.

Establishing the Basic Best Available Values

3.15 We propose to remove the reference to $R_{Plye_{B,t}}$, including the related description, from Condition 4.3.2 of the FE conveyance licence as this term is no longer used.

Establishing Best Available Revenue Per Unit and Total Conveyance Revenue

3.16 We propose to modify Condition 4.4.1: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue by adding the following text to the end of the condition and thus oblige the licensee to provide best available values for both revenues per unit and total conveyance revenues (calculated as the product of the revenue per unit and the forecast volumes) for each conveyance category and each formula unit:

“The Licensee shall also provide Best Available Total Conveyance Revenue for each Conveyance Category ($R_{B,i,t}$) and for each such Formula Year ($R_{B,t}$), where

$$R_{B,i,t} = P_{B,i,t} \cdot V_{B,i,t} \text{ and}$$

$$R_{B,t} = \sum R_{B,i,t}”$$

Reporting Requirements

3.17 We propose to amend Condition 4.6.2: Reporting Requirements, Pricing Information of the FE conveyance licence by:

- Replacing, in sub-paragraph (b), the words “Primary Constraint and Supplemental Constraint” with “maximum amount recoverable under the charging methodology set out in Condition 4.1”; and
- Replacing, in sub-paragraph (c), the words “Primary Constraint and Supplemental Constraint” with “charging methodology requirement”;

Designated Parameters and Determination Values

3.18 We propose to amend Condition 4.7 Current Designated Parameters and Determination Values by:

- removing from the designated parameter table contained in this condition the lines relating to designated parameters δ_t , $x_{O,t}$, $x_{U,t}$, α_t which are no longer relevant under the revenue cap form of control; and

²² In line with Condition 4.2.11 of the FE conveyance licence, the term “Charge Restriction Conditions” refers to Conditions 4.2 and 4.3 of the FE conveyance licence.

- adding to the table of determination values a new line for “*Determined Total Conveyance Revenue*” $R_{E,t}$ with the related values determined as part of the GD17 final determination and shown in Table 3 of this consultation document.

Definitions and Interpretation

- 3.19 We propose to amend in Condition 4.8.1 the definition of “*Allowed Revenue*” by replacing the current definition with the following wording: “*means, in respect of Conveyance Category i in Formula Year t , the Determined Total Conveyance Revenue calculated as the Revenue Per Unit multiplied by the Determined Volume in respect of that Conveyance Category in that Formula Year;*”
- 3.20 We furthermore propose to amend Condition 4.8.3: Definitions and Interpretation, Best Available Values, Determination Values and Actual Values, by adding to the table contained in this condition a new line, with “*Total Conveyance Revenue*” as entry in the “*Description*” column, “ $R_{B,t}$ ” as entry in the “*Best Available Values*” column, “ $R_{E,t}$ ” as entry in the “*Determination Values*” column and no entry in the “*Actual Values*” column.
- 3.21 We propose to amend Condition 4.8.4: Definitions and Interpretation, Best Available Values, Designated Parameters by removing from the table contained in this condition the lines relating to designated parameters $\delta_t, x_{O,t}, x_{U,t}, \alpha_t$ which are no longer relevant under the revenue cap form of control.
- 3.22 We furthermore propose to amend Condition 4.8.5: Definitions and Interpretation, Key to other formula parameters by:
- removing the line containing the description of \bar{r} which is no longer needed under a revenue cap form of control;
 - removing the reference to $RPI_{y,t}$ as this term is no longer needed and amending the description for that line (which then only refers to $RPI_{y,t}$) to read: “in year average Retail Price Index values”;
 - removing the line containing the description of $\Gamma_{F,t}$ which is no longer needed under a revenue cap form of control;
 - adding the word “*and*” at the end of the description of y ; as well as
 - removing the words “*and Conveyance Category i* ” from the description of $Z_{F,t}$, removing the word “*and*” at the end of that description and replacing the “*;*” with “*.*”.

Reasons

Overview

- 3.23 The overarching reasons for the proposed licence modifications is that as the FE business grows and matures, its ability to control volumes decreases. In the initial years, changes in volumes are mainly driven through changes in connections and customer numbers. It is hence appropriate to have in place a price cap form of control which sets the tariffs a GDN is allowed to charge and provides a strong incentive to outperform on volumes. However, as the business and customer base grows, fluctuations in volumes are less driven by changes in customer numbers and more dependent on weather factors. It is then more appropriate to have in place a revenue cap form of control which

sets the total allowed revenues a GDN is allowed to earn. We consider that the FE business has now reached a stage of development where it is appropriate to make this change from price cap to revenue cap.

- 3.24 In the interest of readability, we have grouped the reasons provided in this section for the specific proposed licence modifications under the same headings as those used above.
- 3.25 We note that, unless explicitly stated otherwise, any licence references contained in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed section 3 Change from Price Cap to Revenue Cap, Proposed Licence Modifications, FE, Charging methodology for the conveyance of gas, Primary and Supplemental Constraint.

Charging methodology for the conveyance of gas, Primary and Supplemental Constraint

- 3.26 As indicated in our paper on the outcome of the consultation on changing the form of control for FE from a price cap to a revenue cap²³, we have based the proposed licence modifications to facilitate this change on the related charging methodology arrangements in the PNGL licence, where reasonable. We consider that this will further consistency between the PNGL and FE conveyance licence and help ensure that those NI GDNs with a revenue cap form of control are regulated on an equivalent basis.
- 3.27 That being said, there are some differences between the proposed arrangements for the FE conveyance licence and those contained in the PNGL licence, as explained below:
- The PNGL and FE conveyance licences have been drawn up based on different retail price indices²⁴; this is reflected in the drafting of the licence conditions relating to the charging methodology for the conveyance of gas.
 - In the arrangements with respect to the calculation of the correction factor K_t ²⁵, a factor is being used which impacts on how quickly any remaining under-recoveries can be recovered; this factor is -0.1 in the PNGL conveyance licence²⁶ and proposed to be -0.4 in the FE conveyance²⁷ licence to facilitate a more timely reduction of the FE under-recoveries²⁸. This is because, under this condition, FE will be recovering significant levels of historic under recoveries which is not the case for PNGL. In the circumstances we consider it appropriate to allow FE greater flexibility.

²³ See [Utility Regulator: firmus energy \(Distribution\) Limited Licence, Outcome of Consultation paper on moving to a revenue cap regime, 16 September 2015](#), paragraph 3.2.

²⁴ The PNGL licence is based on the Retail Price Index as published in September, the FE licence on an average Retail Price Index.

²⁵ The correction factor K_t allows any under-/over- recovery of the allowed revenue with respect to Formula Year t to be rolled forward into the maximum amount recoverable the following formula year.

²⁶ See Condition 2.3.9: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Connection services, Correction Factor of the PNGL conveyance licence.

²⁷ See proposed Condition 4.1.6: Charging methodology for the conveyance of gas, Calculating K_t of the FE conveyance licence.

²⁸ Whilst the exact level of remaining accumulated under-recoveries at the end of the GD14 price control period cannot be established exactly at this stage, we expect that the proposed factor of -0.4 will allow for these under-recoveries to be recovered by 2019/2020.

- A different rate of return on under-recoveries is proposed in the FE conveyance licence compared to the PNGL conveyance licence to reflect our decision (set out in further detail, including with respect to the related reasons and effects, in section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination¹) to change the rate of return to be applied to FE under-recoveries to LIBOR + 4% for 2017, LIBOR + 3% for 2018 and LIBOR + 2% from 2019 onwards.
- Some of the wording of the related licence condition has been amended in the proposed amendments for the FE conveyance licence compared to the wording contained in the PNGL licence for greater clarity of licence drafting.
- In the interest of clarity, some additional conditions have been proposed to be added to the FE conveyance licence which are in this form not contained in the PNGL conveyance licence; these include proposed Condition 4.1.7 for explaining the purpose of the $Z_{F,t}$ term, as well as proposed Conditions 4.1.12 and 4.1.13 setting out the starting values for $Z_{F,t-1}$ and M_{t-1} with respect to Formula Year $t = 2017$.

- 3.28 We note that the starting value for $Z_{F,t-1}$ with respect to Formula Year $t = 2017$ will be the total remaining accumulated under-recoveries at the end of the GD14 price control period. The proposed licence arrangements thus ensure a seamless transition from the price cap arrangements to the revenue cap arrangements with respect to under-recoveries (i.e. all remaining accumulated under-recoveries are accounted for) whilst at the same time minimising licence complexity (no differentiation in the treatment of under-recoveries with respect to those relating to the time when the price cap regime was applicable and those relating to the time of the revenue cap regime).
- 3.29 As part of our ongoing engagement with FE on the proposed licence modifications, FE queried the use of the K and Z terms in the proposed licence conditions. More specifically, FE noted that the K term is routinely used within utility companies' licences as a factor to correct forecast accuracy annually, e.g. with respect to volume variation, whereas the Z term is routinely used specifically for the treatment of over-/under-recoveries accumulated as a direct result of price variation under a price cap form of control. FE furthermore questioned why we propose to use the Z factor to set annual conveyance charges, rather than the K factor.
- 3.30 We note in response to this argument that, as detailed in paragraph 3.26 above and stated in our paper on the outcome of the consultation on changing the form of control for FE from a price cap to a revenue cap²⁹, we have, with consideration of the regulatory principle of consistency, based the licence modifications proposed to facilitate the change from a price cap to a revenue cap form of control for FE on the related charging methodology arrangements in the PNGL licence, where reasonable. The use of the K and Z terms in the proposed Condition 4.1: Charging methodology for the conveyance of gas in the FE conveyance licence has been suggested for this reason, i.e. in line with the way in which these terms are used in the PNGL conveyance licence.
- 3.31 Furthermore our view is that the mechanism proposed in the FE licence still ensures that FE can recover its historic under-recoveries and therefore we see no strong reason why we should not align with PNGL conditions.

²⁹ See [Utility Regulator: firmus energy \(Distribution\) Limited Licence, Outcome of Consultation paper on moving to a revenue cap regime, 16 September 2015](#), paragraph 3.2.

- 3.32 We note that in their response to the GD17 draft determination and as part of our ongoing engagement with FE on the proposed licence modifications, FE also raised a number of further concerns re: the proposed licence modifications, in particular with respect to the treatment of and rate of return on under-recoveries. For further details on this matter, our related considerations as well as the underlying reasons for and effects of our decisions and licence modification proposals, please refer to the GD17 draft determination consultation report⁵² as well as to section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination.¹
- 3.33 We note furthermore that the primary and supplemental constraints as detailed in Condition 4.2: Primary Constraint and Condition: 4.3: Supplemental Constraint of the existing FE conveyance licence are no longer required under a revenue form of control and are hence proposed to be deleted.

Review Process and Disapplication Notices

- 3.34 Based on the proposed Condition 4.1: Charging methodology for the conveyance of gas, the extent to and speed with which accumulated under-recoveries will be resolved depend on the related licence formulae and, in particular the factor (proposed to be -0.4) in the calculation of the K_i term in proposed Condition 4.1.6: Charging methodology for the conveyance of gas, Calculating K_i . It is thus not longer necessary to embed into the licence an aim for the licensee to resolve any accumulated under-recoveries of revenue in good time and in any event no later than the Formula Year 2034/2035. The related paragraph (a) in Condition 4.2.10 of the FE conveyance licence can hence be deleted.

Establishing the Basic Best Available Values

- 3.35 We consider that the proposed modification to Condition 4.3.2 of the FE conveyance licence is required to maintain licence clarity and consistency by removing reference to a term that is no longer used in the licence formulae.

Establishing Best Available Revenue Per Unit and Total Conveyance Revenue

- 3.36 We consider that the proposed modifications to Condition 4.4.1 of the FE conveyance licence are necessary to reflect the information required to be submitted by the licensee under the new revenue cap form of control.

Reporting Requirements

- 3.37 We consider that the proposed modifications to Condition 4.6.2: Reporting Requirements, Pricing Information of the FE conveyance licence are consequential to the new proposed charging methodology and the proposed removal of the primary and supplementary constraints, and required to maintain licence consistency.

Designated Parameters and Determination Values

- 3.38 We consider that the proposed modifications to Condition 4.7 Current Designated Parameters and Determination Values of the FE conveyance licence are consequential to the new proposed charging methodology and the proposed removal of the primary and supplementary constraints, and required to maintain licence consistency.

Definitions and Interpretation

- 3.39 We consider that the proposed modifications to Condition 4.8.1: Definitions and Interpretation of the FE conveyance licence are consequential to the new proposed

charging methodology and the proposed removal of the primary and supplementary constraints, and required to maintain licence consistency.

Effects

- 3.40 The proposed licence modifications will serve to bring our decision to change the form of control for FE from a price cap to a revenue cap⁵ into effect.
- 3.41 In particular, the move to a revenue cap formula means that FE's exposure to volume risk will be reduced. However, the move to a revenue cap formula also means that the incentives for FE to grow by outperforming on the volumes of gas delivered will be slightly less compared to a price cap form of control. We note that we have included in our GD17 final determination¹ a connection incentive mechanism designed to address this issue.
- 3.42 The proposed licence modifications will also impact on the treatment of FE revenue under-recoveries. For further details on this matter, including on the associated effects, please refer to section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination¹.

4 Treatment of Under-recoveries

Overview

- 4.1 Up to the start of the GD17 price control period, FE operated under a price cap form of control. They had a set determined tariff each year, but had some discretion in setting actual tariffs. FE used this discretion to set tariffs below allowances, thus building up so-called under-recoveries which can later on be recovered by future increased in tariffs above determined levels.
- 4.2 In our GD14 final determination³⁰ we set out our view that the 7.5% rate of return FE receives on under-recoveries provides a perverse incentive to under-recover revenues. We also noted the following: “[We] are minded to review the allowed return on underrecoveries in GD17 to ensure there are no perverse incentives and if this requires a licence modification we will consider this at that time.”³¹
- 4.3 In section 11 Outputs, Outcomes and Allowances, FE – UR Proposals, Under-Recoveries of the GD17 draft determination¹⁵, we reiterated our view that the current arrangements contained in the FE conveyance licence with respect to the rate of return on under-recoveries entail the risk of perverse incentives for under-recoveries and are hence not in the public interest. We furthermore proposed to change the rate of return to be applied to FE under-recoveries to LIBOR plus 2% and to modify the FE conveyance licence accordingly.
- 4.4 As part of the FE consultation response to the GD17 draft determination⁵³ as well as in direct discussions with FE we received feedback on the proposed modifications, as further detailed in the GD17 draft determination consultation report⁵².
- 4.5 We have considered the comments received and have responded to them directly in the GD17 draft determination consultation report⁵² and in the GD17 final determination paper. We remain of the view that LIBOR plus 2% remains a reasonable rate to allow. This is consistent with the PNLG and SGN licences and reflects the fact that we view under recoveries as something which should be a relatively short term arrangement that should not be incentivised in the licence. However in order to facilitate a glide towards the new rate we will apply LIBOR plus 4% in 2017 and LIBOR plus 3% in 2018, as set out in section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination¹. We also clarified, in the same document, our decision that the rate of return on over-recoveries should equal the allowed rate of return. We are now following through on this decision by consulting on the related licence modifications.
- 4.6 This chapter therefore details:
- the proposed licence modifications for FE; and
 - the associated reasons and effects.

³⁰ [Utility Regulator: GD14 Price Control for Northern Ireland's Gas Distribution Networks for 2014-2016, Final Determination](#), 20 December 2013.

³¹ See [Utility Regulator: GD14 Price Control for Northern Ireland's Gas Distribution Networks for 2014-2016, Final Determination](#), 20 December 2013, paragraph 10.52.

Proposed Licence Modifications

FE

- 4.7 The arrangements in the FE conveyance licence with respect to under-and over-recoveries interact with the arrangements with respect to the form of control. Hence, the proposed licence modifications to facilitate implementation of the GD17 final determination decisions with respect to the rate of return on under- and over- recoveries have already been presented in section 3 Change from Price Cap to Revenue Cap, Proposed Licence Modifications, FE of this document. They are reflected, in particular, in the following:
- Proposed new Conditions 4.1.9 and 4.1.10 of the FE conveyance licence, which determine the applied rate of return on under- and over-recovery of revenue: For the purposes of this formula, from the start of the GD17 price control period onwards, where applied to an over-recovery of revenue, the interest rate will be equal to the allowed rate of return; where applied to an under-recovery of revenue, the interest rate will be equal to the LIBOR plus 4% in 2017, LIBOR plus 3% in 2018 and LIBOR plus 2% from 2019 onwards.
 - Proposed deletion of paragraph (a) from Condition 4.2.10 of the FE conveyance, with renumbering of the remaining sub-paragraphs of this condition.
 - Removal of the designated parameters relating to the treatment of under-recoveries ($\delta_t, x_{O,t}, x_{U,t}, \alpha_t$) from Condition 4.7: Current Designated Parameters and Determination Values and Condition 4.8.4: Definitions and Interpretation, Designated Parameters of the FE conveyance licence, including in particular the limitation for any rate of return adjustment which may be used to encourage or discourage accumulated under-recoveries (as reflected by $x_{U,t}$) to “be zero until Formula Year 2034, when it shall be $(r_{t=2033} + 1)$ ”.
- 4.8 We note that all licence condition numbers referred to in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed in chapter 3 of this licence modification consultation.
- 4.9 Annex 1: FE Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the FE conveyance licence.

Reasons

- 4.10 Section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination¹ details our position to update the applicable rate of return on under- and over-recoveries in the FE conveyance licence. The licence modifications proposed in this section are consequential. They are required to bring it into effect and to ensure consistency between the GD17 final determination and the FE conveyance licence.
- 4.11 We note that FE raised a some concerns re: the proposed licence modifications to facilitate a rate of return on under-recoveries (including remaining accumulated under-recoveries as per the end of the GD14 price control period) of LIBOR plus 2% from the start of the GD17 price control period. We have therefore decided to apply a glide towards the new rate as follows: LIBOR plus 4% in 2017 and LIBOR plus 3% in 2018.

