Response to the Competition Commission provisional determination on the Northern Ireland Electricity Ltd price control

Manufacturing NI welcomes the opportunity to respond to the Competition Commission on this issue.Manufacturing NI represents the interest of almost 500 manufacturers in Northern Ireland including some of the largest energy users. Energy is typically the third largest cost faced by manufacturers after labour and raw materials and is a vital component of every manufactured product. The manufacturing sector accounts for a very substantial part of the total consumption of electricity in Northern Ireland

Manufacturing NI broadly welcomes the Competition Commissions provisional determination and the resultant minimisation of future increases in network costs which we believe are in the interests of customers as well as the general public interest. Once again we would stress that we have neither the resources nor the expertise to examine what is a very complex matter in detail.

We have limited our response to the few matters which we believe require more detailed examination or re-consideration by the Commission.

Capitalisation Practices

Manufacturing NI fail to understand how cutting trees under general maintenance can be considered as the creation of an asset. NIE's move of such costs from opex to capex during the course of RP4 means that consumers have paid twice for this service, as the cost has already been included in the opex allowance agreed at the start of RP4. We fail to understand how charging twice for a service can in any way be considered compliant with accountancy standards. Quite simply, if a retailer were to deliberately charge a customercredit card twice for the same goods, they would not only be in breach of trading standards legislation but would also be liable for criminal fraud. Customers see little difference with this scenario.

The Commission clearly identifies that double paying has occurred and that has not been in the interest of the consumer. The CC is concerned that a lack of clarity makes it difficult to quantify the value of this, so we believe that further work is required in this area. In addition the CC should make it clear how it

proposed to recover these costs back to the consumer – the consumer has paid twice and should be repaid through any new price control.

Regardless of whether the previous price control provided an opportunity for NIE to benefit at the cost of the consumer, it is clear to us that NIE have paid no regard to the overall purpose of the regulatory framework when making a decision to flip what is clearly Opex into Capex to the detriment of consumers.

We would ask the Commission to further examine this matter with the benefit of expert advice and provideclear proposals to prevent this happening in the future.

Capex

The volume of capital works proposed under RP5 is considerably greater than that conducted under RP4.

We consider that there is a real risk that under financial and human resource pressures, NIE might abandon many of the capital projects which may not be revisited in any future RP6. In such circumstances consumers would once again be paying for assets which were never delivered and do not exist.

We believe that the Commission needs to put a clear mechanism in place to prevent NIE from being incentivised to underspend on the network with no benefit to consumers.

In the interests of clarity for the consumer it should be made clear in the final determination and communications around this part of the determination that the CC is providing more money than was proposed by the UR in this area. This will help provide confidence to stakeholders and consumers that sufficient funding is being allowed to make improvements to the grid.

We also note that the Commission has proposed a 4.1% WACC to NIE. It is our understanding that this is significantly higher that similar arrangements in GB. Whilst we would ordinarily be concerned that this is the case, we support the Commissions view given the detailed evidence provided by specialists in this area.

Pensions

We understand that NIE was given a separate allowance to cover pension costs under RP4 which exposed them to the risks or benefits derived from actual pension costs. This is similar to the situation in previous price controls where they have on occasion benefited from lower actual pension costs. We also understand that in previous price control periods shortfalls in pension funding were addressed through special contributions by NIE themselves, without any requirement for consumers to fund the shortfall.

It is our understanding of the Commissions preliminary determination that NIE will be allowed to retrospectively recover retrospectively some £24m which dates back to 2007. To allow NIE to recover this now is fundamentally changing this element of the price control which was in place for RP4 and agreed by NIE. We believe that it is wrong for the Commission to require consumers to fund this

shortfall against a situation where the risk/benefit provision was accepted by NIE at the start of RP4. We also believe that it is inconsistent with the approach adopted by the Commission elsewhere in this decision.

Energy is a complex and difficult area riddled with jargon which makes it difficult for domestic and indeed industrial and commercial consumers to clearly understand. We would encourage the CC to not only set out its final determination in a way which enables all consumers to understand the impact both in terms of cost and the levels of investment being provided to NIE to improve the network

Bryan Gray,
Chief Executive

29th November 2013