

Mr Clarke Black
Chief Executive
Ulster Farmers Union

From: Paul Jackson
Inquiry Manager

Direct line: 020 7271 0143

By email only

03 May 2013

Dear Mr Black

Northern Ireland Electricity Limited Price determination

1. As you may be aware the Northern Ireland Authority for Utility Regulation has referred the disputed price determination with Northern Ireland Electricity Limited to the Competition Commission (CC). I enclose a copy of the terms of reference and accompanying press release, which are also published on the CC website:

www.competition-commission.org.uk/our-work/phoenix-natural-gas-limited-price-determination

2. I am now writing to ask whether you want to make a submission on this matter. If you do wish to do so we would welcome a response by **31 May 2013**.
3. We should be grateful if you would observe this deadline in replying, as this will assist us in gathering evidence and help to ensure that the timetable for the inquiry is met. However, if you do anticipate problems in meeting this deadline please contact me as soon as possible to discuss how quickly you will be able to respond.
4. The CC aims to be open and transparent during its inquiries. To achieve this, it normally publishes any responses or submissions it receives on its website. In considering whether to disclose or publish any representations or information that you may submit, we will take into account your views on the sensitivity of the material you provide and any request you may make for anonymity.
5. **When you reply to this letter, therefore, please say whether or not you are content for your views to be published on our website and attributed to you. If the submission contains information that you consider to be sensitive, please provide a second version that you would be content to see published, omitting the sensitive information.**
6. Please arrange for all correspondence to be sent to us by e-mail wherever possible, to the address after my name below.

Yours sincerely

Paul Jackson
paul.jackson@cc.gsi.gov.uk

Procedures and role of the CC

1. Information about the CC's procedures and role is contained in a series of publications:

Competition Commission Rules of Procedure (CC1)

Merger References: Competition Commission Guidelines (CC2)

Market Investigation References: Competition Commission Guidelines (CC3)

General Advice and Information (CC4)

Statement of Policy on Penalties (CC5)

Chairman's Guidance to Groups (CC6)

Chairman's Guidance on Disclosure of Information in Merger and Market Inquiries (CC7)

Disclosure of information by the Competition Commission to other public authorities (CC12)

These publications can be viewed at:

www.competition-commission.org.uk/rep_pub/rules_and_guide/index.htm.

Alternatively, if you would like to receive a hard copy, please contact paul.jackson@cc.gsi.gov.uk.

COMPETITION COMMISSION
 Press
 Release



News Release

23/13

1 May 2013

NI Regulator refers electricity price control to CC

The Northern Ireland Authority for Utility Regulation has referred a price control determination for Northern Ireland Electricity Ltd (NIE) to the Competition Commission (CC) following the company's decision to reject the Utility Regulator's price control determination for the period January 2013 to September 2017.

Following the Utility Regulator's referral, the CC will assess whether the NIE price control licence conditions operate against the public interest. The price control covers charges made for the transmission and distribution of electricity by NIE. Such charges typically make up 20 to 30 per cent of domestic customers' bills. The CC has also been asked to consider issues relating to the recording and reporting of information.

The CC's task is to determine these questions and, if necessary, set new price limits or otherwise modify NIE's licence conditions. Its deadline is 29 October 2013.

Any interested party is invited to make their comments on the determination, in writing, by no later than 31 May 2013. To submit evidence, please email NIE@cc.gsi.gov.uk or write to:

Inquiry Manager
 NIE price determination
 Competition Commission
 Victoria House
 Southampton Row
 LONDON
 WC1B 4AD

Notes for editors

1. The CC is an independent public body, which carries out investigations into mergers, markets and the regulated industries.
2. The Electricity (Northern Ireland) Order 1992 requires the Utility Regulator to refer any disputed determination of price limits to the CC for determination.
3. Enquiries should be directed to Rory Taylor or Siobhan Allen or by ringing 020 7271 0242.

Terms of Reference

**Notice under Article 15 of the Electricity (Northern Ireland) Order 1992
Reference to the Competition Commission**

The Northern Ireland Authority for Utility Regulation (the **Authority**), pursuant to Article 15(1) of the Electricity (Northern Ireland) Order 1992 (the **Order**), gives notice as follows.

WHEREAS –

(A) Northern Ireland Electricity Limited (**NIE**) is under Article 10 of the Order:

(a) the holder of a licence authorising it to participate in the transmission of electricity; and

(b) the holder of a licence authorising it to distribute electricity,

(each a **Licence**).

(B) Condition 42 and Annex 2 in each Licence – the **Price Control Conditions** – establish a restriction on the charges that may be made by NIE for the transmission and distribution of electricity.

(C) On 23 October 2012 the Authority, in accordance with Article 14 (2) of the Order, gave notice to NIE that it proposed to modify each Licence in order to implement new price control arrangements for the period 1 January 2013 – 30 September 2017 (the **RP5 Price Control**).

(D) The Authority proposed to –

(a) modify the Price Control Conditions in each Licence by deleting current Annex 2 and replacing it with a new Annex 2;

(b) make a consequential modification to Condition 1 of each Licence; and

(c) introduce a new condition in each Licence setting out requirements in respect of a new “Reporter” function being introduced in the RP5 Price Control period,

(the **Modification**).

(E) In accordance with Article 14(1)(a) of the Order, the Authority may only make the Modification if NIE consents to it.

(F) On 20 November 2012, NIE notified the Authority that it did not consent to the Modification in either Licence.

NOW –

(1) In accordance with Article 15(1) of the Order, the Authority, by reference to the Competition Commission (the **Commission**) in respect of each Licence, requires the Commission to investigate and report on the questions –

(a) whether the Price Control Conditions in each Licence operate or may be expected to operate against the public interest,

(b) whether the continuation of each Licence operates or may be expected to operate against the public interest absent the inclusion of further conditions designed to improve the recording, reporting, monitoring and verification of information related to the Price Control Conditions and related conditions of the Licences, and

(c) if so, whether the effects adverse to the public interest which those matters have or may be expected to have could be remedied or prevented by modifications of the Conditions of each Licence.

(2) In accordance with Article 15A(1) of the Order, the Authority specifies that the Commission makes a report on each reference within six months of the date of this notice.

SHANE LYNCH

Authorised on behalf of the Authority 30 April 2013