- 4.12 We note that the proposed arrangements for the rate of return on over-recoveries no longer include $x_{o,t}$, a rate of return adjustment factor, as we consider that such a factor does not add value at the current stage of development of the FE business.
- 4.13 For further details on this matter, our related considerations as well as the underlying reasons for and effects of our decisions and related licence modification proposals, please refer to the GD17 draft determination consultation report⁵² as well as to section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination.¹

Effects

- 4.14 The proposed licence modifications will furthermore serve to bring the GD17 final determination decision on the treatment of FE under- and over-recoveries into effect and ensure consistency between the GD17 final determination and the FE conveyance licence.
- 4.15 The effects of this decision, and hence of the proposed licence modifications, are detailed in section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Under-Recoveries of the GD17 final determination¹.
- 4.16 In summary, the decision and proposed licence modifications mean that the interest rate applied to under-recovery of revenue will be set at the LIBOR plus 4% in 2017, LIBOR rate 3% in 2018 and LIBOR plus 2% from 2019 onwards. This rate of return will apply to accumulated under-recoveries from the start of the GD17 price control period onwards. The 7.5% return currently allowed on under-recoveries will continue to apply until the end of 2016.
- 4.17 The effect of the decision is that FE will not receive the full rate of return on under recoveries from 2017 and so will receive less revenue. This is estimated at less than £800k over the period. We expect the modification will have no significant impact on when historic under recoveries are fully recovered which is likely to be around 2019. The effect of the modification is also to reduce the incentive to build up under recoveries.
- 4.18 Overall the nature of the proposed modification should mean that FE is incentivised to forecast its volumes accurately.

5 Extension of Forecasting Horizon

Overview

- 5.1 In section 11 Outputs, Outcomes and Allowances, FE – UR Proposals, Forecasting Horizon of the GD17 draft determination¹⁵, we indicated our proposal to extend the forecasting horizon for FE from 30 years (ending in 2035) to 40 years (ending in 2045), in line with a related request received from FE. We noted furthermore that the forecasting horizon is fixed in the FE conveyance licence and indicated, in chapter 12 Licence Implications of the GD17 draft determination¹⁵, our intention to progress the related licence modifications together with the other licence modifications required to bring into effect the GD17 price control decisions.
- 5.2 We reconfirmed, in section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Forecasting Horizon of the GD17 final determination¹ our decision to extend the forecasting horizon for FE to 40 years, in line with our GD17 draft determination proposals.
- 5.3 We are now following-up on this decision by consulting on the required licence modifications.
- 5.4 This chapter therefore details:
 - the proposed licence modifications for FE; and
 - the associated reasons and effects.

Proposed Licence Modifications

FE

- 5.5 We propose to update the value for the designated parameter q in Condition 4.7: Current Designated Parameters and Determination Values of the FE conveyance licence from “2035” to “2045”.
- 5.6 We furthermore propose to amend Condition 4.8.4: Definitions and Interpretation, Designated Parameters of the FE conveyance licence by replacing the current entry in the column “*Limitation to the application of re-designated values*” with respect to designated parameter q with the following wording: “*Shall be the Formula Year 2045 or any Formula Year after 2045*”.
- 5.7 We note that all licence condition numbers referred to in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed in chapter 3 of this licence modification consultation.
- 5.8 Annex 1: FE Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the FE conveyance licence.

Reasons

- 5.9 Section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Forecasting Horizon of the GD17 final determination¹ details our decision to extend the forecasting horizon for FE from 30 years (ending in 2035) to 40 years (ending in 2045), including the underlying reasons for and effects of that decision. The licence modifications proposed are consequential to this decision. They are required to bring it into effect and to ensure consistency between the GD17 final determination and the FE conveyance licence.

Effects

- 5.10 The proposed licence modifications will serve to bring the GD17 final determination decision to extend the FE planning horizon into effect and ensure consistency between the GD17 final determination and the FE conveyance licence.
- 5.11 The effects of this decision, and hence of the proposed licence modifications, are detailed in section 11 Outputs, Outcomes and Allowances, FE – UR Decisions, Forecasting Horizon of the GD17 final determination¹.
- 5.12 In summary, the impact on customers from moving from 30 to 40 years is that customers up to 2035 are better off by approximately 3ppt but customers after 2035 will be relatively worse off, because the large drop in tariffs they would have seen does not occur.

6 Post-Tax WACC

Overview

- 6.1 This chapter details the proposed licence modifications to implement a stand-alone tax allowance to facilitate a post-tax WACC in the price control review for SGN.
- 6.2 We have historically applied a pre-tax rate of return in price control determinations for NI GDNs. Applying a pre-tax rate of return involves applying a tax wedge adjustment, reflecting the statutory rate of corporate tax, to the cost of equity.
- 6.3 In the GD17 draft determination document, we indicated in chapter 10³² our intention to use a post-tax (vanilla) WACC for SGN as part of GD17. This would set a post-tax (vanilla) WACC and a stand-alone tax allowance, set in line with the company's projected tax payments.
- 6.4 In its response to the GD17 draft determination, SGN⁵⁵ included some comments regarding this proposal, which we have considered and addressed in the GD17 draft determination consultation report⁵² as well as in chapter 10 of the GD17 final determination¹.
- 6.5 As part of the GD17 final determination, we have reconfirmed in chapter 10 our decision to use a post-tax (vanilla) WACC for SGN as part of GD17. This entails a need for modifications to the SGN conveyance licence to ensure the stand-alone tax allowance is reflected appropriately.
- 6.6 We are now proposing to follow-up on this matter.
- 6.7 This chapter therefore details:
- the proposed licence modifications for SGN; and
 - the associated reasons and effects.
- 6.8 We note that this chapter also needs to be understood in the context of the uncertainty mechanism, further detailed in chapter 7 Uncertainty Mechanism of this licence consultation document. As stated in chapters 9 Uncertainty Mechanism and 10 Financial Aspects of the GD17 final determination, the stand-alone tax allowance for SGN may be adjusted under the uncertainty mechanism, as appropriate. Whilst this chapter 6 Post-Tax WACC of the licence consultation document discusses the specific licence modifications proposed to allow for uncertainty mechanism tax adjustments, chapter 7 Uncertainty Mechanism details further licence modifications to embed uncertainty mechanism arrangements in the SGN licence which are also relevant for the uncertainty mechanism tax adjustments.

³² For further details see [Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks GD17, Draft Determination, 16 March 2016](#), paragraphs 10.82 to 10.89.

Proposed Licence Modifications

SGN

- 6.9 We propose to amend Condition 4.5.2 of the SGN conveyance licence by adding to the list of best available values the Licensee must submit the descriptions for the tax allowance term as well as an uncertainty mechanism tax adjustment as follows:

$T_{B,t}$ *the Best Available Tax Allowance in Formula Year t; and*

$UAT_{B,t}$ *the Best Available Uncertainty Mechanism Tax Adjustment in respect of each Formula Year t from t=m+1 to t=n, starting on or after 1 January 2017, as calculated by the Licensee in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Tax Adjustment.”*

- 6.10 We furthermore propose to amend Condition 4.6.6: Establishing Best Available Revenue Per Unit, Calculating $F_{B,t}$ (Cash Flow) of the SGN conveyance licence as follows:

- Update the formula for the calculation of the cash flow $F_{B,t}$ to account for the best available tax allowance, so that it reads as follows:

$$F_{B,t} = \sum_{all_i} (P_{B,i,t} \cdot V_{B,i,t}) - C_{B,t} - O_{B,t} - T_{B,t}$$

- Update the wording of that condition to reflect this change by inserting, between the words “*less the Best Available Operating Expenditure for that Formula Year,*” and the words “*which shall be calculated as follows*”, the words “*less the Best Available Tax Allowance*”.

- 6.11 We furthermore propose to amend Condition 4.6.9: Establishing Best Available Revenue Per Unit, Calculating the Profile Adjustment of the SGN conveyance licence as follows:

- Update the formula for the calculation of the profile adjustment PA_B to account for the tax payments that the company expects to make during each Formula Year, so that the formula reads as follows:

$$PA_B = - \left(\begin{array}{l} \sum_{t=m+1}^n F_{E,t} \cdot (1+r_{E,t} \cdot f_{E,t}) \cdot (1+r_E)^{n-t} \\ - TRV_{E,m} \cdot (1+r_E)^{n-m} \\ + DAV_{E,n} \\ + \sum_{t=m-2}^n UAO_{B,t} \cdot (1+r_{E,t} \cdot f_{E,t}) \cdot (1+r_E)^{n-t} \\ + \sum_{t=m+1}^n UAT_{B,t} \cdot (1+r_{E,t} \cdot f_{E,t}) \cdot (1+r_E)^{n-t} \end{array} \right) \cdot \frac{RPI_B}{RPI_E}$$

- Update the wording of that condition to reflect this change by inserting, at the end of the condition, the following words:

“ $\sum_{t=m+1}^{t=n} UAT_{B,t}$ is the summation of the Best Available Uncertainty Mechanism Tax Adjustments for each Formula Year t in the period comprising Formula Years $t=m+1$ to $t=n$.”

- 6.12 We also propose to amend Condition 4.11.2 of the SGN conveyance licence by adding to the list of determination values a new line for “Tax Allowance” $T_{E,t}$ with the related values determined as part of the GD17 final determination and shown in Table 7 of this licence modification consultation document.
- 6.13 We furthermore propose to amend Condition 4.12.1 of the SGN conveyance licence as follows:
- Add a definition for the term “Tax Allowance” as follows: “means the expenditure that the Authority deems appropriate to reflect the Licensee’s tax payments in respect of each Formula Year t ”;
 - Add a definition for the term “Uncertainty Mechanism Tax Adjustment” as follows: “means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $T_{E,t}$ set out in Condition 4.11.2 as calculated by the Authority, in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value $TRV_{E,m}$ for the Formula Years t occurring during the period $t = n+1$ to $t = q$ (inclusive) for that Review; and”.
- 6.14 Finally, we propose to amend Condition 4.12.3: Definitions and Interpretation, Best Available Values, Determination Values and Actual Values of the SGN conveyance

licence by inserting into the table contained in that condition a line for the tax allowance and one for the uncertainty mechanism tax allowance adjustment as shown below:

Description (for Conveyance Categories i and Formula Years t)	Best Available Values	Determination Values	Actual Values
Tax Allowance	$T_{B,t}$	$T_{E,t}$	
Uncertainty Mechanism Tax Adjustment	$UAT_{B,t}$		$UAT_{F,t}$

Table 14: Proposed Entries for Table of Best Available Values, Determination Values and Actual Values in Condition 4.12.3 of SGN Conveyance Licence

- 6.15 Annex 3: SGN Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the SGN conveyance licence.

Reasons

- 6.16 As part of the GD17 final determination, we decided to use a post-tax (vanilla) WACC for SGN to reflect best regulatory practice. This is more fully set out in the final determination Chapter 10.
- 6.17 The existing SGN conveyance licence provisions do not distinguish between a pre-tax and a post-tax rate of return. Therefore, no specific changes to the way the rate of return is applied in the licence are required. We do, however, propose to bring modifications to the SGN conveyance licence to introduce the tax allowance that we will set as part of the price control review.
- 6.18 We furthermore propose to introduce in the SGN conveyance licence an uncertainty mechanism tax adjustment to help manage associated risk. The related adjustments will be considered as part of the profile adjustment calculation in Condition 4.6.9: Establishing Best Available Revenue Per Unit, Calculating the Profile Adjustment.
- 6.19 The modifications we propose to make to the cash flow calculation formula in Condition 4.6.6: Establishing Best Available Revenue Per Unit, Calculating $F_{B,t}$ (Cash Flow) of the SGN conveyance licence reflect the fact that, with a post-tax WACC, we will set a separate stand-alone allowance for tax payments. This allowance represents an additional expenditure item (similar to capital and operating expenditure) that needs to be taken into account in the annual cash flow calculation.
- 6.20 The new definitions and determination values proposed to be introduced in Condition 4.5: Establishing the Best Available Values, Condition 4.11: Current Designated Parameters and Determination Values as well as Condition 4.12: Definitions and Interpretation of the SGN conveyance licence are a direct consequence of the implementation of an allowance for tax payments and the related uncertainty mechanism.
- 6.21 In their response to the GD17 draft determination, SGN⁵⁵ indicated a number of concerns regarding use of a post-tax (vanilla) WACC. We have considered the feedback received. For further details on this matter, our related considerations as well as the underlying reasons for and effects of our decisions and licence modification proposals,

please refer to the GD17 draft determination consultation report⁵² as well as to chapters 9 Uncertainty Mechanism and 10 Financial Aspects of the GD17 final determination¹.

Effects

- 6.22 The proposed licence modifications serve to bring the GD17 final determination decision to use a post-tax (vanilla) WACC for SGN and to allow for adjustment of the related the stand-alone tax allowance under the uncertainty mechanism, if and as appropriate, into effect and ensure consistency between the GD17 final determination and the SGN conveyance licence.
- 6.23 The main consequence in GD17 is that the rate of return figure applied is no longer calculated to cover tax and this is left to the tax allowance. In GD17 the stand alone allowance is set at zero as no tax payments are expected in the GD17 period. In addition we would also expect that there will be no need for any changes to be made in GD17 under the uncertainty mechanism.
- 6.24 The proposed licence modifications are thus consequential to the decision contained in the GD17 final determination with respect to rate of return for SGN. For the underlying reasons and related effects of this decision, please refer chapters 9 Uncertainty Mechanism and 10 Financial Aspects of the GD17 final determination¹.

7 Uncertainty Mechanism

Overview

- 7.1 The uncertainty mechanism is a mechanism used as part of a price control process to manage risk by adjusting determined allowances relating to a price control period (e.g. price control period 1) for differences between actual and allowed costs or outputs on which these allowances were based. The adjustments are typically made at the time of price control review for the next price control period (e.g. price control period 2). At this stage, the actuals for the years that form part of the then current price control period (price control period 1) are known or, for the year or two directly preceding the next price control period (price control period 2) can be estimated on a more reliable basis than was the case at the time the determination was made. If estimates are used when establishing an uncertainty mechanism adjustment, a further adjustment can then be made at the time of the price control review for the next subsequent price control period (e.g. price control period 3).
- 7.2 Details on how the uncertainty mechanism works and on which adjustments can be made under the uncertainty mechanism are typically contained in the final price control determination.
- 7.3 This is also the case for GD17, where chapter 9 Uncertainty Mechanism of the GD17 final determination¹ details the uncertainty mechanism arrangements. For each GDN, these are supplemented by an uncertainty model used for calculating the uncertainty mechanism adjustment.
- 7.4 Table 15 details, for each GDN, the uncertainty mechanism adjustments applicable as part of the GD17 price control:

Type of Adjustment	Relevance		
	FE	PNGL	SGN
Uncertainty mechanism opex adjustments	X	X	X
Uncertainty mechanism capex adjustments	X	X	X
Uncertainty mechanism rate of return adjustments	X	X	
Uncertainty mechanism tax adjustments			X

Table 15: GD17 Uncertainty Mechanism Adjustments per GDN

For further details on the type of adjustments, please refer to chapter 9 and 10 of the GD17 final determination¹.

- 7.5 We note that over time, the focus on and importance of the uncertainty mechanism as part of gas distribution price controls in NI has increased. We therefore consider that such an important aspect of the price control process should also be reflected in the conveyance licences.
- 7.6 Therefore, when we granted the SGN conveyance licence on 11 February 2015, we included in the licence arrangements to reflect uncertainty mechanism capex and opex adjustments. We did so in a way that ensured the uncertainty mechanism was referenced in the licence, but without the inclusion of complex licence formulae which might have impacted negatively on readability of the licence and created a need for

further complex licence modifications in the future when the uncertainty mechanism arrangements are amended as part of future price control reviews.

- 7.7 We consider that corresponding uncertainty mechanism arrangements should also be included in the FE and PNGL conveyance licences. Our initial intention was to do so, taking the relevant conditions in the SGN conveyance licence as a basis. We discussed related licence modification proposals with FE and PNGL as part of the preparation of this licence consultation document. As part of this engagement, and our related analysis, it became clear that there were a number of shortfalls regarding the uncertainty mechanism arrangements in the SGN licence, in particular with respect to clarity and accuracy of the related drafting. In light of these findings, we propose to revise the uncertainty mechanism arrangements with respect to opex and capex in the SGN conveyance licence to address these issues, and introduce equivalent arrangements, accounting for these revisions, in the FE and PNGL licences.
- 7.8 We furthermore propose to introduce similar uncertainty mechanism arrangements in the FE and PNGL conveyance licences with respect to uncertainty mechanism rate of return adjustments, and in the SGN conveyance licence with respect to uncertainty mechanism tax adjustments. Both of these two uncertainty mechanism concepts are new and have only been introduced as part of the GD17 final determination¹.
- 7.9 We note that the uncertainty mechanism tax adjustments for SGN are further discussed in chapter 6 Post-Tax WACC of this licence modification consultation document, which deals with the introduction of the tax allowance and uncertainty mechanism tax adjustment into the SGN conveyance licence.
- 7.10 This chapter 7 details, with consideration of the above:
- the proposed licence modifications for the FE and PNGL conveyance licences;
 - the proposed licence modifications for the SGN conveyance licence with the exception of those relating to the uncertainty mechanism tax adjustment; and
 - the associated reasons and effects

Proposed Licence Modifications

FE

- 7.11 We propose to amend Condition 4.3.1 of the FE conveyance licence by inserting, in the first sentence, after the words “*in accordance with Condition 4.2 for*” and before “*each past*” a comma, followed by the passage “*unless otherwise specified,*” and inserting, in the first sentence, a comma after the words “*each past*”.
- 7.12 We propose to amend Condition 4.3.2 of the FE conveyance licence by adding the following best available value terms and descriptions at the end of the condition:
- “ $UAC_{B,t}$ *the Best Available Uncertainty Mechanism Capex Adjustment in respect of each Formula Year t from $t=m-2$ to $t=n$ as calculated by the Licensee:*
- (a) *in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Capex Adjustment; and*

- (b) by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year t for which the adjustment is calculated;

$UAO_{B,t}$ the Best Available Uncertainty Mechanism Opex Adjustment in respect of each Formula Year t from $t=m-2$ to $t=n$, as calculated by the Licensee:

- (a) in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Opex Adjustment; and
- (b) by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year t for which the adjustment is calculated; and

$RORA_{B,t}$ the Best Available Uncertainty Mechanism Rate of Return Adjustment in respect of each Formula Year t from $t=m+1$ to $t=n$, starting on or after 1 January 2017, as calculated by the Licensee in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Rate of Return Adjustment.”

