



Commissioner for **Older People**
for Northern Ireland

**Northern Ireland Electricity Ltd (NIE) Price Control
Determination Inquiry**

Competition Commission

**Submission by the Commissioner for Older People for
Northern Ireland**

May 2013

*Claire Keatinge
Commissioner for Older People NI
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Belfast BT2 7DP*

Executive Summary

1. The Commissioner welcomes the Competition Commission's inquiry into the RP5 price control determination for Northern Ireland Electricity Limited (NIE) in light of her remit "to safeguard and promote the interest of older people". The Commissioner is concerned about the impact of domestic electricity tariffs on the capacity of older consumers in Northern Ireland to keep warm and well in their homes.
2. The Commissioner is concerned that NIE's proposed increase in levels of funding would, if approved, lead to an overall increase in domestic consumer tariffs. This would not be in the public interest of vulnerable older consumers given current high levels of fuel poverty, the widening gap in pensioner poverty and the lack of social tariffs in Northern Ireland.
3. The Commissioner is of the view that the appointment of a Reporter would be in the public interest as it would increase transparency and accountability within NIE and assist the regulator in identifying concerns that may have implications for domestic consumer tariffs.
4. The Commissioner would encourage the Competition Commissioner to ensure that employees and pensioners within the Northern Ireland Electricity Pension Scheme are not disadvantaged as a result of changes to the funding of the scheme outlined in the Utility Regulator's final determination in RP5

Introduction

1. The office of the Commissioner for Older People for Northern Ireland (the Commissioner) is an independent public body established under the Commissioner for Older People Act (Northern Ireland) 2011.
2. The Commissioner has responsibility for an extensive range of general powers and duties which will provide the statutory remit for the exercise of her functions. In addition the Commissioner may provide advice or information on any matter concerning the interests of older persons.
3. The Commissioner's powers and duties are underpinned by the United Nations Principle for Older Persons (1991). The wide ranging legal powers and duties includes amongst others:
 - To keep under review the adequacy and effectiveness of law and practice relating to the interests of older people
 - To keep under review the adequacy and effectiveness of services provided for older persons by relevant authorities

- To promote the provision of opportunities for and the elimination of discrimination against older persons
 - To review advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities
 - To assist with complaints to relevant authorities
 - The investigation of complaints against relevant authorities
 - The power to bring, intervene in or assist in legal proceedings
 - The conciliation of disputes
 - Formal investigations, evidence in formal investigations
 - Powers of entry and inspection for purposes of formal investigation
4. The Commissioner welcomes the opportunity to submit to the Competition Commission's investigation on the price control determination for Northern Ireland Electricity Ltd (NIE).
 5. The Competition Commissioner has outlined a number of key areas on which they would particularly welcome views. The Commissioner offers a limited response to these issues in seeking to confine her response within her core area of expertise.

Background

6. The Northern Ireland Authority for Utility Regulation has referred a price control determination for Northern Ireland Electricity (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 – September 2017. Northern Ireland Electricity Ltd rejected the price control as it felt the final determination on RP5 would "allow NIE insufficient revenues to finance (their) activities"¹.
7. The remit of the Competition Commission is to investigate and report on whether the NIE price control licence conditions operates against the public interest² and issues related to the recording and reporting of information³. The price control covers charges made for the transmission and distribution of electricity by NIE which typically constitute 20-30% of domestic customer's bills⁴.
8. In July 2012, the Commissioner for Older People for Northern Ireland responded to the Utility Regulator's consultation entitled "Northern Ireland Electricity Transmission

¹ Northern Ireland Electricity Limited (2013) Transmission and Distribution RP5 Price Control: Statement of Case to the Competition Commissioner. NIE: Belfast

² Utility Regulator (2013) Terms of Reference: Notice under Article 15 of the Electricity (Northern Ireland) Order 1992 Reference to the Competition Commission. Utility Regulator: Belfast

³ Ibid

⁴ Competition Commission (2013) News Release: NI Regulator refers electricity price control to CC. Competition Commission: London

and Distribution Price Control 2012-2017: Draft Determination for RP5” to highlight issues of concern related to older consumers⁵.

