

News story: CMA issues final determination in NI gas distribution appeal

In December 2016, the [Competition and Markets Authority \(CMA\)](#) granted [permission](#) to Firmus Energy (Distribution) Ltd (FE) to appeal on 4 grounds against the UR's decision to modify its licence.

FE has the licence to develop a gas distribution network in 10 towns across Northern Ireland (NI). This appeal relates to the price control on FE, which was one of the price controls made by the UR for the 6-year period from January 2017 to December 2022.

In its determination, the CMA has allowed the appeal on some of the grounds. It has allowed the appeal on one ground, concerning the incentive to connect new customers to the gas network. The CMA has also allowed the appeal in part on one other ground in relation to FE's operational expenditure (opex) – the amount allowed for the costs of operating its gas distribution network. It will therefore quash the UR's decision on those points. The CMA rejected FE's appeal in whole on 2 other grounds.

The CMA has remitted the connection incentive matter back to the UR for reconsideration, requiring it to determine the appropriate value within 6 months.

In addition, the CMA determined that the opex allowance for FE should include an allowance for extra costs for one omitted item. The UR has already, last month, implemented a modification to FE's licence allowing an increase in opex allowance to account for these costs.

The UR announced the [details of the price controls in September 2016](#) and published its [final decision on 28 October 2016](#).

The final determination will be published shortly on the [case page](#), where other information relating to this appeal can be found.

Notes

1. An energy licence holder may appeal to the CMA against a decision by the UR to amend the conditions of its licence. The CMA must decide whether the appellant has demonstrated that the UR's decision was wrong on one or more of the grounds set out in its notice of appeal.
2. The CMA's group of panel members determining the appeal (the Group) has been: [Phil Evans](#) (Chair), [Roger Finbow](#) and [Jon Stern](#).

3. The Group received and considered submissions from interested parties in addition to those from FE and the UR.
4. The appeal has been conducted according to the CMA's published [rules](#) and [guidance](#) for energy licence modification appeals.
5. There were 4 grounds of appeal, with 12 sub-grounds in total. The 2 grounds which were rejected in whole concerned the treatment of under-recoveries (through which FE can delay receipt of allowed revenue), and the appropriate weighted average cost of capital and the ability of FE to finance its operations.
6. The 'connection incentive' is a mechanism designed to promote connections by customers to the gas network.