7.13 We propose to amend Condition 4.4.7: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue, Calculating $DAV_{B,t}$ (Depreciated Asset Value) of the FE conveyance licence by inserting a colon after words “less the Best Available Annual Depreciation in Formula Year t , which shall”, and replacing:

“be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} ”$$

with the following passage:

“(a) for each of the Formula Years $t = n+2$ to $t=q$ be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t}$$

(b) for Formula Year $t = n+1$ be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} + \sum_{t=m-2}^{t=n} UAC_{B,t}$$

where $\sum_{t=m-2}^{t=n} UAC_{B,t}$ is the summation of the Best Available Uncertainty

Mechanism Capex Adjustments for each Formula Year t in the period comprising Formula Years $t = m-2$ to $t = n$ ”

7.14 We furthermore propose to amend Condition 4.4.8: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue, Calculating $TRV_{B,n}$ (Total Regulatory Value) of the FE conveyance licence as follows:

- In the second sentence, just before the formula for the calculation of $TRV_{B,n}$, add between the words “plus any rolling incentive adjustment” and “which” the words “and adjustments related to the allowed rate of return,” to reflect the need to account for the uncertainty mechanism adjustment with respect to the rate of return as part of the TRV calculation;

- In the term for the formula for the calculation of $TRV_{B,n}$, add $\sum_{t=m+1}^{t=n} RORA_{B,t}$ to the sum so that the whole formula reads:

$$TRV_{B,n} = DAV_{B,n} + DA_B + PA_B + ORI_B + CRI_B + \sum_{t=m+1}^{t=n} RORA_{B,t}$$

- At the end of the condition, add the following wording:

“ $\sum_{t=m+1}^{t=n} RORA_{B,t}$ is the summation of the Best Available Uncertainty Mechanism Rate of Return Adjustments for each Formula Year t in the period comprising Formula Years $t=m+1$ to $t=n$ ”

7.15 We furthermore propose to amend Condition 4.4.9: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue, Calculating the Profile Adjustment of the FE conveyance licence as follows:

- In the term for the formula for the of calculation PA_B , add to the sum a term that reflects the best available uncertainty mechanism opex adjustment so that the whole formula reads:

$$PA_B = - \left(\begin{array}{l} \sum_{t=m+1}^n F_{E,t} (1 + r_{E,t} \cdot f_{E,t}) \cdot (1 + r_E)^{n-t} \\ - TRV_{E,m} \cdot (1 + r_E)^{n-m} \\ + DAV_{E,n} \\ + \sum_{t=m-2}^n UAO_{B,t} \cdot (1 + r_{E,t} \cdot f_{E,t}) \cdot (1 + r_E)^{n-t} \end{array} \right) \cdot \frac{RPI_B}{RPI_E}$$

- At the end of the condition, add the following wording:

“ $\sum_{t=m-2}^{t=n} UAO_{B,t}$ is the summation of the Best Available Uncertainty Mechanism Opex Adjustments for each Formula Year t in the period comprising Formula Years $t=m-2$ to $t=n$.”

7.16 We furthermore propose to amend Condition 4.8.1 of the FE conveyance licence as follows:

- Add a definition for the term “*Final Determination*” as follows: *means the document of that title published by the Authority on 15 September 2016 for the purposes of the Review relating to the period commencing with $t=2017$* ”;
- Remove, at the end of the definition for “*Unanticipated Operating Expenditure*”, the word “*and*”;
- Add a definition for the term “*Uncertainty Mechanism Capex Adjustment*” as follows: “*means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $C_{E,t}$ set out in Condition 4.7, as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of establishing the Determination Value $DAV_{E,t}$ for the Formula Years t occurring during the period $t = n+1$ to $t = q$ (inclusive) for that Review;*”
- Add a definition for the term “*Uncertainty Mechanism Opex Adjustment*” as follows: “*means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $O_{E,t}$ set out in Condition 4.7, as calculated by the Authority, in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value $TRV_{E,m}$ for the Formula Years t occurring during the period $t = n+1$ to $t = q$ (inclusive) for that Review;*”
- Add a definition for the term “*Uncertainty Mechanism Rate of Return Adjustment*” as follows: “*means, in respect of the current Review, an adjustment to reflect the financial value (if any) attributable to the difference between the value of Designated Parameter r set out in Condition 4.7 and a revised value of that Designated Parameter r , as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value $TRV_{E,m}$ for the Formula Years t occurring during the period $t = n+1$ to $t = q$ (inclusive) for that Review; and*”

7.17 We furthermore propose to amend Condition 4.8.3: Definitions and Interpretation, Best Available Values, Determination Values and Actual Values of the FE conveyance licence by adding to the table contained in the licence three lines with respect to the three types of uncertainty adjustments applicable to FE in line with Table 16 above as follows:

Description (for Conveyance Categories i and Formula Years t)	Best Available Values	Determination Values	Actual Values
Uncertainty Mechanism Capex Adjustment	$UAC_{B,t}$		$UAC_{F,t}$
Uncertainty Mechanism Opex Adjustment	$UAO_{B,t}$		$UAO_{F,t}$
Rate of Return Adjustment	$RORA_{B,t}$		$RORA_{F,t}$

Table 16: Proposed Entries for Table of Best Available Values, Determination Values and Actual Values in Condition 4.8.3 of FE Conveyance Licence

7.18 We note that all licence condition numbers referred to in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed in chapter 3 of this licence modification consultation.

7.19 Annex 1 shows the proposed licence modifications as tracked changes to the FE conveyance licence.

PNGL

7.20 We propose to amend Condition 2.3.14: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Establishing Best Available Values of the PNGL conveyance licence by:

- Inserting, in the first sentence, after the words “*shall be submitted by the Licensee,*” and before “*in respect of each Formula Year*” the passage “*unless otherwise specified,*”;
- Adding, after the description of the $RPI_{B,t}$ term, the following best available value terms and descriptions:

“ $UAC_{B,t}$ the Best Available Uncertainty Mechanism Capex Adjustment in respect of each Formula Year t from $t=m-2$ to $t=n$ as calculated by the Licensee:

- in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Capex Adjustment; and*
- by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year t for which the adjustment is calculated;*

$UAO_{B,t}$ the Best Available Uncertainty Mechanism Opex Adjustment in respect of each Formula Year t from $t=m-2$ to $t=n$, as calculated by the Licensee:

- in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Opex Adjustment; and*

- (b) by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year t for which the adjustment is calculated; and

$RORA_{B,t}$ the Best Available Uncertainty Mechanism Rate of Return Adjustment in respect of each Formula Year t from $t=m+1$ to $t=n$, starting on or after 1 January 2017, as calculated by the Licensee in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Rate of Return Adjustment.”

7.21 We propose to amend Condition 2.3.17: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Calculating $DAV_{B,t}$ (Depreciated Asset Value) of the PNGL conveyance licence by:

- Inserting a full stop between the words “measured at the end of each Formula Year” and “In respect of Formula Year t from 2007”
- Inserting a colon after words “less the Best Available Annual Depreciation in Formula Year t , which shall”
- Replacing:

“be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} ”$$

with the following passage:

“(a) for each of the Formula Years $t = n+2$ to $t=q$ be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t}$$

(b) for Formula Year $t = n+1$ be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} + \sum_{t=m-2}^{t=n} UAC_{B,t}$$

where $\sum_{t=m-2}^{t=n} UAC_{B,t}$ is the summation of the Best Available Uncertainty

Mechanism Capex Adjustments for each Formula Year t in the period comprising Formula Years $t = m-2$ to $t = n$ ”

- Removing the following passage at the end of condition:
 “The Depreciated Asset Value at the end of Formula Year $t = n$ shall be subject to any direction given by the Authority to the Licensee at the preceding Review that relates to the treatment of the difference between the Actual Value of Capital Expenditure and the Determined Value of Capital Expenditure.”

7.22 We furthermore propose to amend Condition 2.3.18: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Calculating $TRV_{B,n}$ (Total Regulatory Value) of the PNGL conveyance licence as follows:

- In the second sentence, just before the formula for the calculation of $TRV_{B,n}$, add between the words “plus the Best Available Profile Adjustment” and “as follows” the words “and adjustments related to the allowed rate of return,” to reflect the need to account for the uncertainty mechanism rate of return adjustment as part of the TRV calculation.
- In the term for the formula for the calculation of $TRV_{B,n}$, add $\sum_{t=m+1}^{t=n} RORA_{B,t}$ to the sum so that the whole formula reads:

$$TRV_{B,n} = DAV_{B,n} + Q_{B,n} + CC_{B,n} + PA_{B,n} + \sum_{t=m+1}^{t=n} RORA_{B,t}$$

- After that passage “ $Q_{B,t}$ and $CC_{B,t}$ are treated as a pass-through and are corrected to actuals at the end of each Review Period as described in condition 2.3.23”, add the following wording:

“ $\sum_{t=m+1}^{t=n} RORA_{B,t}$ is the summation of the Best Available Uncertainty Mechanism Rate of Return Adjustments for each Formula Year t in the period comprising Formula Years $t=m+1$ to $t=n$.”

7.23 We furthermore propose to amend Condition 2.3.19: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Calculating the Profile Adjustment of the PNGL conveyance licence as follows:

- In the term for the formula for the of calculation $PA_{E,m}$, add to the sum a term that reflects the best available uncertainty mechanism opex adjustment so that the whole formula reads:

$$PA_{E,m} = - \left(\begin{array}{l} \sum_{t=m+1}^n F_{E,t} (1 + r_E)^{n-t} - TRV_{E,m} (1 + r_E)^{n-m} \\ + DAV_{E,n} + CC_{E,n} + Q_{E,n} \\ + \sum_{t=m-2}^n UAO_{B,t} (1 + r_E)^{n-t} \end{array} \right)$$

- At the end of the condition, add the following wording:

“ $\sum_{t=m-2}^{t=n} UAO_{B,t}$ is the summation of the Best Available Uncertainty Mechanism Opex Adjustments for each Formula Year t in the period comprising Formula Years $t=m-2$ to $t=n$.”

7.24 We furthermore propose to amend Condition 2.3.23: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Definitions and Interpretation of the PNGL conveyance licence as follows:

- Add a definition for the term “*Final Determination*” as follows: “*means the document of that title published by the Authority on 15 September 2016 for the purposes of the Review relating to the period commencing with t=2017*”;
- Add a definition for the term “*Uncertainty Mechanism Capex Adjustment*” as follows: “*means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $C_{E,t}$ set out in Condition 2.3.24, as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of establishing the Determination Value $DAV_{E,t}$ for the Formula Years t occurring during the period t = n+1 to t = q (inclusive) for that Review,*”
- Add a definition for the term “*Uncertainty Mechanism Opex Adjustment*” as follows: “*means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $O_{E,t}$ set out in Condition 2,3,24, as calculated by the Authority, in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value $TRV_{E,m}$ for the Formula Years t occurring during the period t = n+1 to t = q (inclusive) for that Review,*”
- Add a definition for the term “*Uncertainty Mechanism Rate of Return Adjustment*” as follows: “*means, in respect of the current Review, an adjustment to reflect the financial value (if any) attributable to the difference between the value of Designated Parameter r set out in Condition 2.3.22 and a revised value of that Designated Parameter r, as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value $TRV_{E,m}$ for the Formula Years t occurring during the period t = n+1 to t = q (inclusive) for that Review; and*”

7.25 We furthermore propose to amend Condition 2.3.25: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance service, Best Available Values, Determination Values and Actual Values of the PNGL conveyance licence by adding to the table contained in the licence three lines with respect to the three types of uncertainty adjustments applicable to PNGL in line with Table 17 above as follows:

Description	Best Available Values	Determination Values	Actual Values
Uncertainty Mechanism Capex Adjustment	$UAC_{B,t}$		$UAC_{F,t}$
Uncertainty Mechanism Opex Adjustment	$UAO_{B,t}$		$UAO_{F,t}$
Rate of Return Adjustment	$RORA_{B,t}$		$RORA_{F,t}$

Table 17: Proposed Entries for Table of Best Available Values, Determination Values and Actual Values in Condition 2.3.25 of PNGL Conveyance Licence

7.26 Annex 2 shows the proposed licence modifications as tracked changes to the PNGL conveyance licence.

SGN

7.27 We propose to amend Condition 4.5.1 of the SGN conveyance licence by inserting, in the first sentence, after the words “*in accordance with Condition 4.4 for*” and before “*each past*” a comma, followed by the passage “*unless otherwise specified*”.

7.28 We propose to amend Condition 4.5.2 of the SGN conveyance licence by :

- Replacing the term for the Best Available Uncertainty Mechanism Capex

Adjustment “ $\sum_{t=m}^{t=n} UAC_{B,t}$ ” with “ $UAC_{B,t}$ ” and replacing the related description

with:

“ $UAC_{B,t}$ ” *the Best Available Uncertainty Mechanism Capex Adjustment in respect of each Formula Year t from $t=m-2$ to $t=n$ as calculated by the Licensee:*

- in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Capex Adjustment; and*
 - by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year t for which the adjustment is calculated.”*
- Replacing the term for the Best Available Uncertainty Mechanism Opex

Adjustment “ $\sum_{t=m}^{t=n} UAO_{B,t}$ ” with “ $UAO_{B,t}$ ” and replacing the related description

with:

“ $UAO_{B,t}$ ” *the Best Available Uncertainty Mechanism Opex Adjustment in respect of each Formula Year t from $t=m-2$ to $t=n$, as calculated by the Licensee:*

- in accordance with the principles and methodology established by the Authority, and described in the Final Determination, for the purposes of calculating the Uncertainty Mechanism Opex Adjustment; and*
- by taking into account actual values in so far as they are available, and estimated values where actual values are not available, in respect of the Formula Year t for which the adjustment is calculated.”*

7.29 We propose to amend Condition 4.6.7: Establishing Best Available Revenue Per Unit, Calculating $DAV_{B,t}$ (Depreciated Asset Value) of the SGN conveyance licence by:

- Inserting a colon after words “*less the Best Available Annual Depreciation in Formula Year t , which shall*”;

- Replacing:

“*be calculated as follows:*”

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} ”$$

with the following passage:

“(a) for each of the Formula Years $t = n+2$ to $t=q$ be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t}$$

(b) for Formula Year $t = n+1$ be calculated as follows:

$$DAV_{B,t} = DAV_{B,t-1} + C_{B,t} - D_{B,t} + \sum_{t=m-2}^{t=n} UAC_{B,t}$$

where $\sum_{t=m-2}^{t=n} UAC_{B,t}$ is the summation of the Best Available Uncertainty

Mechanism Capex Adjustments for each Formula Year t in the period comprising Formula Years $t = m-2$ to $t = n$ ”

- Removing the following wording at the end of the condition:

“Where $DAV_{B,t-1}$ includes all Uncertainty Mechanism Capex adjustments up to year $t-1$.

The Uncertainty Mechanism Capex Adjustment is calculated by the authority at the end of year n , with applicable rate of return applied, in respect of Capex items (this will include actual values as far as possible and estimates for any year(s) in which actual values are not available). Adjustments will be made in the year in which they relate to, for the purposes of depreciation in the DAV.”

7.30 We furthermore propose to amend Condition 4.6.9: Establishing Best Available Revenue Per Unit, Calculating the Profile Adjustment of the SGN conveyance licence as follows:

- In the term for the formula for the of calculation PA_B , amend the summation index relating to the uncertainty mechanism opex adjustment so that the sum runs from

$$t=m-2 \text{ to } n, \text{ as follows: } “ \sum_{t=m-2}^n UAO_{B,t} \cdot (1 + r_{E,t} \cdot f_{E,t}) \cdot (1 + r_E)^{n-t} ”$$

- At the end of the condition, replace the passage:

“ $\sum_{t=m}^{t=n} UAO_{B,t}$ is the Best Available Uncertainty Mechanism Adjustment total in

respect of Opex items up to year n (this will include actual values for years $t=m$ to $t=n-1$ and estimates for year $t=n$, which will be replaced with the actual value at the time of the next review period).

The Uncertainty Mechanism Opex Adjustment is calculated by the Authority at the end of year n , with applicable rate of return applied, in respect of Opex items (this will include actual values for years $t=m$ to $t=n-1$ and estimates for year $t=n$, which will be replaced with the actual value at the time of the next review period).”

with:

$$\sum_{t=m-2}^{t=n} UAO_{B,t}$$
 is the summation of the Best Available Uncertainty Mechanism Opex Adjustments for each Formula Year t in the period comprising Formula Years $t=m-2$ to $t=n$.

- 7.31 We furthermore propose to amend Condition 4.12.1 of the SGN conveyance licence as follows:
- Delete the entry regarding the term “*Uncertainty Mechanism Adjustment*” and the related definition, from the list of definitions;
 - Remove, at the end of the definition for “Unanticipated Operating Expenditure”, the word “and”;
 - Add a definition for the term “*Final Determination*” as follows: “*means the document of that title published by the Authority on 15 September 2016 for the purposes of the Review relating to the period commencing with $t=2017$* ”;
 - Add a definition for the term “*Uncertainty Mechanism Capex Adjustment*” as follows: “*means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $C_{E,t}$ set out in Condition 4.11.2, as calculated by the Authority in accordance with the principles and methodology described in the Final Determination, for the purposes of establishing the Determination Value $DAV_{E,t}$ for the Formula Years t occurring during the period $t = n+1$ to $t = q$ (inclusive) for that Review,*”
 - Add a definition for the term “*Uncertainty Mechanism Opex Adjustment*” as follows: “*means, in respect of the current Review, an adjustment (if any) in respect of the Determination Value $O_{E,t}$ set out in Condition 4.11.2 as calculated by the Authority, in accordance with the principles and methodology described in the Final Determination, for the purposes of calculating and establishing the Determination Value $TRV_{E,m}$ for the Formula Years t occurring during the period $t = n+1$ to $t = q$ (inclusive) for that Review,*”
- 7.32 We furthermore propose to amend Condition 4.12.3: Definitions and Interpretation, Best Available Values, Determination Values and Actual Values of the SGN conveyance licence by:
- Removing, from the Description for the term “*Uncertainty Mechanism Capex Adjustment*”, the words “(as described in Condition 4.6.7)”; and
 - Removing, from the Description for the term “*Uncertainty Mechanism Opex Adjustment*” the words “(as described in Condition 4.6.9)”.
- 7.33 Annex 3: SGN Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the FE conveyance licence.

