



Department for the

Economy

An Roinn

Geilleagair

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Our ref: [REDACTED]

Your Ref: [REDACTED]

Date: 03 08 2026

Dear Peter

Utility Regulator (Support for Decarbonisation Preparation) Bill

Further to your letter dated 02 and 06 July, seeking Departmental views on issues raised on your consultation on the Utility Regulator (Support for Decarbonisation Preparation) Bill. Please see response below which has been cleared by Minister Archibald. This information is fully disclosable under Freedom of Information.

As you are aware the Utility Regulator is a non-Ministerial Government Department accountable to the Assembly. The Bill is designed as an interim step to support development of energy policies essential to the Climate Change Act (NI) 2022 that will lead to further legislation.

I will respond to issues in the order that they have been raised, firstly those detailed in your letter of 2 July.

Renewables NI and SSE PLC raised issues on wider powers required to support the energy transition and alignment of activities to climate targets in a manner similar to Great Britain, namely those in Energy Act 2023, Chapter 1. These provisions clarify that OFGEM must have regard to the Secretary of State's duties under sections 1 and 4(1)(b) of the Climate Change Act 2008 in **carrying out its existing functions**.

A similar amendment would therefore have not addressed the legislative gap identified by the Utility Regulator, which is its ability to engage with the Department in technical discussions required to support development of policies essential to

Climate Change Act (NI) 2022, **outside of its existing electricity and gas functions.**

The Utility Regulator is already required to give regard to the importance of climate change in delivering its electricity and gas functions. Energy (Northern Ireland) Order 2003 includes at Articles 12 (5)(c) and 14 (5)(c) that, in relation to electricity and gas, the regulator must a “*secure diverse, viable and environmentally sustainable long-term energy supply.*” Articles 12(7) and 15 (7) define “*environmental sustainability*” as “*includes the need to guard against climate change.*” Accordingly, **in discharging its existing electricity and gas functions**, the UR must guard against climate change. This obligation extends beyond emissions targets.

Several respondents indicated the advisory role of the Utility Regulator should not be restricted to engagement with a single Department and should be open to others, to support wider delivery of objectives under the Climate Change Act (NI) 2022.

The Minister and the Department for the Economy has lead responsibility for energy policy in Northern Ireland, including overseeing delivery of the Northern Ireland Executive's Energy Strategy. This remit provides it with access the full range of information, analytical and data services in relation to the energy sector. The Bill, as drafted, allows the Department to act as a broker to other departments who may require advice, information or assistance from the regulator regarding energy related policies. Should this work fall outside the scope of Utility Regulator's statutory electricity and gas functions, it cannot be funded by licence fees. In this instance the Utility Regulator will engage with Department and Department of Finance to discuss implications on the public purse. This will take place in advance of any expenditure being incurred.

Consumer Council Northern Ireland (CCNI) indicated the need for further legislation and statutory frameworks pertaining to energy transition. The Department fully agrees and is working with CCNI to consider what future powers the organisation might need, including clearly defined roles and responsibilities for all statutory organisations. [The](#) Bill will support this. Its purpose is to empower the regulator to in provision of advice necessary to enable the Department to develop further legislation & statutory frameworks

Phoenix Energy raised the issue of costs. The Regulatory Impact Assessment associated with the Bill details costs of £328K in the first year following implementation. With around 1,249,000 electricity and gas customers, this equates to around 26p per connection per year. They also suggested the Bill should be used to amend definitions in Gas (NI) Order 1996. Given the Bill focusses on powers for the regulator, our understanding is that such an amendment would be inadmissible. The Bill was introduced to the Assembly as a single and narrow topic. Rules on scope dictate that a second and separate topic cannot be added.

I will now comment on some of the queries in the letter dated 6 July, which relates to the Utility Regulator appearance at the committee on 16 September.

SONI and others suggested that the Bill does not provide clarity on scope and nature of requests, and that additional clarity on operation would be useful. The procedure,

being developed jointly, is that the Department and the Utility Regulator shall agree in writing those areas where advice, assistance and support is to be needed. Areas for cooperation and assistance are to be kept under review by the senior teams within the Utility Regulator and Energy Group in the Department. In relation to interaction with existing information gathering powers, they will operate in tandem.

