

IN THE MATTER OF AN APPEAL UNDER ARTICLE 14B OF THE GAS
(NORTHERN IRELAND) ORDER 1996

FIRMUS ENERGY (DISTRIBUTION) LIMITED

(Appellant)

AND

NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION

(Respondent)

Order of the CMA

UPON the application dated 25 November 2016 for permission to appeal ('Notice of Appeal') the Northern Ireland Authority for Utility Regulation ('UR') decision of 28 October 2016 ('Decision') brought by Firmus Energy (Distribution) Limited ('FE')

AND UPON the CMA granting permission to appeal on 28 December 2016

AND UPON considering the submissions made, and hearing the appeal, in the above proceedings, the CMA having made a determination and Order on 26 June 2017 for the reasons set out in the CMA's Final Determination dated 26 June 2017 ('Final Determination') including that:

- The appeal was allowed, and the Decision was quashed, in respect of Ground 1C and Grounds 2A and 2B of the Notice of Appeal to the extent set out in the Final Determination
- The appeal was not allowed, and the Decision was confirmed, in respect of Grounds 1A, 1B, 1D and 1E, Ground 3 and Ground 4 of the Notice of Appeal to the extent set out in the Final Determination
- In respect of Grounds 2A and 2B, the matter was remitted back to the UR for reconsideration and determination with directions

AND UPON considering the submissions made on the matter of costs incurred in connection with the appeal, including submissions on the CMA's provisional determination on costs and draft Order on costs, the CMA having made a final determination on costs on 2 November 2017 ('Costs Determination')

IT IS HEREBY ORDERED THAT

Commencement and interpretation

1. This Order shall take effect on the date it is made.
2. Terms and expressions used in this Order have the same meaning as in the Final Determination and the Costs Determination except where otherwise indicated.

Costs incurred by the CMA

3. The CMA's costs incurred in connection with the appeal being £637,359 shall be paid by FE and the UR in the proportions set out in paragraphs 4 and 5 below.
4. FE shall pay to the CMA the sum of £436,567 being the CMA's costs in respect of Grounds 1B, 1D and 1E, Ground 3 and Ground 4 of the Notice of Appeal and 60% of the CMA's costs in respect of Ground 1A of the Notice of Appeal.
5. The UR shall pay to the CMA the sum of £200,792 being the CMA's costs in respect of Ground 1C and Grounds 2A and 2B of the Notice of Appeal and 40% of the CMA's costs in respect of Ground 1A of the Notice of Appeal.

Time for payment of costs

6. A person required by this Order to make a payment of costs must do so before the end of the period of 28 days beginning with the day after this Order is made.
7. Sums required to be paid by this Order but not paid within the period mentioned in paragraph 6 shall bear interest at the rate of 1 per cent above the Bank of England base rate until payment.

Phil Evans
CMA Group Chairman

Made: 2 November 2017