Reasons

- 7.34 The reason for using an uncertainty mechanism is to reduce the level of risk faced by GDNs and customers. Thus items which the GDNs have no control over e.g. licence fees are treated as a pass through. Another reason is to ensure flexibility within the price control. Many of the allowances are linked to an output driver e.g. number of connections, metres of pipeline. However we do not think it is in customers or the GDNs interest to have to stop making connections because it has reached the amount of connections assumed in the final determination. Therefore the allowance for connections flexes with the number of connections actually made so the GDN knows it will receive further allowances, which removes any barriers to make further connections.
- 7.35 The reason for our proposals to reference the uncertainty mechanism in the FE and PNGL conveyance licences is the growing importance of this mechanism in gas distribution price controls. The impact of uncertainty mechanism adjustments on the determined allowances can be significant. In the interest of clarity and transparency, we therefore consider it appropriate that the conveyance licences should reflect such an important aspect of the price control reviews.
- 7.36 We consider furthermore that uncertainty mechanism arrangements, in so far as relevant for each GDN, should be referenced in a consistent way, to ensure equivalent regulator treatment of the NI GDNs. The seemingly obvious way to achieve this would be to align the FE and PNGL conveyance licences, in so far as relevant, with the uncertainty mechanism arrangements contained in the current SGN conveyance licence. However, in light of the shortfalls identified as part of our engagement with the GDNs and our analysis in preparation of this licence consultation, with respect to clarity and accuracy of the drafting of the uncertainty mechanism arrangements in the SGN conveyance licence, we propose not to do so. Instead, we propose to revise the current uncertainty mechanism arrangements in the SGN conveyance licence to address the issues identified, and to introduce, where relevant and appropriate, equivalent arrangements, accounting for these revisions, in the FE and PNGL licences.
- 7.37 In particular, the uncertainty mechanism opex and capex adjustments will be applicable to all three GDNs and allow for adjustments resulting from differences between determined and actual opex and capex. The circumstances in which such adjustments may be applicable depend on the price control determination and are, in the case of GD17, documented in chapter 9 of the GD17 final determination¹.
- 7.38 We note, however, that some differences remain between the uncertainty mechanism arrangements proposed to be included in the FE and PNGL conveyance licences, and those of the SGN conveyance licence. These relate in particular to the following areas and are further explained below:
- Special reviews
 - Rate of return adjustments
 - Tax term adjustments
- 7.39 The SGN conveyance licence contains, in Condition 4.7.4, reference to an uncertainty mechanism opex adjustment in the context of special reviews. We have not proposed to introduce related wording into the FE or PNGL conveyance licences as these do not contain equivalent arrangements with respect to special reviews triggered by deviations between actual and determined opex.

7.40 In contrast to the proposed licence modifications for the FE and PNGL conveyance licences, the SGN conveyance licence does not contain any arrangements relating to uncertainty mechanism rate of return adjustments. These adjustments have only been introduced as part of the GD17 final determination and relate to adjustments to the pre-tax rate of return, which only applies to FE and PNGL.³³ Hence we propose to introduce the related licence modifications only in the licences for these two GDNs.

7.41 The purpose of the uncertainty mechanism rate of return adjustment is twofold:

- Facilitate debt mechanism adjustments: As part of our GD17 determination of the rate of return for FE and PNGL, we have made assumptions regarding the cost of debt. Both GDNs will refinance during GD17, and an adjustment will be made to account for the difference between the benchmark cost of debt at that stage compared to the related assumption at the time of the GD17 final determination.
- Facilitate tax mechanism adjustments: As part of our GD17 determination of the rate of return for FE and PNGL, we have made assumptions regarding the applicable tax rate. An adjustment will be made to account for the difference between this assumed tax rate and the actual one.

We note that further details on both mechanisms, including the related reasons for and effects of them, can be found in chapter 10 Financial Aspects of the GD17 final determination¹. Also, details on the consideration of these mechanisms as part of the uncertainty mechanism can be found in chapter 9 Uncertainty Mechanism of the GD17 final determination¹.

7.42 A further difference between the FE and PNGL conveyance licences and the SGN conveyance licence, with respect to uncertainty mechanism arrangements relates to the uncertainty mechanism tax adjustments. These adjustments have only been introduced as part of the GD17 final determination and relate to the tax term used in the context of price controls based on a post-tax (vanilla) WACC. In line with our GD17 final determination, this is only applicable to SGN³⁴ and hence the related licence modifications (as discussed in chapter 6 Post-Tax WACC of this licence modification consultation) are only applicable to SGN.

Effects

7.43 The effect of the modifications will be to adjust the allowances for the GDNs and make a consequent NPV neutral adjustment to their TRV at the start of GD23.

7.44 The proposed licence modifications will further consistency across the NI gas conveyance licences and help to ensure equivalent regulatory treatment of the NI GDNs.

7.45 The proposed update of the SGN conveyance licence with respect to the uncertainty mechanism opex and capex adjustments will improve clarify and accuracy and licence drafting.

7.46 The proposed licence modifications will furthermore improve clarity and consistency between the GD17 final determination and the FE and PNGL conveyance licences by

³³ For further details on the rate of return arrangements for SGN, see chapter 6 Post-Tax WACC of this licence modification consultation document as well as Chapter 10 of the GD17 final determination.

³⁴ For further details see chapter 6 Post-Tax WACC of this licence modification consultation document as well as Chapter 10 of the GD17 final determination.

ensuring that the uncertainty mechanism, which is an important aspect of the GD17 final determination, is appropriately reflected in the conveyance licences.

- 7.47 The proposed licence modifications are thus consequential to the decisions contained in the GD17 final determination with respect to uncertainty mechanism arrangements for FE and PNGL. For the underlying reasons and related effects of these decisions, and hence of the proposed licence modifications, please refer to chapters 9 Uncertainty Mechanism and 10 Financial Aspects of the GD17 final determination as well as to Annex 14: Cost of Debt Adjustment and Annex 15: Cost of Debt Model to the GD17 final determination¹.

8 Licence Alignment between GDNs pursuant to Gas to the West Project

Overview

- 8.1 As part of the Gas to West project and our preparatory work on the SGN conveyance licence, we identified a number of necessary changes to the FE and PNGL conveyance licences. There were multiple reasons for these change requirements, including lack of clarity or inaccuracies in the current drafting of these licences; new licence requirements arising from changes to the legal and regulatory framework the GDNs are operating in; shortfalls of the current licences in certain areas as well as the general need to treat the NI GDNs in a fair and equal manner. Whilst these issues were addressed in the SGN conveyance licence, the FE and PNGL conveyance licences were not updated at the time. However, we noted in our Gas to the West Licence Consultation⁷ our intention to include, for some of the licence conditions contained in the SGN conveyance licence, equivalent licence conditions in the FE and PNGL conveyance licences in due course.
- 8.2 We propose to implement the outstanding updates to the FE and PNGL conveyance licences at the same time as the licence modifications to bring into effect the GD17 determination and indicated our intention to do so in chapter 12 Licence Implications of the GD17 draft determination¹⁵.
- 8.3 As part of the consultation responses to the GD17 draft determination, we received feedback on the proposed modifications, as further detailed in the GD17 draft determination consultation report⁵².
- 8.4 We have responded to the comments received directly in the GD17 draft determination consultation report⁵². We have furthermore addressed them, as appropriate, below.
- 8.5 We note that following consideration of the responses received to the GD17 draft determination, we propose for some of the modifications to the FE and PNGL conveyance licences, a change in wording compared to that detailed in the GD17 draft determination and currently contained in the related condition of the SGN conveyance licence. In the interest of licence consistency, we propose to also make these changes in wording to the SGN conveyance licence.³⁵
- 8.6 This chapter therefore details, with consideration of the above:
- the proposed licence modifications for the FE, PNGL and SGN conveyance licences; and
 - the associated reasons and effects.

³⁵ For further details see paragraphs 8.47 and 8.49 below.

Proposed Licence Modifications

FE

Overview

- 8.7 The licence modifications we propose to make to the FE conveyance licence as part of the alignment of licences pursuant to the Gas to the West project cover a range of conditions and areas. In the interest of readability, the proposed modifications are discussed in this section and in the Reasons and Effects sections of this chapter below grouped by topic rather than by strict chronological order of licence conditions impacted:
- Definitions
 - Independence of the Licensed Business
 - Regulatory Instructions and Guidance
 - Resolution of Disputes
 - Co-operation with Other GDNs
 - Reasonable and Prudent Operator
 - Trading with Associated Businesses
 - Asset Management
 - Complaints Handling Procedure – The Code
 - Timeline for Periodic Review
- 8.8 We note that all licence condition numbers referred to in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed in chapter 3 above.
- 8.9 For each of these topics, the licence modifications we propose to make to the FE conveyance licence as part of the alignment of licences pursuant to the Gas to the West project are described in the sub-sections below. Annex 1 shows the proposed licence modifications as tracked changes to the FE conveyance licence.
- 8.10 We note that in chapter 12 Licence Implications of the GD17 draft determination¹⁵ we indicated that, in addition to the areas listed above, we also intended to make licence alignments pursuant to the Gas to the West project with respect to Condition 2.3: Connection Charges and Obligation to permit a Connection. These modifications are not included in this document as they will now be considered and consulted on as part of a separate initiative.

Definitions

- 8.11 We propose to add the definitions for “*high pressure pipe-line*” and “*low pressure pipe-line*” contained in Condition 1.1.6: Interpretation and Construction, Definitions, of the SGN conveyance licence into Condition 1.1.6: Interpretation and Construction, Definitions of the FE conveyance licence.
- 8.12 We furthermore propose to amend the definition for “*related undertaking*” in Condition 1.1.6: Interpretation and Construction, Definitions of the FE conveyance licence by replacing the words “*as defined by Article 268 of the Companies (Northern Ireland)*”

Order 1986” with “*within the meaning of section 421A of the Financial Services and Markets Act 2000*”.

Independence of the Licensed Business

- 8.13 We propose to replace the wording of Condition 1.16.1: Independence of the Licensed Business, Application in the FE conveyance licence with the wording of Condition 1.16.1: Independence of the Licensee, Application of the SGN conveyance licence.
- 8.14 We furthermore propose to add the definition of “*Relevant Affiliate*” contained in Condition 1.16.7: Independence of the Licensee, Additional Definitions of the SGN conveyance licence to Condition 1.16.7: Independence of the Licensed Business, Additional Definitions of the FE conveyance licence.

Regulatory Instructions and Guidance

- 8.15 We propose to introduce Condition 1.21: Regulatory Instructions and Guidance from the SGN conveyance licence (after consideration of the modification proposed in paragraph 11.21 of this document to correct a reference error in the licence wording) as new Condition 1.26 in the FE conveyance licence. Any references contained in this condition to specific sub-paragraphs of this condition will be renumbered accordingly (e.g. from 1.21.x to 1.26.x).

Resolution of Disputes

- 8.16 We propose to substitute Condition 2.2.6: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Resolution of disputes in the FE conveyance licence with the corresponding Condition 2.2.6 in the SGN conveyance licence.

Co-operation with Other GDNs

- 8.17 We propose to introduce Condition 2.4.12: Network Code, Performance of Obligations from the SGN conveyance licence (after consideration of the modifications proposed in paragraph 8.47 of this document) as new Condition 2.4.13 into the FE conveyance licence. Any references contained in this condition to the condition itself will be renumbered accordingly (e.g. from 2.4.12 to 2.4.13).
- 8.18 We propose to introduce Condition 2.25: Common Branding from the SGN conveyance licence (after consideration of the modifications proposed in paragraphs 8.48 and 8.49 of this document) as new Condition 2.16 into the FE conveyance licence.
- 8.19 We propose to introduce Condition 2.26: Common Network Tariff from the SGN conveyance licence (after consideration of the modifications proposed in paragraph 8.50 of this document) as new Condition 2.17 into the FE conveyance licence.

Reasonable and Prudent Operator

- 8.20 We propose to introduce Condition 2.27: Reasonable and Prudent Operator from the SGN conveyance licence as new Condition 2.18 into the FE conveyance licence.

Trading with Associated Businesses

- 8.21 We propose to introduce Condition 2.30: Trading with Associated Businesses from the SGN conveyance licence as new Condition 2.19 into the FE conveyance licence. Any references contained therein to other conditions will be renumbered accordingly (e.g. from 1.2.14 to 1.2.12).

- 8.22 We furthermore propose to amend Condition 1.2.12: Separate Accounts for Separate Businesses, Associated Undertakings of the FE conveyance licence as follows: Replace in sub-paragraphs (a) and (b) of this Condition the words “*(or its parents or subsidiaries)*” with “*(or an affiliate or related undertaking of the Licensee)*”.

Asset Management

- 8.23 We propose to introduce Condition 3.7: Asset Management from the SGN conveyance licence as new Condition 3.8A into the FE conveyance licence. Any reference contained in this condition to the condition itself will be renumbered accordingly (e.g. from 3.7.1 to 3.8A.1).

Complaints Handling Procedure – The Code

- 8.24 We propose to modify Condition 2.8A.2: Complaints Handling Procedure, The Code of the FE conveyance licence by removing the words “*who is connected to or requests a connection to the Licensee’s Network*” as well as the words “*in providing such a connection*”.

Timelines for Periodic Reviews

- 8.25 We propose to modify Condition 4.2.7 of the FE conveyance licence as follows: Replace in sub-paragraph (a) the figure “12” with “18”.

PNGL

Overview

- 8.26 The licence modifications we propose to make to the PNGL conveyance licence as part of the alignment of licences pursuant to the Gas to the West project cover a range of conditions and areas. In the interest of readability, the proposed modifications are discussed in this section and in the Reasons and Effects sections of this chapter below grouped by topic rather than by strict chronological order of licence conditions impacted:
- Definitions
 - Independence of the Licensed Business
 - Regulatory Instructions and Guidance
 - Resolution of Disputes
 - Co-operation with Other GDNs
 - Reasonable and Prudent Operator
 - Trading with Associated Businesses
 - Asset Management
 - Complaints Handling Procedure – The Code
 - Timeline for Periodic Review
- 8.27 For each of these topics, the licence modifications we propose to make to the PNGL conveyance licence as part of the alignment of licences pursuant to the Gas to the West project are described in the sub-sections below. Annex 2 shows the proposed licence modifications as tracked changes to the PNGL conveyance licence.
- 8.28 We note that in chapter 12 Licence Implications of the GD17 draft determination¹⁵, we indicated that, in addition to the areas listed above, we also intended to make licence

alignments pursuant to the Gas to the West project with respect to Condition 2.4: Connection Charges and Obligation to permit a Connection. These modifications are not included in this document as they will now be considered and consulted on as part of a separate initiative.

Definitions

- 8.29 We propose to add the definitions for “*high pressure pipe-line*” and “*low pressure pipe-line*” contained in Condition 1.1.6: Interpretation and Construction, Definitions of the SGN conveyance licence into Condition 1.1.6: Interpretation and Construction, Definitions of the PNGL conveyance licence.
- 8.30 We furthermore propose to amend the definition for “*related undertaking*” in Condition 1.1.6: Interpretation and Construction, Definitions of the PNGL conveyance licence by replacing the words “*as defined by Article 268 of the Companies (Northern Ireland) Order 1986*” with “*within the meaning of section 421A of the Financial Services and Markets Act 2000*”.

Independence of the Licensed Business

- 8.31 We propose to modify the wording of Condition 1.16.1: Independence of the Licensed Business, Application in the PNGL conveyance licence with the wording of Condition 1.16.1: Independence of the Licensee, Application of the SGN conveyance licence.
- 8.32 We furthermore propose to add the definition of “*Relevant Affiliate*” contained in Condition 1.16.7: Independence of the Licensee, Additional Definitions of the SGN conveyance licence to Condition 1.16.7: Independence of the Licensed Business, Additional Definitions of the PNGL conveyance licence.

Regulatory Instructions and Guidance

- 8.33 We propose to introduce Condition 1.21: Regulatory Instructions and Guidance from the SGN conveyance licence (after consideration of the modification proposed in paragraph 11.21 of this document to correct a reference error in the licence wording) as new Condition 1.26 in the PNGL conveyance licence. Any references contained in this condition to specific sub-paragraphs of this condition will be renumbered accordingly (e.g. from 1.21.x to 1.26.x).

Resolution of Disputes

- 8.34 We propose to substitute Condition 2.3.6: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Resolution of disputes in the PNGL conveyance licence with the corresponding Condition 2.2.6 in the SGN conveyance licence. Any references contained in this condition to the condition itself will be renumbered accordingly (e.g. from 2.2 to 2.3 and from 2.2.6 to 2.3.6).

Co-operation with Other GDNs

- 8.35 We propose to introduce Condition 2.4.12: Network Code, Performance of Obligations from the SGN conveyance licence (after consideration of the modifications proposed in paragraph 8.47 of this document) as new Condition 2.5.13 into the PNGL conveyance licence. Any references contained in this condition to the condition itself will be renumbered accordingly (e.g. from 2.4.12 to 2.5.13).
- 8.36 We propose to introduce Condition 2.25: Common Branding from the SGN conveyance licence (after consideration of the modifications proposed in paragraphs 8.48 and 8.49 of this document) as new Condition 2.16 into the PNGL conveyance licence.

- 8.37 We propose to introduce Condition 2.26: Common Network Tariff from the SGN conveyance licence (after consideration of the modifications proposed in paragraph 8.50 of this document) as new Condition 2.17 into the PNGL conveyance licence.

Reasonable and Prudent Operator

- 8.38 We propose to introduce Condition 2.27: Reasonable and Prudent Operator from the SGN conveyance licence as new Condition 2.18 into the PNGL conveyance licence.

Trading with Associated Businesses

- 8.39 We propose to introduce Condition 2.30: Trading with Associated Businesses from the SGN conveyance licence as new Condition 2.19 into the PNGL conveyance licence. Any references contained therein to other conditions will be renumbered accordingly (e.g. from 1.2.14 to 1.3.14).
- 8.40 We furthermore propose to introduce Condition 1.2.14: Separate Accounts for Separate Businesses, Associated Undertakings from the SGN conveyance licence as new Condition 1.3.14 into the PNGL conveyance licence. Any references contained therein to this or other conditions will be renumbered accordingly (e.g. from 1.2.9(c) to 1.3.8(c) and from 1.2.14 to 1.3.14).

Asset Management

- 8.41 We propose to introduce Condition 3.7: Asset Management from the SGN conveyance licence as new Condition 2.15 into the PNGL conveyance licence. Any reference contained in this condition to the condition itself will be renumbered accordingly (e.g. from 3.7.1 to 2.15.1).

Complaints Handling Procedure – The Code

- 8.42 We propose to modify Condition 2.8A.2: Complaints Handling Procedure, The Code of the PNGL conveyance licence by removing the words “*who is connected to or requests a connection to the Licensee’s Network*” as well as the words “*in providing such a connection*”.

Timelines for Periodic Reviews

- 8.43 We propose to modify Condition 2.3.13: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Reviews Generally of the PNGL conveyance licence as follows: Replace in sub-paragraph (a) the figure “15” with “18”.

SGN

Overview

- 8.44 The SGN conveyance licence forms the basis for the proposed licence alignment for GDNs pursuant to the Gas to the West project. Hence, in principle, no modifications are required to the SGN conveyance licence in this context. However, following consideration of the arguments made by FE and PNGL as part of the engagement on the proposed modifications to their conveyance licences to achieve licence alignment, we propose a change to the wording of the Common Branding Licence Condition. In the interest of licence consistency, we propose to also amend the SGN conveyance licence accordingly.
- 8.45 In the interest of readability, the proposed modifications are discussed in this section and in the Reasons and Effects sections of this chapter grouped by topic.

- 8.46 The licence modification we propose to make to the SGN conveyance licence as part of the alignment of licences pursuant to the Gas to the West project is described in the relevant sub-section below. Annex 3 shows the proposed licence modification as tracked changes to the SGN conveyance licence.

