Utility Regulator (Support for Decarbonisation Preparation) Bill

Consultation Questions

Introduction

1. **What is your name?**

   [redacted]

2. **What is your email address?**

   [redacted]

3. **Are you providing a submission on behalf of an organisation or business?**

   Yes

   If yes, please provide the name of the organisation or business below

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Consent

4. **Please confirm that you have read the Northern Ireland Assembly Committee's Privacy Notice by clicking the button below.**

   Yes

5. **How would you like your submission to be published?**

   Yes. Publish but with my personal information and any content that could be used to identify me redacted.

Clause 1 (1)

Clause 1 (1) allows the Utility Regulator to provide advice, information or assistance to support the Department for the Economy development of proposals, policies, strategies or plans needed in relation to the energy sector.

6. **Does this part of Clause 1 give the Utility Regulator sufficient power and/or responsibility in order to help decarbonise the energy sector in Northern Ireland?**

   Yes

   If no, what powers / responsibilities should the Bill confer on the Utility Regulator in order to support decarbonisation, beyond the provision of advice?

The gas network is a secure way of delivering energy to properties and the gas industry recognises that "*…whilst natural gas will play a key bridging role in Northern Ireland's journey to net-zero, the NI*

Gas Network must transition away from the distribution of natural gas to renewable gases like Hydrogen and Biomethane."[1]

Northern Ireland's five Gas Network Operators are committed to the full decarbonisation of the regional gas network and have developed five near-term commitments[2] to support the sustainable introduction of renewable gases in Northern Ireland.

The timely extension of the Utility Regulator's powers will be key to delivering these commitments by allowing effective engagement between the gas industry and the Utility Regulator to unlock the economic, decarbonisation and environmental benefits associated with producing and utilising renewable gases in Northern Ireland.

Therefore, recognising that the introduction of the Bill is only a small step on the legislative journey, we remain supportive of the objective of the Bill in strengthening the Utility Regulator's role in supporting decarbonisation by allowing the Utility Regulator to support the Department of the Economy in developing plans for the decarbonisation of the energy sector.

This legislative process should therefore be prioritised to ensure that Northern Ireland's net zero journey is not delayed by the inability of the Utility Regulator to consider appropriate low carbon solutions under its existing powers.

However, we do recognise the concerns raised by stakeholders that increasing the involvement of the Utility Regulator in the development of NI energy policy could erode the independence of the Utility Regulator in its role as an economic regulator. While there is always a certain co-dependence between policy development and regulation, there is a concern that significantly expanding the involvement of the Utility Regulator in policy development could affect its ability to administer the resulting policy in an independent manner.

As the current arrangements have served NI Consumers relatively well, helping to reduce costs across all regulated sectors, we believe the Committee should seek assurances from both the Utility Regulator and the Department for the Economy regarding how this new closer relationship will be managed to ensure that the Utility Regulator retains its independence as an economic regulator.

On the issue of costs resulting from the Bill being funded by license fees

In gas, the Distribution Network Operators pay the relevant costs of the Consumer Council of Northern Ireland with the Transmission System Operators largely paying the costs of the Utility Regulator[3]. However, these costs are ultimately recovered through gas supply tariffs.

[1] https://phoenixenergyni.com/assets/general/Pathway-to-Net-Zero-July-2023.pdf

[2] https://phoenixenergyni.com/assets/documents/017209-Phoenix-Energy-Conference-2023-Commitments-V4-1.pdf

[3] Supply companies pay a minimum fee.

The licence fee methodology for electricity differs but it is our understanding that such costs are also ultimately recovered through electricity supply tariffs.

In both cases we therefore understand that the costs resulting from the Bill will be funded by consumers.

The Committee should therefore hear the views of consumer bodies on the wider consumer impact of such costs and, on the back of other stakeholder concerns, whether costs associated with the Utility Regulator's expanded advisory role should be borne solely by gas and electricity consumers if this advice extends beyond these sectors.

Clause 1 (2)

Clause 1 (2) provides a qualified duty that the Utility Regulator must comply with any reasonable request from the Department and only the Department. This is to allow for times when they may be unable to meet a request from the Department, for example when it considers that it has insufficient resource to practically meet a request.

7. Should the Utility Regulator's support for decarbonisation be restricted to the provision of advice to the Department for the Economy?

If no, who else should the Utility Regulator be able to provide decarbonisation advice to?

Yes

Clause 1 (3)

Clause 1 (3) defines several of the expressions used in clauses 1(1) and (2).

8. Do you support this aspect of Clause 1?

Yes

9. If no, please explain in the text box below.

n/a

Clause 2

Clause 2 deals with commencement of the Act immediately after Royal Assent.

10. Should the relevant provisions be commenced immediately after Royal Assent?

Yes

If no, what conditions or restrictions might be placed on commencement?

N/A

Additional Information/Comments

11. Please provide information on any other potential amendments that you feel would enhance the Bill and the rationale for those.

Reflecting on the Department for the Economy's recent hydrogen publication[4], one of the biggest barriers to the development of a hydrogen economy in Northern Ireland is the lack of an economic regulator for hydrogen.

The Gas (Northern Ireland) Order 1996 defines gas as '*consist[ing] wholly or mainly of methane*'.[5] While this covers the introduction of a hydrogen blend (as the gas supply remains mainly methane), it does not allow the Utility Regulator to act as the economic regulator for 100% hydrogen gaseous supplies.

The Gas Act 1986 (Great Britain) already includes a broader definition; '*any substance in a gaseous state which consists wholly or mainly of methane, ethane, propane, butane, hydrogen, or carbon monoxide*.'[6]

As part of its scrutiny of this Bill, the committee should question if there is any reason why the Department for the Economy could not introduce an amendment to this Bill at Consideration Stage to update the Gas (Northern Ireland) Order 1996 to reflect the broader definition of gas in the Gas Act 1986. This would enhance the impact of the Bill by allowing the Utility Regulator to engage with the gas industry on hydrogen thus allowing for greater progress to be made in the hydrogen economy in Northern Ireland.

Proposed Additions and Amendments

12. Please provide information on any potential amendments that you feel would enhance the Bill and the rationale for those.

All stakeholders should be mindful that for the Utility Regulator to provide accurate, robust and well-evidenced advice to the Department for the Economy, the support and knowledge of NI's regulated utilities, such as Phoenix, will be crucial.

Each regulated utility is an expert in its own operational field, geographic license area and consumer base. The Utility Regulator will need to regularly call upon the extensive operational expertise of each regulated utility in order to inform its proposed new advisory function. However, experience has demonstrated that the provision of this expertise to the regulator can be resource intensive and often feature the reallocation of limited utility staff resources to non-core business activities.

[4] Public Consultation Response Report - Consultation on a sustainable, regional approach for the production, storage, transport and use of hydrogen as a fuel
[5] The Gas (Northern Ireland) Order 1996
[6] Gas Act 1986

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Therefore, if the Utility Regulator is afforded greater resources to allow it to fulfil an expanded advisory function, then its regulated utilities should also be afforded the appropriate additional resources required to effectively assist the Utility Regulator to fulfil this new advisory role.