SONI also suggested that the regulator should have the ability to deliver/ facilitate implementation of decarbonisation policies. The regulator's statutory role requires it to give due regard to the legislative framework governing it in delivering its regulatory function. Future energy policies developed, utilising the Bill, will lead to legislation including that which provides the regulator further powers. The role of Utility Regulator in supporting delivery of those policies will be therefore dependent on each individual case, and the views of the Minister and Department on the role that the regulator should play.

A number of respondents referred to the importance of protecting interests of consumers, both current and future. The Utility Regulator clearly has a role to play, and Article 12 and 14 of the Energy (Northern Ireland) Order 2003 details duties in this regard. However, it is also important to recognise the role of CCNI as statutory consumer body. We note their response reflects that changes should not be taken forward in isolation, and the interlinking nature of statutory organisational roles must be considered in the whole, to ensure no duplication of functions.

The issue of what might constitute a reasonable request was raised. The term reasonable features in UK legislation and caselaw, including judicial reviews. It includes considerations of whether an organisation acted outside its legal powers, failed to exercise discretion, failed to take into account relevant factors, acted irrationally or breached ECHR. Clause 1(2) of the Bill relates to provision of advice, information or assistance so 'reasonable' relates to those requests i.e. timescales, resourcing etc. The term 'reasonably practicable' also features in case law. Non-compliance in relation to statutory time limits is detailed in *Schultz -v- Esso* (1999) and *Q -v- Secretary of State* (2003). The outworkings is that under the Bill the Department's request must be 'reasonable' and the Utility Regulator's compliance must be 'reasonably practicable', taking into consideration factors such as staff, resources etc.

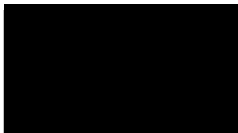
In relation to potential impact on regulatory independence, it is important to recognise that Utility Regulator functions are conferred by the full range of legislation governing it. The Bill does not change these, nor its statutory independence. It is designed to facilitate sharing of advice, information and assistance to the Department. The regulator is one of a range of stakeholders that the Department/ Minister considers the views of when reaching policy decisions. Further, there are numerous examples of similar powers in relation to the regulator, for example Article 50 (3) of Electricity (Northern Ireland) Order 1992 and Article 6 (6) of the Energy (Northern Ireland) Order 2003.

Some respondents referred to the addition of a sunset clause. A sunset clause specifies a date in the future that the legislation will expire and is provided for times when the legislature considers it appropriate to decide on legislation's merits after it

has been laid, for example in emergency or exceptional circumstances. The Bill is designed to support development of policies that will lead to future legislation, including those governing the regulator and its activities. Once this legislation is laid it follows that, use of clause 1 in this instance will effectively become redundant. i.e. it will be superseded by the new legislation and the regulatory activities it confers. Should the Assembly or Department consider the provisions are no longer required in future, then a decision can of course be taken to repeal the power.

I trust this information is helpful.

Yours sincerely

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Departmental Assembly Liaison Officer



Northern Ireland
Assembly

Committee for the Economy

Departmental Assembly Liaison Officer
Department for the Economy
[REDACTED]

Our Ref: [REDACTED]

6 July 2026

Dear DALO,

Utility Regulator (Support for Decarbonisation Preparation) Bill Response to the Call for Evidence

For your information, the Committee has agreed to seek oral and written evidence from the Utility Regulator at the meeting of 16 September 2026 as part of the Committee Stage of the Utility Regulator (Support for Decarbonisation Preparation) Bill. The Committee agreed to seeking the UR's commentary on submissions from stakeholders. The relevant submissions are available through the following link: [Written Submissions](#).

The key points of those submissions are summarised below.

Clause 1(1)

SONI and others have suggested that the legislation does not provide clarity on the expected scope and nature of information and advice requests and that additional clarity on how these powers will operate in practice would be beneficial, including how they interact with existing information gathering provisions under licence conditions.

SONI also argued that the UR's vires should be amended to ensure the UR has the ability to deliver or facilitate implementation of new decarbonisation policies once they have been developed.

Sustainable NI and Renewable NI suggested that the powers to provide advice etc. should be modified to allow the UR to provide advice etc. in respect of any energy strategy and not just in respect of the Climate Change Act (NI) 2022.