Co-operation with Other GDNs

- 8.47 We propose to modify the wording of Condition 2.4.12: Network Code, Performance of Obligations of the SGN conveyance licence by replacing the words: “*all other distribution system operators authorised to convey gas through low pressure pipelines ('relevant licence holders')*” with “*any other person authorised by virtue of a licence granted under Article 8(1)(a) of the Order to convey gas through low pressure pipe-lines (a 'relevant licence holder')*”.
- 8.48 We propose to modify the wording of Condition 2.25.1: Common Branding, Co-operation with other Organisations and Licensed Businesses in the SGN conveyance licence so that it reads as follows:
- “The Licensee shall, in conjunction and co-operation with any other person authorised by virtue of a licence granted under Article 8(1)(a) of the Order to convey gas through low pressure pipe-lines (a 'relevant licence holder') develop, implement and comply with a common branding approach in relation to the promotion of gas in Northern Ireland (the 'Common Branding Approach').”*
- 8.49 We furthermore propose to replace, in Condition 2.25.2: Common Branding, Common Branding Approach of the SGN conveyance licence in paragraphs (a) and (b) the words “*person that holds a licence granted under Article 8 of the Order*” with “*relevant licence holder*”.
- 8.50 We propose to modify the wording of Condition 2.26.1: Common Network Tariff, Co-operation with System Operators by replacing the words “*all other distribution system operators authorised to convey gas through low pressure pipe-lines ('relevant persons')*” with “*any other person authorised by virtue of a licence granted under Article 8(1)(a) of the Order to convey gas through low pressure pipe-lines ('relevant person')*”.

Reasons

Definitions

- 8.51 We consider that the proposed addition of definitions for the terms “*high pressure pipe-line*” and “*low pressure pipe-line*” to the FE and PNGL conveyance licences is a consequential change to the proposed licence modifications detailed in the sections below as some of the wording proposed to be introduced into the FE and PNGL conveyance licences refers to these terms. We also consider that it is appropriate for these terms to be used for the purposes of properly reflecting the provisions of (and terms used in) the Third Gas Directive³⁶.
- 8.52 We consider that this proposed modification of the definition for “*related undertaking*”, which aligns the definitions contained for this term in the FE and PNGL conveyance licences with that of the SGN conveyance licence, is required because the proposed licence modifications detailed in sections Proposed Licence Modifications, FE, Trading

³⁶ [Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.](#)

with Associated Businesses and Proposed Licence Modifications, PNGL, Trading with Associated Businesses refer to this term and the reference in the definition of “*related undertaking*” currently contained in the FE and PNGL conveyance licences is out of date; the Companies (Northern Ireland) Order 1986 has been replaced.

Independence of the Licensed Business

8.53 We note that, we have slightly revised the proposed wording of the modified wording of Condition 1.16.1 of the FE and PNGL conveyance licences compared to that suggested in chapter 12 of the GD17 draft determination¹⁵. This is in response to a comment received from PNGL suggesting that, in the interest of licence consistency, Condition 1.16.1(a) of the SGN conveyance licence should also be included in the FE and PNGL conveyance licences.

8.54 We consider that the proposed modification to the wording of Condition 1.16.1 of the FE conveyance licence provides additional clarity, in particular with respect to the application of the threshold of 100,000 connected premises. The revised wording clarifies that, in situations where any affiliate or related undertaking of the Licensee is carrying out the activities of an Associated Business, this threshold applies to premises connected (whether individually or in aggregate) by the Licensee and/or any Relevant Affiliate of the Licensee to any gas conveyance network consisting of low pressure pipelines which is owned or operated by the Licensee or any Relevant Affiliate of the Licensee.

Whilst the Condition currently contained in the FE conveyance licence was intended to work in the same way as described in the revised wording, this was not immediately obvious.

8.55 We recognise that Condition 1.16.1 does not currently apply to FE as the circumstances described in this condition do not apply. However, it was noted as part of the process of granting the Gas to the West low pressure conveyance licence, that the additional clarity with respect to the wording of this condition was required to ensure the condition fully and properly reflects the provisions of the Third Gas Directive³⁶. Furthermore, it was recognised that, if the enhanced, clearer wording was included in the SGN conveyance licence, it should for reasons of equality and consistency also be included in the relevant licence conditions of other NI distribution licence holders.

8.56 We recognise that Condition 1.16.1 currently applies to PNGL and that it will continue to apply under the new proposed wording. However, it was noted as part of the process of granting the Gas to the West low pressure conveyance licence, that the additional clarity with respect to the wording of this condition was required to ensure the condition fully and properly reflects the provisions of the Third Gas Directive³⁶. Furthermore, it was recognised that, if the enhanced, clearer wording was included in the SGN conveyance licence, it should for reasons of equality and consistency also be included in the relevant licence conditions of other NI distribution licence holders.

8.57 The proposed modification of Condition 1.16.7 in both the FE and PNGL conveyance licences is a consequential change to that proposed for Condition 1.16.1 of the FE and PNGL conveyance licences, required to define the term of “*Relevant Affiliate*” used therein.

Regulatory Instructions and Guidance

8.58 We first introduced RIGs as part of the Annual/Cost Reporting for the 2013 reporting year in 2014. These RIGs were updated the following year for the Annual/Cost Reporting

for the 2014 reporting year. They also formed the basis for the RIGs for the GD17 business plan submission.

- 8.59 We consider that by introducing the proposed new licence condition on Regulatory Instructions and Guidance (RIGs) into both the FE and PNGL conveyance licences, additional clarity is provided for both ourselves and the Licensees with regards to the arrangements concerning the provision of information under RIGs:
- The new licence condition provides us with the powers not only to request information, but also to require the Licensees to have adequate systems, processes and procedures in place to ensure such information can be provided.
 - The new licence condition provides protection to the Licensees by assuring that new RIGs or modifications to existing RIGs may only be issued following a consultation process and after due consideration of any responses received.
 - The new licence condition also provides protection to the Licensees in that it allows for any new information requested or information requested to a greater level of detail to be estimated.
- 8.60 We consider that the additional clarity provided by this licence condition is desirable for both the Licensees as well as ourselves as it provides a better picture of the respective responsibilities. We note that this view has been supported by FE in their response to the GD17 draft determination⁵³.
- 8.61 We note furthermore that in drafting the Annual/Cost Reporting and business plan RIGs, we sought alignment with the relating Ofgem templates and documentation where relevant and appropriate. It hence is consequent to also seek alignment, where relevant and appropriate, with the regulatory and governance arrangements supporting this reporting framework. This includes introduction of the relevant licence condition on which such a reporting framework is based, with NI-specific modifications as relevant and appropriate and as included in the drafting of the proposed new licence condition.
- 8.62 Our reason for introducing the RIGs to achieve improved consistency of reporting across the Licensees, including with respect to reporting structures and definitions used. On this basis, comparability of data across businesses was enhanced and benchmarking between GDNs becomes more meaningful. As we move towards aligning price controls, where reasonable and appropriate, across NI GDNs and increase the use of comparative analysis and benchmarking, RIGs, and this associated licence condition, become more important. Given this increased importance of RIGs and the specific requirements of the information, we consider it appropriate to include a specific licence condition rather than relying on more informal arrangements.
- 8.63 Finally, we consider that the introduction of the proposed new licence condition in the FE and PNGL conveyance licences also furthers consistency between the NI low pressure conveyance licences. In the Gas to the West Applicant Information Pack we had noted our intention to include in the Gas to the West licence a condition to oblige the Licensee to co-operate with cost reporting.³⁷ This condition later became Condition 1.21: Regulatory Instructions and Guidance of the SGN conveyance licence. We consider, however, that in order to ensure that the NI GDNs are regulated on an equivalent basis a related condition should be included in the FE and PNGL conveyance licences as well.

³⁷ See [Utility Regulator: Gas Network Extensions in Northern Ireland, Gas to the West: Application Information Pack, 6 February 2014](#), paragraph 3.71.

We indicated in the Gas to the West Licence Consultation⁷ our intention to do so and are now proposing to follow-up on this matter.

Resolution of Disputes

- 8.64 As part of our preparatory work on the SGN conveyance licence as part of the Gas to the West project, we noted that the arrangements for resolution of disputes relating to conveyance services contained in the existing NI conveyance licences were inconsistent, complex, difficult to understand and represented neither current nor intended practice. We therefore redrafted the related licence condition and included it as Condition 2.2.6 in the SGN conveyance licence.
- 8.65 We consider that the FE and PNGL conveyance licences should be updated to reflect the reworded condition to tidy up the drafting to ensure that the processes for dispute resolution re conveyance charges are clearly set out, reflect the current practice and essentially provide appropriate rights and obligations to licensees and third party complainants. We indicated in the Gas to the West Licence Consultation⁷ our intention to do so and are now proposing to follow-up on this matter.
- 8.66 In their response to the GD17 draft determination⁵³, FE welcomed the additional clarity the proposed licence modification will bring.
- 8.67 We note, however, that as part of this document, we only consult on modifications to the arrangements for dispute resolution contained in the Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services Conditions of the FE and PNGL conveyance licences. In chapter 12 Licence Implications of the GD17 draft determination¹⁵, we indicated our intention to also modify the arrangements for dispute resolution contained in the Connection Charges and Obligation to permit a Connection Conditions of the FE and PNGL conveyance licences. These modifications are not included in this document as they will now be considered and consulted on as part of a separate initiative.

Co-operation with Other GDNs

- 8.68 In the Gas to the West Applicant Information Pack³⁸ we noted our intention to include in the Gas to the West licence conditions to oblige the Licensee to co-operate with other GDNs in:
- producing a single low pressure network code together with a consistent switching system and consistent switching processes;
 - delivering a common branding approach in relation to promoting natural gas in NI; and
 - delivering a common low pressure network tariff in NI.

We consider that such co-operation benefit the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland in line with our principal objective set out in Article 14(1) of the Energy Order.

- 8.69 These conditions referred to in the Gas to the West Applicant Information Pack later became Condition 2.4.12: Network Code, Performance of Obligations, Condition 2.25: Common Branding and Condition 2.26: Common Network Tariff of the SGN conveyance licence. However, co-operation may be difficult to achieve (and would be impossible to

³⁸ See [Utility Regulator: Gas Network Extensions in Northern Ireland, Gas to the West: Application Information Pack, 6 February 2014](#), paragraphs 3.68, 3.69 and 3.72.

enforce) if the obligation to co-operate is only on one, not on all the parties supposed to be co-operating. We therefore consider that to achieve the objective of true co-operation amongst the GDNs in the relevant areas, and to ensure equivalent regulatory treatment of the NI GDNs, a related condition should be included in the FE and PNGL conveyance licences as well. We indicated in the Gas to the West Licence Consultation⁷ our intention to do so.

8.70 With respect to co-operation in delivering a common branding approach and a common low pressure network tariff in NI, we note that GDNs have also been encouraged already as part of our GD14 final determination³⁹ to work together in a number of areas, including:

- Advertising and Marketing/Consumer Research;
- Conveyance Charges;
- Connection Policies; and
- Emergencies and Major Incidents.

8.71 Whilst we are aware that co-operation between the NI GDNs is ongoing, we consider that further progress can be made. We consider that the proposed licence modifications will help to achieve such further progress over time.

8.72 We note that we are aware that achieving communality may take time, in particular with respect to single network code and common tariff. We consider that this has been reflected in the proposed licence conditions in so far as both Condition 2.4.12: Network Code, Performance of Obligations and Condition 2.26: Common Network Tariff from the SGN conveyance licence. This is proposed to be included in the FE and PNGL conveyance licences with a general obligation on the GDNs to co-operate in the relevant area, in addition to the need to comply with specific related directions which may be issued by the Authority, e.g. once a more detailed plan for progressing such projects has been provided.

8.73 We note that in their response to the GD17 draft determination⁵⁴, PNGL suggested that for reasons of consistency within the licence (e.g. with the Common Network Tariff and Network Code, Performance of Obligations licence conditions), the common branding licence condition should be revised to limit the requirement for co-operation in developing, implementing and complying with a common branding approach in relation to the promotion of gas in Northern Ireland to co-operation with “*all other distribution system operators authorised to convey gas through low pressure pipe-lines*”, rather than requiring co-operation with “*any other person that holds a licence granted under Article 8 of the Order*”.

When we considered this suggestion, it was noted that due to differences with respect to the definition of the term “*distribution system operator*” in the SGN conveyance licence compared to the FE and PNGL conveyance licences⁴⁰, the wording “*all other distribution system operators authorised to convey gas through low pressure pipe-lines*” could not

³⁹ See [Utility Regulator: GD14 Price Control for Northern Ireland's Gas Distribution Networks for 2014-2016, Final Determination](#), 20 December 2013, paragraphs 16.9 and 16.39 to 16.43.

⁴⁰ In the SGN conveyance licence, the term “*distribution system operator*” “*means any person authorised to convey gas through local or regional pipe-lines by virtue of holding a licence granted under Article 8(1)(a) of the Order*”, in the FE and PNGL conveyance licences it “*means any person authorised to convey gas through distribution pipelines by virtue of holding a licence granted under Article 8(1)(a) or the Order*”.

be directly transferred from the SGN to the FE and PNGL licences. We therefore propose to amend the related wording in Condition 2.4.12: Network Code, Performance of Obligations and Condition 2.26.1: Common Network Tariff, Co-operation with System Operators of the SGN conveyance licence to “*any other person authorised by virtue of a licence granted under Article 8(1)(a) of the Order to convey gas through low pressure pipe-lines*”, a wording which has the same effect as the one contained in the current SGN licence but which also makes sense in the context of the FE and PNGL conveyance licences. We also propose to apply this revised wording in the proposed related FE and PNGL licence conditions as well.

In line with the PNGL suggestion to ensure consistency the Common Network Tariff and Network Code, Performance of Obligations licence conditions on one side and the common branding licence condition on the other, we propose furthermore to limit the obligation for co-operation with respect to the common branding approach to co-operation with “*any other person authorised by virtue of a licence granted under Article 8(1)(a) of the Order to convey gas through low pressure pipe-lines*” only.

- 8.74 The reason for the common branding condition is to ensure that the GDNs work together to promote natural gas across NI. We had concerns in the past that the allowances provided to the GDNs to promote gas was being used to build up separate gas supply brands. We have seen no reason why distinctively separate branding in different parts of NI works to promote gas and raised this issue in GD14. We have seen limited effort by the GDNs to work towards common branding in GD14 and regard this condition as increasing the focus of the GDNs on this issue.
- 8.75 In its response to the GD17 draft determination⁵⁴, PNGL also noted that any common branding approach must allow each GDN to meet the distinct needs of consumers in its Licensed Area and not force GDNs into diluting their current practices by overextending the focus of their campaigns or by forcing GDNs to make generic points in each campaign. Otherwise GDNs’ ability to launch targeted campaigns unique to their Licensed Area could be hindered with detriment to the overall development of the natural gas market in NI.

We consider that a common branding approach would and should not prevent GDNs from launching campaigns targeted at specific geographic areas, in specific formats and/or with specific messages and/or specific timing, as may be best suited to the customers and stage of network development in that area. Rather, the intent of a common branding approach is to further branding synergies, e.g. by sharing campaigns/branding materials and associated costs. For example it is not clear to us why distinctly separate brands promoting natural gas across NI is the most efficient approach. As natural gas is a homogenous product, we expect significant overlap in marketing benefits with respect to the three GDNs. It is our view that the GDNs have not maximised this potential. Whilst we do not propose to dictate details, we expect issues of common branding approach are addressed.

- 8.76 In its response to the GD17 draft determination⁵⁴, PNGL also noted that it struggles to understand what benefits a single low pressure network code will bring, seeing that:
- the distribution network codes, including retail competition processes and necessary supporting systems, are already largely aligned in NI;
 - network code modifications and modification rules are already consistent across NI; and

- certain processes and key network activities would still need to be undertaken by each GDN, even if there was a single low pressure network code.

We note the comments made by PNGL. However, we consider it appropriate to propose the introduction of a condition relating to performance of obligations and co-operation between GDNs with respect to the Network Code in the FE and PNGL conveyance licences. It is our view that co-operation and consistency with respect to network codes is an important aspect of the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland and should hence be enforceable.

We note furthermore that the proposed licence drafting does not explicitly oblige the GDNs to put in place a single low pressure network code, even though it could be used to issue related directions, if deemed appropriate in the future. However, as stated in the proposed licence drafting, any such directions could only be issued following a consultation process.

- 8.77 In its response to the Gas to the West Licence consultation, FE indicated a concern that common branding might impact negatively on the brand recognition and reputation they have built up over the past years and adversely impact on the development of the gas industry within their network area. We have considered this carefully, but after doing so do not agree that this would be the case. The purpose of the proposed common branding licence condition is to further (and not hamper) the development of the natural gas industry in the FE licensed area and in Northern Ireland as a whole, and to prevent consumers getting confused by different brands. As explained in paragraph 8.74 above, we consider that GDNs can achieve further efficiencies and improve recognition by consumers by aligning and/or sharing promotional material and/or activities, thus increasing the effect/reducing the cost for each GDN.
- 8.78 In its response to the GD17 draft determination⁵³, FE asked for further detailed clarification regarding the practical outworking of the proposed common branding licence condition. We note that the proposed new licence condition clearly outlines the scope of the common branding approach. It is our view that it is not our role to prescribe what the actual approach should, or needs to, be or entail, and therefore the proposed condition does not include such detail. Rather, this is essentially what the licensees need to work together and agree upon. Once the common branding approach has been developed, it will be for each licensee to implement it and comply with it, in line with the provisions contained in the common branding approach.
- 8.79 As part of our meetings on the proposed licence modifications, FE also expressed a concern that introducing into the conveyance licence an obligation for GDNs to co-operate could leave it exposed if other GDNs prove unwilling to do so. We do not agree with this view. It is true that we could consider enforcement action in the case of non-compliance with any of the new licence conditions requiring co-operation with other GDNs. However, any such enforcement action could only be taken against those licence holders failing to co-operate and not against those duly complying with their related obligations.

Reasonable and Prudent Operator

- 8.80 In the Gas to the West Applicant Information Pack⁴¹ we had noted our intention to include in the Gas to the West licence a condition obliging the licence holder to act as a

⁴¹ See [Utility Regulator: Gas Network Extensions in Northern Ireland, Gas to the West: Application Information Pack, 6 February 2014](#), paragraph 3.70.

reasonable and prudent operator and maintain the network for its economic engineering life. This condition later became Condition 2.27: Reasonable and Prudent Operator in the SGN conveyance licence. However, to ensure equivalent regulatory treatment of the NI GDNs, a related condition should be included in the FE and PNGL conveyance licences as well. We indicated in the Gas to the West Licence Consultation⁷ our intention to do so and are now proposing to follow-up on this matter.