9. The Commissioner welcomes the investigation by the Competition Commission, given her concerns about the impact that changes in energy tariffs may have on the ability of older people in Northern Ireland to keep warm and well in their home.

Key Issues

10. In her response to the Draft Determination on RP5 price controls, the Commissioner for Older People welcomed the Utility Regulator’s transmission and price control proposals, as it would lead to an overall reduction in domestic electricity tariffs for all consumers⁶.
11. Post-consultation modifications to the level of funding in the final RP5 determination indicate that domestic tariffs will remain flat over the next five years⁷. However, NIE’s recent Statement of Case proposes a level of funding that would, if approved, lead to an overall increase in domestic consumer tariffs⁸. This increase would be in addition to the increase in domestic consumer electricity tariffs announced in May 2013 by Northern Ireland’s biggest energy supplier, Power NI, due to increases in wholesale energy prices⁹.
12. Further increases in domestic consumer tariffs have the potential to impact negatively on people who are most vulnerable to poverty and debt due to age, disability and frailty. A further increase in tariffs would be particularly likely to impact on older consumers as the rate of pensioner poverty is substantially higher for Northern Ireland than the rest of the UK¹⁰, particularly when the higher costs of utilities in Northern Ireland is considered¹¹.
13. Consequently any increase in tariffs for consumers could have negative implications for older people. This is particularly the case given increases in the cost of living in Northern Ireland that have occurred over the last few years due to the economic

⁵ COPNI (2012). Northern Ireland Electricity Transmission and Distribution Price Control 2012-2017: Draft Determination for RP5: Response submitted by the Commissioner for Older People for Northern Ireland. COPNI: Belfast

⁶ Ibid

⁷ Utility Regulator (2012) Northern Ireland Electricity Transmission and Distribution Price Control 2012-2017: Final Determination for RP5. Utility Regulator: Belfast

⁸ Northern Ireland Electricity Limited (2013) Transmission and Distribution RP5 Price Control: Statement of Case to the Competition Commissioner. NIE: Belfast.

⁹ BBC News Northern Ireland 22 May 2013 “Power NI electricity bills to increase by 18% from July”

¹⁰ MacInnes T, Aldridge H, Parekh A and Kenway P (2012) Monitoring Poverty and Social exclusion in Northern Ireland. JRF: UK

¹¹ Liddell C, Morris, McKenzie P and Rae G (2012). Defining Fuel Poverty in Northern Ireland: A Preliminary Review.

climate¹², the current high levels of fuel poverty¹³ and the widening gap in pensioner poverty between Great Britain and Northern Ireland¹⁴.

14. Older people are particularly vulnerable to fuel poverty and its consequences including winter mortality and poor physical and mental health¹⁵. Despite higher levels of fuel poverty in Northern Ireland than the rest of the UK, older people are not afforded the same level of protection as their counterparts in Great Britain¹⁶. This is because social tariffs are offered in the rest of the UK by law but are not required in Northern Ireland. In addition, the RP5 determination has removed the Vulnerable Customer Programme established by Northern Ireland Electricity under RP4 which “delivered good results and clearly benefited many of the people categorised as being fuel poor”¹⁷.
15. It is the view of the Commissioner that given the level of fuel poverty and pensioner poverty and the lack of social tariffs in Northern Ireland, any further increase in electricity prices would not be in the public interest of older consumers.
16. NIE’s Statement of Case¹⁸ has indicated that the funding levels it has proposed are in the public interest as they are necessary for it to “satisfy the reasonable demands of customers in terms of safety, security and quality of service”. However, the Utility Regulator has found no evidence to support some of the proposed NIE projects for additional work “against a background of falling demand for electricity and above-standard performance of the network”¹⁹.
17. It is the view of the Commissioner that given the potential impact of an increase in funding on domestic consumer tariffs the Competition Commission should carefully consider whether NIE’s proposal for increased funding is evidenced based and is in the public interest, including the interest of older consumers.