The EV Association argued for amendments whereby the UR would be obliged to clearly prioritise decarbonisation when regulating the full energy mix. GNI(UK) agreed and went further arguing for a new statutory duty for UR to support meeting Northern Ireland's statutory climate obligations) in the full scope of its functions, and provision(s) enabling DfE to establish (and amend from time to time) an energy



‘strategy and policy statement’, outside of legislation, which UR would be required to have regard to the strategic priorities of and to carry out their regulatory functions to further the delivery of the specified policy outcomes of, in accordance with roles and responsibilities therein. Further to this, SSE/NI Networks suggested an amendment which would require UR to have regard to:

- protecting the interests of current and future customers, and
- promoting the efficient and economic development and operation [of the electricity system], having regard to the need for licence holders to be able to finance their licensable activities.

Sustainable NI argued that the Bill should redefine the UR’s remit particularly in respect of "consumer interest" which rather than focusing on cost minimisation and should include longer-term investment. Sustainable NI suggested either amending the Energy (Northern Ireland) Order 2003 directly or including a new statutory decarbonisation duty.

NEA argued that the Bill should ensure that that consumer protection, affordability and fuel poverty reduction remain central considerations as the UR undertakes its expanded role. Sustainable NI argued for amendments to require the UR to have regard to:

- (a) the impact of decarbonisation costs on consumers in or at risk of fuel poverty;
- (b) the need to ensure equitable access to the benefits of low-carbon technologies; and
- (c) any relevant strategy on fuel poverty published by the Department for Communities.

Consumer Council NI argued that the current parameters of legal vires in the energy sector is not clearly defined resulting in the duplication of roles and responsibilities between the UR and the Consumer Council, particularly in relation to consumer protection, research, advocacy, advice and enablement. The Consumer Council argued that the Bill must ensure all statutory organisations can discharge statutory functions in full without risk to legal vires or the prioritisation of resources and outputs.

Clause 1(2)

A number of respondents argued that the provisions should be amended to allow the UR to provide advice to any government department and to the wider energy sector including particularly SONI or even to anyone that asked.

Some respondents NI Water and GNI(UK) sought qualification on what would be viewed as a reasonable request. The latter argued that the UR should have an explicit authority whereby if it considered provision of certain advice, information or assistance to DfE on any policy, strategy or plan might compromise, or might reasonably be seen to compromise, their regulatory independence or would detract from carrying out its regulatory functions, that these would be grounds to meet what



would be considered ‘unreasonable’ or ‘not reasonably practicable’ under clause 1(2).

GNI(UK) and some other respondents commented on the cost of advice provision and suggested amendments which would require transparency on related costs and assurance that such additional costs would be met by the Department and not license holders.

Clause 1(3)

Sustainable NI suggested an amendment to include a non-exhaustive but illustrative list so as to pre-empt disputes about whether emerging technologies fall within scope, and underlines that the transition is whole-system.

Other Matters / Suggestions

Sustainable NI argued that there should be amendments relating to anticipatory investment in order to give the Regulator explicit cover to approve forward-looking expenditure that current cost-benefit framings discourage.

Accountability

Sustainable NI argued that the Bill creates new functions but no accountability mechanism. Sustainable NI argued that the UR should produce annual reports on the advice provided and the progress made on decarbonisation.

Sustainable NI also argued that the Bill should include a built-in review point to allow the decarbonisation framework to be updated as required. GNI(UK) / Mutual Energy called for a formal sunset clause in the legislation so as to ensure that a strong focus is maintained on identifying and implementing the comprehensive legislative changes to the Utility Regulator’s vires that are required to deliver upon NI’s ambitious emission reduction targets. It is argued that without a sunset clause the provisions may lead to an unreasonable cost or resource burden on the UR. A number of respondents highlighted related concerns on costs.

Sustainable NI also argued that there should be an obligation on the UR to consult on the advice that it provides.

Hydrogen

GNI(UK) appeared to argue that the Bill be amended to require the UR to be the regulator for hydrogen. Phoenix Natural Gas argued for an amendment 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.

It is requested that you consider the above and the UR’s related evidence (on 16 September 2026) and provide oral and written responses on all of the above for the Committee meeting on 30 September 2026.



If you require further information or clarification in respect of the above, please do not hesitate to contact me.

Yours sincerely,

Peter McCallion

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