- 8.81 The proposed new licence condition formalises how we would expect any low pressure conveyance licence holder to run its business in order to deliver efficient maintenance and operation of the network in the long run.

Trading with Associated Businesses

- 8.82 The licence condition regarding Trading with Associated Businesses proposed to be introduced into the FE and PNGL conveyance licences prohibits cross subsidies to or from businesses operated by the Licensees or any of their affiliates or related undertakings. This reflects our intention that the Licensees shall not benefit from cross-subsidies arising from transactions with associated businesses, nor provide such benefits to associated businesses. We regard this as protecting customers in delivering efficient and transparent prices. There are in addition requirements to ensure that contracts entered into by the Licensees comply with the prohibition on cross subsidy.

- 8.83 The proposed modification to Condition 1.2.12: Separate Accounts for Separate Businesses, Associated Undertakings of the FE conveyance licence, and the proposed introduction of a new Condition 1.3.14: Separate Accounts for Separate Businesses, Associated Undertakings into the PNGL conveyance licence are consequential changes to the introduction of the proposed new Trading with Associated Businesses Condition and required to ensure licence consistency.

- 8.84 When we included Condition 2.30: Trading with Associated Businesses in the SGN conveyance licence, we considered that to ensure equivalent regulatory treatment of the NI GDNs, a related condition should be included in the FE and PNGL conveyance licences as well. We indicated in the Gas to the West Licence Consultation⁷ our intention to do so and are now proposing to follow-up on this matter.

Asset Management

- 8.85 We consider that in order to ensure the efficient and economic operation of the network, the Licensee needs to have in place an asset management system.

- 8.86 We noted, in previous price control determinations, our concerns at the lack of implementation of a comprehensive asset management system by the GDNs. Whilst by the time of the GD14 final determination both FE and PNGL had presented plans for implementation of such a system during the GD14 price control period, we were not comfortable about whether this objective would indeed be reached and about the amount of time it took to get to such a stage.

- 8.87 On this background, and to prevent similar issues arising in the future, we decided to introduce Condition 3.7: Asset Management in the SGN conveyance licence. We consider that to ensure all NI GDNs have appropriate asset management systems in place and are being regulated on an equivalent basis, a related condition should be included in the FE and PNGL conveyance licences as well. We indicated in the Gas to the West Licence Consultation⁷ our intention to do so and are now proposing to follow-up on this matter.

8.88 In their response to the GD17 draft determination⁵³, FE welcomed the incorporation of asset management requirements in their licence.

Complaints Handling Procedure – The Code

8.89 Through the proposed modification to Condition 2.8A.2: Complaints Handling Procedure, the scope of the complaints procedure a GDN needs to have in place pursuant to Condition 2.8A: Complaints Handling Procedure gets extended. Based on the current licence wording, the complaints procedure shall enable any person who is connected or requests a connection to the Licensee's network to bring and have promptly dealt with a complaint in respect of the Licensee's activities in providing such a connection. With the proposed revised wording, complaints can also be raised:

- by persons other than those connected or requesting a connection to the Licensee's networks;
- if they relate to any of the Licensee's activities, even if these activities are not activities in providing a connection.

8.90 We consider that this enhanced scope is appropriate. In practice, GDN activities can impact not only on persons connected or requesting a connection. For example, any person passing or living/working near roadworks associated with the laying of gas pipelines could be impacted by the side-effects of the roadworks and wish to raise a relating complaint, even if he or she does not have or request a natural gas connection. If they wish to do so, they should have the option to bring forward and have promptly dealt with their complaint by the Licensee.

8.91 Similarly, there may be situations where a complaint is related to the Licensee's activities, but not directly to the provision of a connection. This could for example be the case if someone considers one of the Licensee's marketing activities to be inappropriate⁴² and wishes to raise a relating complaint. If they do, they should have the option to bring forward and have promptly dealt with their complaint by the Licensee.

8.92 We consider that complaints relating to any aspect of the GDNs' activities, if not properly addressed, could damage the reputation of the natural gas industry in Northern Ireland and thus potentially hinder its development. Properly addressing such complaints is important to safeguard the reputation of the gas industry in Northern Ireland. Therefore, obliging the GDNs to have complaints policies which cover the entirety of the GDNs' activities contributes to the development of the natural gas industry in NI, in line with our principal objective set out in Article 14(1) of the Energy Order. This is all the more important as during the GD17 price control period all three NI GDNs are expected to undertake major network development:

- FE will conduct a major infill programme
- PNGL will extend their network to the East Down area
- SGN will build the gas network

8.93 We also note that the proposed modification to the FE and PNGL conveyance licences leads to an alignment of Condition 2.8A.2: Complaints Handling Procedure, The Code in the FE and PNGL conveyance licences with the corresponding Condition 2.14.3 of the

⁴² We note that we do not wish to insinuate this might be the case, but have merely chosen this scenario as an example.

SGN conveyance licence. It thus furthers the consistency between the NI low pressure conveyance licences and equality in the treatment of licence holders.

- 8.94 In their response to the GD17 draft determination⁵³, FE welcomed the proposed licence modification as it widens the scope of the complaints handling procedure in line with current practice.
- 8.95 PNGL, on the other hand, in their response to the GD17 draft determination⁵⁴, noted the concerns they had raised at the Distribution Operator's Forum with respect to the wider definition of a complaint, and questioned whether the current definition contained in the FE and PNGL conveyance licences is unduly narrow and no longer deemed to be IME3 compliant. We therefore wish to clarify that the reason for the proposed modification to Condition 2.8A.2: Complaints Handling Procedure is not IME3 compliance (or lack of same), but, as detailed in paragraphs 8.89 to 8.93 above, to further the development of the natural gas industry in Northern Ireland and ensure the NI GDNs are regulated on an equivalent basis.

Timelines for Periodic Reviews

- 8.96 Experience has shown that the period of 12 months currently stipulated in the FE conveyance licence, and of 15 months currently stipulated in the PNGL conveyance licence, with respect to the time between the provision of the Licensees' Best Available Values and proposed Designated Parameters as input into the price control process and the end of a price control period, is too short to carry out a full price control review. This is all the more true if, as now is the case, price control cycles for NI GDNs are being aligned and business plans and representations from a number of NI GDNs need to be considered concurrently. We consider that 18 months is a more realistic period reflective of the time that from our experience a price control process from business plan submission to start of the new price control period actually takes.
- 8.97 In the Gas to the West Applicant Information Pack we had noted our intention to require business plan submissions for periodic price reviews 18 months before the implementation date.⁴³ This was then implemented by means of Condition 4.4.7 of the SGN conveyance licence. We consider, however, that to ensure equivalent regulatory treatment of the NI GDNs, a related modification should be made to the FE and PNGL conveyance licences as well. This is all the more important as we intend to benchmark GDNs against each other as part of the price control process, where relevant and appropriate and thus need to have their price control cycles aligned.

Effects

Definitions

- 8.98 The effect of the proposed licence modifications will be to achieve consistency of the definitions sections of the FE and PNGL conveyance licences with other licence conditions and updates to the legislative framework, in so far as relevant in the context of the other licence modifications proposed in this chapter 8 Licence Alignment between GDNs pursuant to Gas to the West Project.

⁴³ See [Utility Regulator: Gas Network Extensions in Northern Ireland, Gas to the West: Application Information Pack, 6 February 2014](#), paragraph 3.71.

Independence of the Licensed Business

- 8.99 The effect of the proposed licence modifications will be that the condition, is amended so that it applies where any 'gas distribution' licensee in the same group as the licensee (and thereby including the licensee) has more than 100,000 premises connected to a gas distribution network. We consider that such additional clarity is required and will also add further consistency between NI low pressure licences.
- 8.100 We note that Condition 1.16.1 does not currently apply to FE as the circumstances described in this condition do not apply. Therefore, we consider that the proposed change has no immediate impact.
- 8.101 We note furthermore that Condition 1.16.1 currently applies to PNGL and that it will continue to apply under the new proposed wording. Therefore, we consider that the proposed change has no immediate impact.

Regulatory Instructions and Guidance

- 8.102 The effect of the proposed licence modification will be to provide additional clarity for both ourselves and the Licensees with regards to the arrangements concerning the provision of information under RIGs and the associated responsibilities. In particular, the proposed licence condition:
- Sets out the scope and content of the RIGs;
 - Requires the Licensees to have in place and maintain systems, processes and procedures which enable it to collect and provide information set out in the RIGs, and to comply with the RIGs; and
 - Provides for us to issue new or modified RIGs, as appropriate.
- 8.103 The proposed licence modification will furthermore further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.

Resolution of Disputes

- 8.104 The effect of the proposed licence modification will be to improve clarity of the dispute resolution arrangements contained in the FE and PNGL conveyance licences and to ensure a consistent dispute resolution process across the NI GDNs with respect to Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services Conditions.
- 8.105 The proposed licence modifications will furthermore ensure equivalent regulatory treatment of the NI GDNs with this respect.

Co-operation with Other GDNs

- 8.106 The effect of the proposed licence modifications to the FE and PNGL conveyance licences will be to oblige the GDNs to co-operate in the areas of consistency of network codes, common branding as well as development and implementation of a low pressure network tariff and to make compliance with the related requirements enforceable. This will benefit the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland.
- 8.107 As distribution network codes are already largely aligned in NI, and network code modifications and modification rules are already consistent across NI, the immediate

impact of the proposed new licence condition with respect to Performance of Obligations relating to the Network Code will be limited.

- 8.108 With respect to the proposed new Common Network Tariff licence condition, the GDNs will be required to contribute to the full and timely implementation of a common low pressure network tariff in Northern Ireland and to comply with any related directives issued by the Authority. Until any project is commenced we expect the impact in the short term to be limited. This will require resources and input from the GDNs and will form part of normal ongoing business-as-usual regulatory activities.
- 8.109 With respect to the proposed new Common Branding licence condition, the GDNs will be required to develop, implement and comply with a common branding approach for Northern Ireland. This will require resources and input from the GDNs and form part of normal ongoing business-as-usual activities.
- 8.110 The proposed licence modifications (including the proposed modifications of the SGN conveyance licence) will furthermore further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.

Reasonable and Prudent Operator

- 8.111 The proposed new licence condition formalises how we would expect any low pressure conveyance licence holder to run their business. That said, we still consider the introduction of the proposed new Reasonable and Prudent Operator licence condition in the FE and PNGL conveyance licences to be of importance as by formalising the requirements of a reasonable and prudent operator in the licence.
- 8.112 Should for any reason a GDN not act in a reasonable and prudent manner we have the option of dealing with this through licence enforcement action.
- 8.113 The proposed licence modification will furthermore further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.

Trading with Associated Businesses

- 8.114 The proposed licence modifications formalise the principle that Licensees shall not benefit from cross-subsidies arising from transactions with businesses operated by the Licensees or any of their affiliates or related undertakings, nor provide such benefits to businesses operated by the Licensees or any of their affiliates or related undertakings. They also provide provisions to facilitate monitoring of compliance with this principle.
- 8.115 The proposed licence modifications will furthermore further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.

Asset Management

- 8.116 The proposed licence modification will formalise the requirement on FE and PNGL to establish and implement an appropriate asset management system, and will make this requirement enforceable.
- 8.117 The proposed licence modification will furthermore further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.

Complaints Handling Procedure – The Code

- 8.118 The effect of the proposed licence modification will be to extend the scope of the complaints procedure a FE and PNGL need to have in place pursuant to Condition 2.8A: Complaints Handling Procedure of their respective licences.
- 8.119 We note that the definition of complaint in the FE Complaints Code of Practice is already compliant with the enhanced scope for complaints as entailed by the new proposed wording. We therefore consider that the practical implications of the proposed licence modifications for FE should be limited.
- 8.120 We note furthermore that pursuant to this proposed modification the PNGL Code of Practice with respect to the handling of consumer complaints may need to be amended to account for this enhanced scope of complaints.
- 8.121 The proposed licence modification will also further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.

Timelines for Periodic Reviews

- 8.122 The proposed licence modification will increase to 18 months the time for a price control process from the business plan submission to the start of the new price control period. This is, from our experience, a more realistic period than that stipulated in the current FE and PNGL conveyance licences.
- 8.123 The proposed licence modification will furthermore further consistency between the NI low pressure conveyance licences and help ensure that NI GDNs are regulated on an equivalent basis.
- 8.124 In particular, the proposed licence modification will facilitate alignment of the timelines for periodic reviews across the NI GDNs, and thus enhance the data basis which can be used for benchmarking purposes as part of the price control process.

9 Licence Modifications pursuant to the Extension of the PNGL Licensed Area to East Down

Overview

- 9.1 On 7 October 2015, PNGL applied for our approval, under Article 8 of the Gas (NI) Order 1996, to grant an extension to its Conveyance Licence, to facilitate conveyance in East Down.
- 9.2 Following-up on this application, we issued, on 16 October 2015, a consultation paper on the extension of the PNGL licensed area to East Down.⁸ In that paper we stated that, should the extension of the PNGL licensed area be granted, PNGL needed to deliver against their proposal to develop their natural gas network into this area. We noted in particular that we proposed to consider this as part of the GD17 price control and that we were of the view that it might be appropriate to formally set out a development plan, referenced in the PNGL conveyance licence conditions. We also indicated these aspects would be subject to a separate consultation.⁴⁴
- 9.3 We followed-on on these comments in our decision paper of 10 December 2015 on granting the extension of the PNGL licensed area to East Down. In particular, we stated in paragraph 3.5: *“The Utility Regulator [...] intends to progress further work in relation to East Down through the GD17 price control. This will include incentives for connections and cost allowances. As noted in our consultation it will also include consideration of an appropriate development plan to ensure there are obligations to develop the East Down area. This GD17 process will involve further separate consultation and engagement with stakeholders.”*⁹
- 9.4 We are now proposing to follow-up on this matter. In particular, we propose to make the modifications required to include a development plan in the PNGL conveyance licence at the same time as the licence modifications to bring into effect the GD17 determination.
- 9.5 In chapter 12 Licence Implications of the GD17 draft determination¹⁵ we included for illustrative purposes a draft development plan, together with an indication of our intention to provide at a later stage further information on the proposed licence conditions to embed the need to achieve the targets set out in the development plan in the licence.
- 9.6 In their response to the GD17 draft determination, PNGL⁵⁴ provided some comments on the proposed licence modifications. They noted in particular the following:
- The properties passed detailed in Appendix 4 of the GD17 draft determination must be aligned with PNGL’s forecast development plan until 2022;
 - The Utility Regulator must apply the same principle for East Down as was applied in PNGL’s original Licensed Area, i.e.:

⁴⁴ See [Utility Regulator: Notice to Extend the Conveyance Licence Area and Modification of the Conveyance Licence of Phoenix Natural Gas Limited – East Down, 16 October 2016](#), paragraph 2.7.

- New Build properties must be excluded from the development plan as the construction, timing and magnitude of new build developments are not within PNG's control;
- PNGL were required to develop a sustainable network through which natural gas was available to no less than 81% of the properties in the development plan⁴⁵.

9.7 We have responded to these comments directly in the GD17 draft determination consultation report⁵². We have furthermore addressed them, as appropriate, in section 9 Licence Modifications pursuant to the Extension of the PNGL Licensed Area to East Down, Reasons below.

9.8 This chapter therefore details, with consideration of the above:

- the proposed licence modifications for PNGL; and
- the associated reasons and effects.

Proposed Licence Modifications

PNGL

9.9 We propose to include the development plan with the cumulative properties passed targets shown in Appendix 1 of this document as new Annex 3 to Schedule 4 of the PNGL conveyance licence.

9.10 We furthermore propose to add the following wording to the new Annex 3 to Schedule 4 of the PNGL conveyance licence:

“1. Premises

For the purposes of the table in this Annex 3 to Schedule 4 the numbers of premises stated refer to any domestic and non-domestic premises, excluding domestic new build premises.

2. Revising the Licensee's Obligations to Develop the Network in the Areas listed in Annex 3 to Schedule 4

- (a) *The Authority may, at the request of the Licensee and as reasonably appropriate in all the circumstances, revise any number of premises stated in the table above of this Annex 3 to Schedule 4 for any area in any one year where:*
- (i) *the Authority is reasonably satisfied that exceptional circumstances (excluding lack of funds), which could not have been reasonably avoided by the Licensee, have prevented, or could reasonably be expected to prevent, the Licensee from complying with its obligations under paragraph 1 (b), (f), (g) and (k) of this Schedule 4; or*

⁴⁵ This percentage is derived from sub-paragraph (e) in combination with sub-paragraphs (b) and (c) of paragraph 1 to Schedule 4 of the PNGL conveyance licence.

- (ii) *the Authority is reasonably satisfied that, due to any process required to be followed by an Applicable Law, which could not reasonably have been further expedited or avoided by the Licensee, the Licensee has been delayed in complying with its obligations under paragraph 1 of this Schedule 4;*
 - (iii) *the Licensee and Authority so agree.*
- (b) *Where by virtue of the provisions of sub-paragraph (a) above revisions are made to the number of premises stated in the table above of this Annex 3 to Schedule 4, the revised numbers shall be applied for the purposes of this Licence.*

3. Definitions

In this Annex 3 to Schedule 4, unless the context otherwise requires,

- “Applicable Law” means all applicable provisions of all:*
- (a) *constitutions, treaties, statutes, laws (including the common law), rules, regulations, ordinances or codes of any Governmental Authority; and*
 - (b) *orders, decisions, injunctions, judgments, awards and decrees of any Governmental Authority;*
- “domestic new build” 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;*
- “Governmental Authority” means any federation, nation, state, sovereign or government, any federal, supranational, regional state or local political subdivision, any governmental or administrative body, department or agency, or any court, commission or other similar dispute resolving body, and any other entity exercising executive, legislative,*

judicial, or regulatory functions;

“NIHE”

*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.”*

9.11 We also propose to amend paragraph 1 of Schedule 4 of the PNGL conveyance licence so as to include reference to the proposed new Annex 3 to Schedule 4 as follows:

- In the first sentence, introduce a colon after the word “*operation*” and introduce paragraph numbering so that the passage “*no later than the twelfth anniversary of the Grant a system of distribution pipelines readily capable of serving all reasonable demands for the offtake of gas in the districts set out in Annex 1 to this Schedule 4*” becomes new sub-paragraph (a);
- Insert “*and*” at the end of this sub-paragraph (a) and add new sub-paragraph (b) as follows: “*no later than 31st December 2022 a system of distribution pipelines readily capable of serving all reasonable demands for the offtake of gas in the areas set out in Annex 3 to this Schedule 4;*”
- Insert a new sub-paragraph (f) as follows: “*the Licensee shall install and bring into operation (or make readily capable of being brought into operation) distribution pipe-lines such that, in respect of any area and each calendar year, the number of premises that are readily connected by the end of that calendar year is equal to or greater than 50% of the annual cumulative target shown in Annex 3 to this Schedule 4 for that area and that year;*”
- Insert a new sub-paragraph (g) as follows: “*the Licensee shall install and bring into operation (or make readily capable of being brought into operation) distribution pipe-lines such that, in respect of each calendar year, the aggregate number of premises in all the areas that are readily connected by the end of that calendar year is equal to or greater than 90% of the cumulative target shown in Annex 3 to this Schedule 4 for that year;*”
- Amend the last subparagraph so that it also refers to Annex 3 to Schedule 4 and reads as follows: “*the Licensee shall be deemed to have installed and brought into operation a system of distribution pipe-lines readily capable of serving all reasonable demands for the offtake of gas in the districts set out in Annex 1 to this Schedule 4 and all the areas set out in Annex 3 to this Schedule 4 if it has met all its development targets.*”
- Renumber the remaining sub-paragraphs of paragraph 1 of Schedule 4 of the PNGL conveyance licence, as well as any references to these sub-paragraphs in paragraphs 1 and 3 of Schedule 4 accordingly.