¹² Ramsey R (2013) The King’s last speech as the focus shifts to Carney. Ulster Bank: Belfast. Article appears in Belfast Telegraph’s Business month published 4 February 2013

¹³ http://www.nihe.gov.uk/heca_2012.pdf and Utility Regulator (2013) Northern Ireland Electricity Transmission and Distribution Price Control Review (RP5) 2012-2017. An Introduction to the Reference to the Competition Commission. Uregni: Belfast

¹⁴ MacInnes T, Aldridge H, Parekh A and Kenway P (2012) Monitoring Poverty and Social exclusion in Northern Ireland. JRF: UK

¹⁵ Liddell C, Morris, McKenzie P and Rae G (2012). Defining Fuel Poverty in Northern Ireland: A Preliminary Review.

¹⁶ <http://www.ageuk.org.uk/northern-ireland/for-professionals/policy/poverty--fuel-poverty/poverty-policy-positions/>

¹⁷ Utility Regulator (2012) Northern Ireland Electricity Transmission and Distribution Price Control 2012-2017: Final Determination for RP5. Utility Regulator: Belfast

¹⁸ Northern Ireland Electricity Limited (2013) Transmission and Distribution RP5 Price Control: Statement of Case to the Competition Commissioner. NIE: Belfast.

¹⁹ Utility Regulator (2012) Northern Ireland Electricity Transmission and Distribution Price Control 2012-2017: Final Determination for RP5. Utility Regulator: Belfast

The Reporter

18. The Commissioner would welcome the appointment of a Reporter to address the issue of asymmetry of information between the Utility Regulator and Northern Ireland Electricity Ltd.
19. The Commissioner is concerned that at present there is no formal system for the reporting and recording of information such as that required by Ofgem in Great Britain²⁰. A formal means of reporting and recording information would be in the public interest as it would increase transparency and accountability and assist the regulator in identifying areas of concern that may have implications for overall consumer tariffs.

Pensions

20. The Commissioner welcomes the Utility Regulator's proposals to minimise the costs of Northern Ireland Electricity's pension schemes on consumers.
21. At present, Northern Ireland has the highest rate of pensioner poverty in the UK²¹ which needs to be considered when determining pension funding levels. The Commissioner would encourage the Competition Commission to ensure that employees and pensioners within the Northern Ireland Electricity Pension Schemes are not disadvantaged as a result of changes to the funding of the scheme outlined in the Utility Regulators' final determination on RP5.

Monitoring and evaluation

22. The Commissioner is of the view that any decisions made by the Competition Commission in relation to funding levels in RP5 should be subject to monitoring and evaluation of the impact of change. This should assess the effectiveness and efficiency of outcomes on the public interest, and in particular, the interest of older consumers.

Conclusion

23. The Commissioner welcomes the investigation by the Competition Commission on the price control determination for Northern Ireland Electricity Ltd (NIE).

²⁰ Utility Regulator (2013) Northern Ireland Electricity RP5 Price Control Reference UR Paper on the Reporter_UR-8. UREGNI: Belfast

²¹ ²¹ MacInnes T, Aldridge H, Parekh A and Kenway P (2012) Monitoring Poverty and Social exclusion in Northern Ireland. JRF: UK

24. Given that 50% of people over 60 years old are affected by fuel poverty²², the Commissioner would urge the Competition Commissioner to consider the equality and social implications of funding proposals for RP5.
25. The principal aim of the Commissioner, as set out in legislation, is to “safeguard and promote the interest of older people”. Given her roles and responsibilities, the Commissioner will retain an interest in the Competition Commission’s investigation into the price control determination for Northern Ireland Electricity Ltd (NIE).
26. The Commissioner would welcome the opportunity to meet with the Competition Commission to further discuss her concerns about the impact of energy tariffs on older consumers.
27. Finally, the Commissioner would appreciate it if the Competition Commission would keep her informed of the outcome of any investigation.

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²² <http://www.consumercouncil.org.uk/key-issues/fuel-poverty/>