

By email only

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Dear Paul

NIE Price Determination

Thank you for providing CBI Northern Ireland with the opportunity of submitting evidence – I can confirm we are happy for this to be published.

Introductory comments

The CBI supports a regulatory environment which mirrors that which exists in the rest of the UK, provides a balanced view of the ‘public interest’ and ensures regulatory certainty.

Northern Ireland cannot afford to have a regulatory system which is out of line with the rest of the UK and where there is more uncertainty. While views are divided, there is increasing concern that increased regulatory risk and uncertainty will undermine investment and lead to higher financing costs. There is a clear need to balance the need to keep costs down in the short-term while ensuring that we undertake sufficient investment to support long-term goals, including inward investment, maintain network reliability, development of renewables, and increase security of supply through completion of the north/south interconnector. Greater clarity on what we are trying to achieve, a more engaging process to determine investment requirements and a higher quality of debate and discussion (and better communications) between utilities and consumers appear to be needed. At the same time we recognise the need for regulatory challenge to ensure that efficiencies are achieved and investment is appropriate to meet the needs of consumers. All parties have a responsibility to constructively seek to resolve the matter without resort to referral and



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we would welcome a view on what both parties could or should have done to resolve this matter without recourse to the Competition Commission.

The CBI believes that customers are best served by delivering sustainable reliable services at an efficient cost, rigorously benchmarked against comparable GB service providers. The final outcome should be designed around best regulatory practice, be robust yet fair, and demonstrate a high level of engagement. Regulatory outcomes must focus on value, deliver realistic efficiency savings and appropriate investment, which can be financed at low costs, in which consumers can have confidence.

Specific Comments re the NIE Price Control

We have highlighted below some key considerations:

- The environment within which the price determination is being made is an exceptionally challenging one – the recent Utility Regulator report confirms that Large Energy Users are paying some of the highest electricity prices in Europe. The cost pressures on business in the current economic climate are unprecedented, yet against this the price determination needs to balance the short term price control with the need to invest, both for long term supply security and for the transition to renewables generation. The provision of a high quality, reliable and cost effective transmission and distribution network is an essential part of the infrastructure required to support a modern and prosperous economy. Clearly the timing and phasing of the necessary investment is a critical issue – to both maximise the value and benefits of renewables yet ensuring we do not invest before we actually need it
- In terms of priorities for the Price Control period the CBI is keen that the consumers can have confidence that the following key outcomes can be delivered:
 - o Continued improved efficiencies in the cost of delivery of services to ensure the delivery of competitively priced tariffs
 - o High quality customer service and standards, within a responsive, customer focused organisation
 - o Continued investment in capital assets and people to ensure the assets are being appropriately maintained (and replaced where necessary in a timely manner) and security and quality of supply performance is at least maintained
 - o Predictability and ‘smoothness’ regarding tariffs to assist companies with their forward planning and investment decisions
- The regulatory review is clearly a complex and detailed process involving a wide range of information and data gathered over several months. We are not in a position to comment in detail on many aspects of the RP5, nor do we believe that is the role for us. In particular we are not in a position to comment on the level of investment required to deliver the outcomes sought

- CBI members are keen to ensure that T&D costs overall should remain competitive with comparable GB utilities (though there are separate issues around cost allocation between customer groups), and that we should seek to keep any increases in network costs and prices at a lower rate than in the price controls agreed by Ofgem in Great Britain
- CBI members expect to see a Competition Commission outcome which is both fair to consumers and to NIE and that can provide the necessary clarity and confidence to business in planning future investment strategies, to NIE in order to facilitate the future investment in the Transmission and Distribution network across Northern Ireland that can facilitate the targets set by the Northern Ireland Executive, and one that provides the necessary reassurance to customers regarding security and quality of supply, and the provision of competitively priced transmission and distribution charges.
- We have been concerned at the very large discrepancy in investment proposals between NIE and the UR – the size of the gap between NIE proposals and the UR proposals are significantly higher than of the other GB Distribution Network Operators in recent years. This leads to significant concerns about the nature of the regulatory process to date, relative to that which is undertaken with other similar utilities in Great Britain. We would welcome the Commission’s comments on the process undertaken, the quality of submissions and engagement undertaken, and the level of transparency and clarity on regulatory decisions compared to practice in Great Britain in order to ensure that these are all in the public interest
- The regulatory process should follow best practice, as established with Regulatory bodies in Great Britain, and now reflected in many other countries. The regulatory process in Northern Ireland appears to have taken the form of extensive information requests (with the use of various consultants) but with an apparent lack of sufficient engagement and interaction to fully understand the dynamics and issues being addressed – this appears to be in contrast to the process which has taken place in Great Britain. Members have raised surprise that a more ‘engaging’ and ‘informed’ process has not taken place – the fact that an apparently ‘arm’s length’ process has been applied in Northern Ireland in our view has led to the extreme divergence in views of the investments required. This is clearly unhelpful and has created further uncertainty. As noted above we hope the Competition Commission will comment on the nature of the regulatory process in Northern Ireland and how it should be improved between the parties in the future
- In line with the need to follow regulatory best practice we would welcome the Competition Commission’s views on whether the apparent micro-management approach proposed by the Utility Regulator is in keeping with the more output-based incentive regime being developed in Great Britain
- The CBI is not in a position to comment on what the scale and scope of an ‘asset replacement’ strategy should be – we are conscious of the need to avoid replacing assets which have not come to the end of their useful lives, but recognise that without appropriate and planned asset replacements the risks of outages in the

network are likely to increase. CBI members are seeking reassurance that the final outcome of this inquiry will not result in the deferral and build-up of a cliff face of assets that will need replacement and an even greater increase in T&D charges in the future, nor do they want to be paying for assets a number of years before they are needed. The key outcome required is clearly to ensure that network performance is at least maintained during the PC period

- Return on investment – unless there is good reason we believe NIE’s return on investment should be similar to that of equivalent GB companies
- CBI members have concerns that the element of retrospective regulation covering previous price review periods also does not appear to be in line with best regulatory practice as we understand it. While we understand a price review will inevitably entail a review of past expenditure during the current regulatory period (RP4) it is not, as we understand it, best regulatory practice to undertake retrospective regulation of previous ‘closed’ regulatory price controls periods prior to the existing one (where it is essential that true run rates and base line expenditure can be established). However there have been concerns around cost re-allocations between capex and opex and whether customers consequently were double charged – this should clearly not be the case. We look to the Commission to determine what is appropriate to include in the regulated assets base going forward

We hope these comments are helpful to the Commission’s Inquiry

Regards

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Director, CBI Northern Ireland