9.12 Insert new Condition 1.2.1A: The Licensee's Development Plan for the Areas listed in Annex 3 to Schedule 4 as follows: “*The Licensee shall develop the Network in each of*

the areas listed in Annex 3 to Schedule 4 in accordance with paragraph 1 of Schedule 4.”

- 9.13 Amend Condition 2.2.7: Territorial Scope and Exclusivity, Additional duty to provide information of the PNGL conveyance licence as follows:
- In sub-paragraph (c), insert after “*district*” the words: “*as listed in Annex 1 to Schedule 4 and each area as listed in Annex 3 to Schedule 4*” and remove the word “*and*” at the end of the sub-paragraph;
 - At the end of sub-paragraph (d), add: “*as listed in Annex 1 to Schedule 4 and each area as listed in Annex 3 to Schedule 4;*”
 - Insert a new sub-paragraphs (e) and (f) as follows:
 - “(e) *the progress in the development of the Network in the areas listed in Annex 3 to Schedule 4 having regard to the obligations detailed under paragraphs 1 (b), (f), (g) and 4 of Schedule 4; and*
 - “(f) *the planned development of the Network in the next succeeding three years in the areas listed in Annex 3 to Schedule 4 having regard to the obligations detailed under paragraphs 1 (b), (f), (g) and 4 of Schedule 4.*”
 - Insert the following wording at the end of Condition 2.2.7: “*The obligation to provide the information detailed in Condition 2.2.7 (e) and (f) above shall cease once the report relating to the year ending on 31 December 2022 has been provided.*”
- 9.14 Annex 2: PNGL Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the PNGL conveyance licence.

Reasons

- 9.15 By proposing the licence modifications detailed in section 9 Licence Modifications pursuant to the Extension of the PNGL Licensed Area to East Down, Proposed Licence Modifications, PNGL above, we follow-up on our intentions stated in the consultation paper on the extension of the PNGL licensed area to East Down⁸, the decision paper of 10 December 2015 on granting the extension of the PNGL licensed area to East Down⁹ and the GD17 draft determination¹⁵ relating to the inclusion of an East Down development plan with associated licence conditions in the PNGL conveyance licence. The purpose of this development plan, and the related licence conditions, is to ensure PNGL develop their natural gas network within their newly⁴⁶ licensed area in East Down.
- 9.16 In particular, the cumulative properties passed table in Appendix 1 of this document and proposed to be included as new Annex 3 to Schedule 4 in the PNGL conveyance licence represents the development plan referred to in our previous publications. Together with the proposed amendments to paragraph 1 of Schedule 4 of the PNGL conveyance licence, it sets out the targets we expect PNGL to reach when developing and rolling out the natural gas network in the East Down area. By breaking down these targets into different areas and years, we intend to ensure that PNGL roll-out their network into all

⁴⁶ In this context, the term “newly” refers to the decision paper of 10 December 2015 on granting the extension of the PNGL licensed area to East Down (see also footnote 9). This is in contrast to the remainder of the licensed area in which PNGL has been developing the natural gas network for some time already.

areas within East Down with relevant conglomerations, in line with the plans and timelines they had submitted as part of the licence extension application process, rather than cherry-picking only those areas where the gas network can be developed at least cost.

- 9.17 We note that the development plan proposed to be included as new Annex 3 to Schedule 4 in the PNGL conveyance licence has been drawn up with consideration of PNGL's proposed network build programme of work. It extends only to 2022, and not as initially proposed in the GD17 draft determination to 2046, as PNGL confirmed that they expect to have passed all properties that formed the basis of their licence extension application by the end of 2022.
- 9.18 We note furthermore that, with consideration of the regulatory principle of consistency, the proposed wording for stating the development targets on area-level as well as for the East Down area as a whole in the proposed new sub-paragraphs (f) and (g) of paragraph 1 to Schedule 4 of the PNGL conveyance licence is similar to that used in paragraphs (b) and (c) of Condition 3.2.1: Network Development, Development of the Network of the SGN conveyance licence and in Condition 3.2.1: Development Plan, Development of the Network of the FE conveyance licence. We note that we do not propose to link the development plan targets stated in the new proposed sub-paragraphs (f) and (g) to the new sub-paragraph (i) (former sub-paragraph (e)) of paragraph 1 to Schedule 4 of the PNGL conveyance licence. We consider that the target percentages set out in the proposed wording are appropriate and allow for an appropriate level of flexibility to address the uncertainties associated with the network development.
- 9.19 The proposed new paragraph 1 of Annex 3 to Schedule 4 of the PNGL conveyance licence provides clarification that the properties passed figures referred to in the development targets refer to any domestic and non-domestic premises, excluding domestic new build premises. This is to account for the argument raised by PNGL that the construction, timing and magnitude of new build developments are outside their control. We note that the proposed definitions for "*domestic new build*" and "*NIHE*" in paragraph 3 of Annex 3 to Schedule 4 of the PNGL conveyance licence is aligned with the related definition used in the SGN conveyance licence and in the Regulatory Instructions and Guidance for the GD17 business plan submission⁴⁷.
- 9.20 We note furthermore that the proposed definitions for "Applicable Law" and "Governmental Authority" in paragraph 3 of Annex 3 to Schedule 4 of the PNGL conveyance licence are, with consideration of the regulatory principle of consistency, aligned with the related definitions in the FE and SGN conveyance licences.
- 9.21 The purpose of the proposed new Condition 1.2.1A: The Licensee's Development Plan for the East Down Area of the PNGL conveyance licence is to impose an obligation on PNGL to develop the Network (in accordance with paragraph 1 of Schedule 4 of the PNGL conveyance licence) with respect to the East Down area and make this obligation enforceable.
- 9.22 The purpose of the proposed amendments to Condition 2.2.7: Territorial Scope and Exclusivity, Additional duty to provide information of the PNGL conveyance licence is to implement reporting arrangements which allow us to monitor compliance of PNGL with their targets with respect to developing and rolling out the natural gas network in the East Down area. In the interest of efficiency and consistency, the reporting requirements

⁴⁷ [Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks GD17, Regulatory Instructions and Guidance for Business Plan Submission, 14 May 2015.](#)

set out in the related proposed licence modifications have been based on those already embedded in:

- Condition 1.2.2: Long Term Development Plan, Annual Development Plan Report of the PNGL conveyance licence with respect to the development of the network during the initial years of operation; and in
- Condition 2.2.7: Territorial Scope and Exclusivity, Additional duty to provide information with respect to key aspects of the network in the time thereafter.

Effects

9.23 The effect of the proposed licence modifications will be to oblige PNGL to comply with the development targets set out in their licence and to make this obligation enforceable. In this way, we can ensure that PNGL indeed extend their network to all the relevant towns in the East Down licensed area, as set out in the related consultation and decision papers^{8,9}.

10 Licence Modifications due to The Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland)

Overview

- 10.1 On 1 May 2015, we published a consultation paper on Changes to Gas and Electricity Licences with regards to Appeals to the CMA⁴⁸. This paper detailed our proposed licence modifications required with respect to gas and electricity licences pursuant to the Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland) 2015. The consultation paper was followed, on 4 August 2015, by the publication of our related decision paper¹⁰.
- 10.2 The SGN conveyance licence was granted on 11 February 2015 and drafted so as to be consistent with these Regulations and provide the licence holder with appropriate appeals mechanisms. Therefore, no modifications to the SGN conveyance licence were required or made at the time the decision paper on Changes to Gas and Electricity Licences with regards to Appeals to the CMA was published.
- 10.3 However, as part of the consultation process, a number of changes have been made to licence conditions that are in equivalent form also contained in the SGN conveyance licence. We indicated in the decision paper that in the interest of licence consistency, we would consider aligning the SGN conveyance licence with these decisions in due course. We are now proposing to follow-up on this matter.
- 10.4 We propose to implement the licence modifications required to align the SGN conveyance licence with these decisions at the same time as the licence modifications to bring into effect the GD17 determination and highlighted our intention to do so in chapter 12 Licence Implications of the GD17 draft determination¹⁵. In their response to the GD17 draft determination, SGN⁵⁵ indicated that they considered the proposed changes to be appropriate.
- 10.5 This chapter therefore details:
- the proposed licence modifications for SGN; and
 - the associated reasons and effects.

Proposed Licence Modifications

SGN

- 10.6 We propose to modify Condition 4.4.14 of the SGN conveyance licence as follows:

⁴⁸ See [Utility Regulator: Changes to Gas and Electricity Licences with regards to Appeals to the CMA, Modifications necessary due to The Gas and Electricity Licence Modification and Appeals Regulations \(Northern Ireland\) 2015, April 2015](#).

- remove the word “and” at the end of Condition 4.4.14(a);
- rename Condition 4.4.14(b) into 4.4.14(c);
- add a new Condition 4.4.14(b) to read as follows: “*may be withdrawn by the Licensee at any time prior to the Disapplication Date; and*”.

We propose furthermore to modify Condition 4.4.11 of the SGN conveyance licence by adding the following words at the end of Condition 4.4.11(b): “*and not withdrawn*”.

- 10.7 We propose furthermore to modify Condition 4.4.13(c) of the SGN conveyance licence by removing the words “*which shall not be earlier than the Disapplication Date*” from the end of the condition.
- 10.8 Annex 3: SGN Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the SGN conveyance licence.

Reasons

- 10.9 By proposing the licence modification detailed in section 10 Licence Modifications due to The Gas and Electricity Licence Modification and Appeals Regulations (Northern Ireland), Proposed Licence Modifications, SGN above. We intend to follow up on our statement in the Decision Paper on Modifications necessary due to The Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015¹⁰ that we would consider aligning the disapplication conditions in the SGN conveyance licence with similar licence conditions contained in the licences of other regulated energy businesses in Northern Ireland in due course. Essentially, this will serve to streamline and clarify the disapplication process in order to put SGN in the same position as all other licensees and thereby have the same rights and obligations as other licensees in respect of the processes for disapplication of the price control condition.
- 10.10 In particular, the proposed modifications to Conditions 4.4.14 and 4.4.11 will allow for a Disapplication Notice to be withdrawn by the Licensee if it wishes to do so.
- 10.11 The proposed modification to Condition 4.4.13(c) allows the licence holder to request and the UR to agree a disapplication date earlier than the date set out in the licence.
- 10.12 We note that whilst proposed modification to Condition 4.4.13(c) was not discussed in chapter 12 Licence Implications of the GD17 draft determination¹⁵, it was included in Annex 3 to that document as tracked change to the SGN conveyance licence⁴⁹ and referred to in the Decision Paper on Modifications necessary due to The Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015¹⁰.

Effects

- 10.13 The proposed licence modifications will provide some additional flexibility to the Licensee with regards to the disapplication of the Price Control Conditions. In particular, the proposed licence modifications will allow:

⁴⁹ [Utility Regulator: Price Control for Northern Ireland’s Gas Distribution Networks GD17, Draft Determination, Annex 3 – Proposed SGN Licence Modifications, 16 March 2016.](#)

- for a Disapplication Notice to be withdrawn by the Licensee if it wishes to do so;
and
- for the licence holder to request and the UR to agree a disapplication date earlier than that set out in the licence.

11 Correction of Licence Errors and Inconsistencies

Overview

- 11.1 Since the grant of the SGN conveyance licence on 11 February 2015, some minor licence drafting errors have been identified. These relate to incorrect references contained in Condition 1.21.5: Regulatory Instructions and Guidance and Condition 4.12: Definitions and Interpretation of the SGN conveyance licence. We agreed with SGN to rectify together with upcoming future licence modifications.
- 11.2 We propose to implement the licence modifications required to correct these drafting errors in the SGN conveyance licence at the same time as the licence modifications to bring into effect the GD17 determination and highlighted our intention to do so in Chapter 12 Licence Implications of the GD17 draft determination¹⁵. In its response to the GD17 draft determination, SGN⁵⁵ indicated that it considered the proposed changes to be appropriate.
- 11.3 In addition to the referencing errors in the SGN conveyance licence already mentioned in the GD17 draft determination, we identified, as part of the preparation of this licence modification consultation, further licence consistency issues as follows:
- One further licence referencing error in Condition 4.6.9: Establishing Best Available Revenue Per Unit, Calculating the Profile Adjustment and one further grammatical error in Condition 4.6.7 of the SGN conveyance licence.
 - Need to update the District Development Plan in Annex 2 to Part 3 of the SGN conveyance licence to account for an update in the development plan and correct errors contained in the District Development Plan currently contained in the SGN licence.
 - Some grammatical and typographical errors and inconsistencies in the FE conveyance licence.
 - Incorrect cross-references contained in the FE conveyance licence.
 - The designated parameter m , which designates a formula year and is used in the price control formulae, is not listed as a designated parameter in the FE conveyance and is missing from one of the listings of designated parameters in the SGN conveyance licence.
 - Reference to connection incentive revenue arrangements which are no longer used⁵⁰ in the PNGL conveyance licence conditions relating to the calculation of the revenue cap. Whilst this is not an issue in itself as it is reflected in the determination values, we consider that in the interest of consistency with related conditions in the FE conveyance licence and overall reduction of licence complexity, it is desirable to remove the related arrangements from the PNGL conveyance licence.

⁵⁰ We note that the GD17 final determination also contains connection incentive mechanism arrangements. These are, however, different from the connection incentive revenue arrangements referred to here.

We propose to address drafting issues identified and to implement the licence modifications required to do so.

11.4 This chapter therefore details:

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

Proposed Licence Modifications

FE

Overview

11.5 The proposed amendments to the FE conveyance licence can be grouped into two categories:

- Proposed licence modifications to correct grammatical and typographical errors and inconsistencies;
- Proposed licence modifications to correct incorrect cross-references contained within the licence; and
- Proposed licence modifications to ensure parameter m is treated as a designated parameter in the FE conveyance licence.

11.6 We note that all licence condition numbers referred to in this section are based on the revised numbering of FE conveyance licence conditions, after consideration of the modifications proposed in chapter 3 of this licence modification consultation.

11.7 Annex 1: FE Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the FE conveyance licence.

Correction of Grammatical and Typographical Errors and Inconsistencies

11.8 We propose to amend Condition 4.2.4: Review Process & Disapplication Notices, Terms Relevant to Reviews of the FE conveyance licence by adding an “s” at the end of the word “*Condition*” in the definition of designated parameter q.

11.9 We propose to amend Condition 4.4.10: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue, Calculating the Operating Rolling Incentive of the FE conveyance licence by removing, from the sentence directly preceding the formula for the calculation of the Operating Rolling Incentive, the word “*the*” between “*Operating Rolling Incentive*” and “*for*”.

11.10 We propose to amend Condition 4.8.1: Definitions and Interpretation of the FE conveyance licence by replacing, in the first sentence of the definition of the term “*Actual Value*”, the term “*Formula year*” (where it is spelt with a capital “*F*” and small “*y*”) with “*Formula Year*”.

Correction of Licence Referencing Errors

11.11 We propose to amend Condition 4.4.9: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue, Calculating the Profile Adjustment in the FE conveyance licence by replacing in the first sentence of this condition the term “*in this Condition 4*” with “*in the conditions in this Part 4 (The Price Control Conditions)*”.

- 11.12 We propose to amend Condition 4.4.10: Establishing Best Available Revenue Per Unit and Total Conveyance Revenue, Calculating the Operating Rolling Incentive of the FE conveyance licence by changing, in the description for designated parameter n, the incorrect reference from Condition 4.2.2 to 4.2.4.
- 11.13 We propose to amend Condition 4.8.4: Definitions and Interpretation, Designated Parameters of the FE conveyance licence by changing:
- for designated parameter n, in the “*Description*” column the incorrect reference from Condition 4.2.2. to 4.2.3(a); and
 - for designate parameter q, in the “*Description*” column the incorrect reference from Condition 4.2.2. to 4.2.4.

Designated Parameter m

- 11.14 We propose to amend Condition 4.7: Current Designated Parameters and Determination Values of the FE conveyance licence by adding a line for designated parameter m into the designated parameter table contained in that licence condition, with a related value of 2016, as shown in Table 2 of this consultation document.
- 11.15 We furthermore propose to amend Condition 4.8.4: Definitions and Interpretation, Designated Parameters of the FE conveyance licence by adding a line for designated parameter m into the table, with “*The Formula Year that was n for the preceding review*” as entry in the column “*Description*” and “*A Formula Year*” as entry in the column “*Limitation to the application of re-designated values*”.

PNGL

- 11.16 We propose to amend Condition 2.3.8: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Charging methodology for the conveyance of gas of the PNGL conveyance licence by removing any reference to the connection incentive revenue arrangements as follows:
- In the formula for the calculation of the term M_t , remove the $G_{F,t}$ factor, so that the formula reads as follows: “ $M_t = R_{E,t}(RPI_{F,t}/RPI_E) - K_t$ ”.
 - Remove the definitions for the following terms: $G_{F,t}$, $\sum_{i,j}, N_{F,i,j,t}$, $N_{E,l,j,t}$, $H_{E,l,j,t}$.
 - Remove the sentence: “*For the avoidance of doubt, the Connections Incentive shall apply from Formula Year 2008.*”
 - In the last sentence of this condition, remove reference to $N_{F,i,j,t}$.
- 11.17 We propose to amend Condition 2.3.14: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Establishing the Best Available Values of the PNGL conveyance licence by removing the references to the terms $N_{B,l,j,t}$ and $H_{B,l,j,t}$.
- 11.18 We propose to amend Condition 2.3.24: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Current Determination Values of the PNGL conveyance licence by removing the lines relating to $N_{E,l,j,t}$, $H_{E,l,j,t}$ from the table contained in that condition.
- 11.19 We propose to amend Condition 2.3.25: Conveyance Charges, Other Terms for the Conveyance of Gas and the provision of Conveyance services, Best Available Values, Determination Values and Actual Values of the PNGL conveyance licence by removing the lines relating to “*Number of New Connections (for Conveyance Categories i and*

Conveyance Subcategories j)” and *“Average Incentive Value (for Conveyance Categories i and Conveyance Subcategories j)”* from the table contained in that condition.

- 11.20 Annex 2: PNGL Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the PNGL conveyance licence.

SGN

- 11.21 A licence drafting error has been noted in Condition 1.21.5: Regulatory Instructions and Guidance, Requirements for new or more detailed information of the SGN conveyance licence. In paragraphs (a) and (b) reference is made to Condition 1.12.5. This reference is wrong and should be to Condition 1.21.5 instead. We propose to update the SNG licence accordingly.
- 11.22 A further licence drafting error has been noted in Condition 4.12: Definitions and Interpretation of the SGN conveyance licence: In the definition of Expenditure, sub-paragraph (iii) contains a reference to Conditions 2.5.2(a)(i) or 2.5.3(a)(i). This reference is wrong and should be to paragraphs 2.12.3(a)(ii) and 2.12.4(a)(i) respectively instead. We propose to update the SGN conveyance licence accordingly.
- 11.23 We furthermore propose to amend Condition 4.6.7 of the SGN conveyance licence by replacing, in the section entitled *“Calculating $D_{B,t}$ (Depreciation)”*, the word *“Is”* (being the second word in the sentence, right after the term $D_{B,t}$ and spelt in capitals) with the word *“is”* (spelt with a small *“i”*).
- 11.24 We also propose to amend Condition 4.6.9: Establishing Best Available Revenue Per Unit, Calculating the Profile Adjustment in the SGN conveyance licence by replacing in the first sentence of this condition the term *“in this Condition 4”* with *“in the conditions in this Part 4 (The Price Control Conditions)”*.
- 11.25 We furthermore propose to amend Condition 4.12.4: Definitions and Interpretation, Designated Parameters of the SGN conveyance licence by adding a line for designated parameter m into the table, with *“The Formula Year that was n for the preceding review”* as entry in the column *“Description”* and *“A Formula Year”* as entry in the column *“Limitation to the application of re-designated values”*.
- 11.26 We also propose to replace the District Development Plan in Annex 2 to Part 3 of the SGN conveyance licence with the one shown in Table 20 in Appendix 2: Revised SGN District Development Plan of this licence modification consultation document.
- 11.27 Annex 3: SGN Licence – Proposed Modifications shows the proposed licence modifications as tracked changes to the SGN conveyance licence.

Reasons

- 11.28 The purpose of the proposed licence modifications listed above in sections Correction of Grammatical and Typographical Errors and Inconsistencies and section Correction of Licence Referencing Errors is to correct a drafting error and achieve licence consistency.
- 11.29 The purpose of the proposed modifications listed above in section Designated Parameter m of this licence modification consultation paper is to add parameter m to the list of designated parameters and thus account for the importance of this parameter in the context of the price control conditions. The proposed change will furthermore

achieve consistency with the PNGL and SGN conveyance licences, which both contain m as a designated parameter.

- 11.30 The purpose of the proposed removal of any references to the connection incentive revenue arrangements from the PNGL conveyance licence is two-fold: The proposed change will reduce complexity in the licence drafting by removing arrangements which are no longer required. It will furthermore improve consistency with the licence conditions proposed to be included in the FE conveyance licence as part of the move of FE from a price cap form of control to a revenue cap one. As further detailed in chapter 3 of this licence modification consultation document, we propose to base the FE revenue cap licence conditions, where reasonable, on the related PNGL arrangements. However, we consider that this principle should only apply to those licence arrangements that are indeed required, and not to licence arrangements that are derelicts from the past which are no longer used.
- 11.31 The purpose of the proposed modification to Condition 4.12.4: Definitions and Interpretation, Designated Parameters of the SGN conveyance licence is to achieve consistency within the SGN licence. In the current licence drafting, designated parameter m is referred to in Condition 4.11: Current Designated Parameters and Determination Values of the SGN conveyance licence, where a value is assigned to the Designated Parameters. However, designated parameter m is not referred to in Condition 4.12.4: Definitions and Interpretation, Designated Parameters of the SGN conveyance licence, where the Designated Parameters are defined. This is an omission. The lists of designated parameters contained in both licence conditions should be consistent, and this will be achieved through the proposed licence modification.
- 11.32 The purpose of the proposed licence modifications to Condition 1.21.5: Regulatory Instructions and Guidance, Requirements for new or more detailed information and Condition 4.12: Definitions and Interpretation of the SGN conveyance licence is to correct known errors in the drafting of the SGN conveyance licence and achieve licence consistency.
- 11.33 The purpose of the proposed modification to the District Development Plan in Annex 2 to Part 3 of the SGN conveyance licence is to account for an updated development plan and correct errors in the District Development Plan currently contained in the SGN licence. As part of the price control review for GD17, SGN asked us to account for the fact that a delay in the roll-out of the high-pressure network would entail a delay in the roll-out of the low-pressure network in their licensed area. As part of our related analysis we noticed an inconsistency in the current SGN licence: The District Development Plan contained in the current SGN licence had erroneously been based on figures for “connected” properties rather than for “readily connected”⁵¹ properties, whilst the related network development targets in Condition 3.2.1: Network Development, Development of the Network of the SGN conveyance licence are based on “readily connected” properties. We consider that the proposed update of the District Development Plan in Annex 2 to Part 3 of the SGN conveyance licence addresses the licence consistency issue by aligning District Development Plan and related targets so that they are both based on “readily connected” properties. As a consequence of this change, the resulting network development targets to be met by SGN will be higher than if the current District

⁵¹ In line with Condition 3.1: Definitions of the SGN conveyance licence, “readily connected” is defined as “*in relation to a premises, means that the curtilage of that premises is within 50 metres of a low pressure pipe-line forming part of the Network, which pipe-line is either in operation or readily capable of being brought into operation*”.

Development Plan was used, but we consider these higher targets are a reflection of the network development that can reasonably be expected from SGN. As the proposed District Development Plan is based on network development updates provided by SGN as part of the GD17 price control, the proposed licence modification furthermore ensures that the development plan targets embedded in the licence are realistic and aligned with the GD17 final determination, and that they can be enforced, where necessary, to protect consumer interests.

Effects

- 11.34 The effect of the proposed update of the District Development Plan in Annex 2 to Part 3 of the SGN conveyance licence will be to restore consistency within the SGN licence with respect to network development targets. In particular, the updated District Development Plan will be based on “readily connected” properties and thus align with the related network development targets in Condition 3.2.1: Network Development, Development of the Network of the SGN conveyance licence. It will furthermore reflect network development updates provided by SGN in the context of the GD17 price control review. The resulting targets for SGN are thus a more realistic reflection of the network development that can reasonably be expected. Embedding these targets into the SGN licence will make them enforceable and thus help to protect consumer interests.
- 11.35 We consider that all other proposed licence modifications discussed in this chapter 11 Correction of Licence Errors 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:
- consistency within a given conveyance licence (proposed changes to the SGN conveyance licence as well as proposed changes to the FE conveyance licence listed above in sections 11 Correction of Licence Errors and Inconsistencies, Proposed Licence Modifications, FE, Correction of Grammatical and Typographical Errors and Inconsistencies and Correction of Licence Referencing Errors of this licence modification consultation paper); and
 - consistency across the distribution conveyance licences (proposed changes to the PNGL conveyance licence as well as proposed changes to the FE conveyance licence listed above in section 11 Correction of Licence Errors and Inconsistencies, Proposed Licence Modifications, FE, Designated Parameter m).

12 Next Steps

Submission of Consultation Responses

- 12.1 This is an open consultation paper. We invite stakeholders to express a view on any particular aspect of the paper or any related matter. Responses should be received on or before 12noon on Friday 14 October 2016 and should be addressed to:

Paul Harland
Finance and Network Assets
Queens House
14 Queen Street
Belfast
BT1 6ED
Tel: 028 9031 1575

Email: Gas_networks_responses@uregni.gov.uk with cc to paul.harland@uregni.gov.uk

Our preference would be for responses to be submitted by e-mail.

- 12.2 We note that we may make public any responses to this consultation on licence modifications. If you do not wish your response or name made public, please state this clearly by marking the response as confidential. Any confidentiality disclaimer that is automatically produced by an organisation's IT system or is included as a general statement in your fax or coversheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 12.3 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes; these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA). If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things with obligations of confidence.
- 12.4 In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Authority.

This document is available in accessible formats. Please contact Paul Harland on 028 9031 1575 or email: Gas_networks_responses@uregni.gov.uk with cc to paul.harland@uregni.gov.uk to request this.

Timelines

- 12.5 Table 18 provides an overview over the next steps and associated timelines for the licence modification process.

Next Steps	Proposed Date
Closure of consultation on proposed licence modifications pursuant to the GD17 final determination and other regulatory decisions	14 October 2016
Decision on licence modifications pursuant to the GD17 final determination and other regulatory decisions	1 November 2016
Start of GD17 price control period and effective date of licence modification decision	1 January 2017

Table 18: Next Steps

- 12.6 We note that this timetable allows for the effective date of the licence modifications 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 1996¹⁸. 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).

Appendices

Appendix 1: Cumulative Properties Passed Targets for East Down

Area/Year	2016	2017	2018	2019	2020	2021	2022
Hillsborough	-	142	672	1,202	1,756	1,756	1,756
Ballygowan	639	1,122	1,122	1,122	1,122	1,122	1,122
Ballynahinch	-	322	902	1,482	2,062	2,733	2,733
Annahilt	-	66	217	379	379	379	379
Spa	-	28	190	190	190	190	190
Saintfield	-	-	-	486	972	1,506	1,506
Crossgar	-	-	252	504	831	831	831
Drumaness	-	-	49	266	438	507	507
Downpatrick	-	-	232	1,161	2,090	3,483	4,925
Newcastle	-	-	-	971	1,942	2,913	3,902
Castlewellan	-	-	-	302	604	906	1,217
Dundrum	-	-	-	274	548	853	853
Dromore	-	-	-	668	1,336	2,004	2,702
Properties Passed	639	1,680	3,636	9,007	14,270	19,183	22,623

Table 19: Cumulative Properties Passed Targets for East Down

Appendix 2: Revised SGN District Development Plan

District	Connection Type	District Annual Target / Financial Year									
		2017	2018	2019	2020	2021	2022	2023	2024	2025	2026
Cookstown	Large/ Contract IC	0	1	3	5	5	5	5	5	5	5
	Small/ Medium IC	0	71	168	356	393	505	525	546	566	586
	NIHE	0	64	268	478	577	651	667	682	698	714
	Domestic New Build	0	0	50	97	153	206	227	249	270	292
	Domestic Owner Occupied and Private Res	0	307	1088	1855	2549	3175	3322	3469	3616	3764
Total		0	442	1578	2791	3677	4542	4746	4951	5155	5360
Dungannon	Large/ Contract IC	0	2	8	13	14	16	16	16	16	16
	Small/ Medium IC	0	60	141	301	332	428	522	617	711	806
	NIHE	0	55	234	416	502	567	640	713	786	859
	Domestic New Build	0	0	44	85	133	179	279	380	480	580
	Domestic Owner Occupied and Private Res	0	267	947	1614	2218	2762	3452	4142	4831	5521
Total		0	385	1373	2429	3200	3952	4909	5867	6824	7781
Fermanagh	Large/ Contract IC	0	1	6	8	9	10	10	10	10	10
	Small/ Medium IC	0	71	165	352	388	499	559	619	678	738
	NIHE	0	64	268	477	575	650	696	742	788	835
	Domestic New Build	0	0	50	97	153	205	269	332	396	459
	Domestic Owner Occupied and Private Res	0	306	1086	1851	2543	3167	3604	4040	4477	4913
Total		0	441	1574	2785	3669	4531	5137	5743	6349	6955
Magherafelt	Large/ Contract IC	0	0	4	7	7	7	7	7	7	7
	Small/ Medium IC	0	56	131	276	305	394	402	411	419	428
	NIHE	0	50	211	376	453	512	518	525	531	538
	Domestic New Build	0	0	39	77	120	162	170	179	187	196
	Domestic Owner Occupied and Private Res	0	241	855	1457	2003	2494	2556	2618	2680	2742
Total		0	347	1240	2193	2888	3568	3653	3739	3824	3910
Omagh	Large/ Contract IC	0	0	5	12	14	16	16	16	16	16
	Small/ Medium IC	0	79	185	388	426	549	646	743	840	937
	NIHE	0	71	297	530	639	721	796	871	946	1021
	Domestic New Build	0	0	56	108	170	228	331	434	537	640
	Domestic Owner Occupied and Private Res	0	340	1205	2055	2824	3516	4225	4934	5642	6351
Total		0	490	1748	3092	4073	5031	6015	6998	7982	8966
Strabane	Large/ Contract IC	2	2	4	4	4	4	4	4	4	4
	Small/ Medium IC	54	115	197	357	388	483	505	528	550	572
	NIHE	271	325	498	675	758	821	839	856	873	890
	Domestic New Build	0	0	42	82	130	174	198	221	245	269
	Domestic Owner Occupied and Private Res	716	975	1635	2283	2870	3399	3562	3724	3887	4050
Total		1043	1417	2376	3402	4150	4881	5107	5333	5560	5786
Cumulative Target		1043	3523	9890	16692	21657	26505	29568	32631	35694	38757

District	Connection Type	District Annual Target / Financial Year									
		2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
Cumulative Target		41821	44884	45204	45525	45845	46166	46486	46807	47127	47448

District	Connection Type	District Annual Target / Financial Year									
		2037	2038	2039	2040	2041	2042	2043	2044	2045	2046
Cumulative Target		47768	48089	48409	48729	49050	49370	49691	50011	50332	50652

District	Connection Type	District Annual Target / Financial Year									
		2047	2048	2049	2050	2051	2052	2053	2054	2055	2056
Cumulative Target		50973	51293	51614	51934	52255	52575	52896	53216	53537	53857

Table 20: Revised SGN District Development Plan

Annexes and Supplementary Documents

Annexes

Table 21 provides an overview over the annexes to this consultation on licence modifications.

Annex Number	Annex Name
Annex 1	FE Licence – Proposed Modifications
Annex 2	PNGL Licence – Proposed Modifications
Annex 3	SGN Licence – Proposed Modifications
Annex 4	Notice under Article 14(2) of the Gas (Northern Ireland) Order 1996 – Modifications Proposed to the Gas Conveyance Licence Held by firmus energy (Distribution) Limited
Annex 5	Notice under Article 14(2) of the Gas (Northern Ireland) Order 1996 – Modifications Proposed to the Gas Conveyance Licence Held by Phoenix Natural Gas Limited
Annex 6	Notice under Article 14(2) of the Gas (Northern Ireland) Order 1996 – Modifications Proposed to the Gas Conveyance Licence Held by SGN Natural Gas Limited

Table 21: Annexes to Consultation on Licence Modifications

Supplementary Consultation and Decision Papers

Table 22 provides an overview over the supplementary consultation and decision papers relating to underlying consultation outcomes and decisions for licence modifications proposed in this document.

Document	Document Link
GD14 Final Determination	Utility Regulator: GD14 Price Control for Northern Ireland's Gas Distribution Networks for 2014-2016, Final Determination, 20 December 2013.
GD17 Final Determination	Utility Regulatory: Price Control for Northern Ireland's Gas Distribution Networks GD17, Final Determination, 15 September 2016
GD17 Draft Determination	Utility Regulatory: Price Control for Northern Ireland's Gas Distribution Networks GD17, Draft Determination, 16 March 2016
Decision on extending the PNGL licensed area to East Down	Utility Regulator: Decision Paper on the Extension to the Conveyance Licence Area and Modification of the Conveyance Licence of Phoenix Natural Gas Limited – East Down, 10 December 2015
Consultation on extending the PNGL licensed area to East Down	Utility Regulator: Notice to Extend the Conveyance Licence Area and Modification of the Conveyance Licence of Phoenix Natural Gas Limited – East Down, 16 October 2016
Outcome of consultation on moving firmus energy to a revenue cap regime	Utility Regulator: firmus energy (Distribution) Limited Licence, Outcome of Consultation paper on moving to a revenue cap regime, 16 September 2015
Consultation on moving firmus energy to a revenue cap regime	Utility Regulator: Consultation on modifications to the Price Control conditions of the firmus Energy (Distribution) Limited Licence, 18 June 2015
LMA Decision Paper	Utility Regulator: Changes to Gas and Electricity Licences with regards to Appeals to the CMA, Decision Paper on Modifications necessary due to The Gas and Electricity Licence Modifications and Appeals Regulations (Northern Ireland) 2015, 4 August 2015
Gas to the West Licence Consultation	Utility Regulator: Gas to the West Licence Consultation, 18 December 2014

Table 22: Supplementary Consultation and Decision Papers

Responses to GD17 Draft Determination Referenced in this Consultation

Table 23 provides an overview over GD17 consultation responses referred to in this licence modification consultation, including the GD17 Responses Report in which some of these responses have been explicitly addressed. We note that we have received further responses to the GD17 draft determination which are not included in Table 23 as they are not referred to explicitly in the present document, but which have nonetheless be considered in its drafting. For further details see the GD17 Responses Report⁵².

Document	Document Link
GD17 Draft Determination Consultation Report ⁵²	Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks GD17, Final Determination – Annex 13, Draft Determination Consultation Report, 15 September 2016
FE Response to GD17 Draft Determination ⁵³	Firmus energy: Response to the GD17 Draft Determination, May 2016
PNGL Response to GD17 Draft Determination ⁵⁴	Phoenix Natural Gas Ltd. Response to the Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks, GD17 Draft Determination, May 2016
SGN Response to GD17 Draft Determination ⁵⁵	SGN: GD17 Draft Determination Consultation Response, 31 May 2016

Table 23: Responses to GD17 Draft Determination Referenced in this Consultation Paper

⁵² [Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks GD17, Final Determination – Annex 13, Draft Determination Consultation Report, 15 September 2016.](#)

⁵³ [Firmus energy: Response to the GD17 Draft Determination, May 2016.](#)

⁵⁴ [Phoenix Natural Gas Ltd. Response to the Utility Regulator: Price Control for Northern Ireland's Gas Distribution Networks, GD17 Draft Determination, May 2016.](#)

⁵⁵ [SGN: GD17 Draft Determination Consultation Response, 31 May 2016.](#)