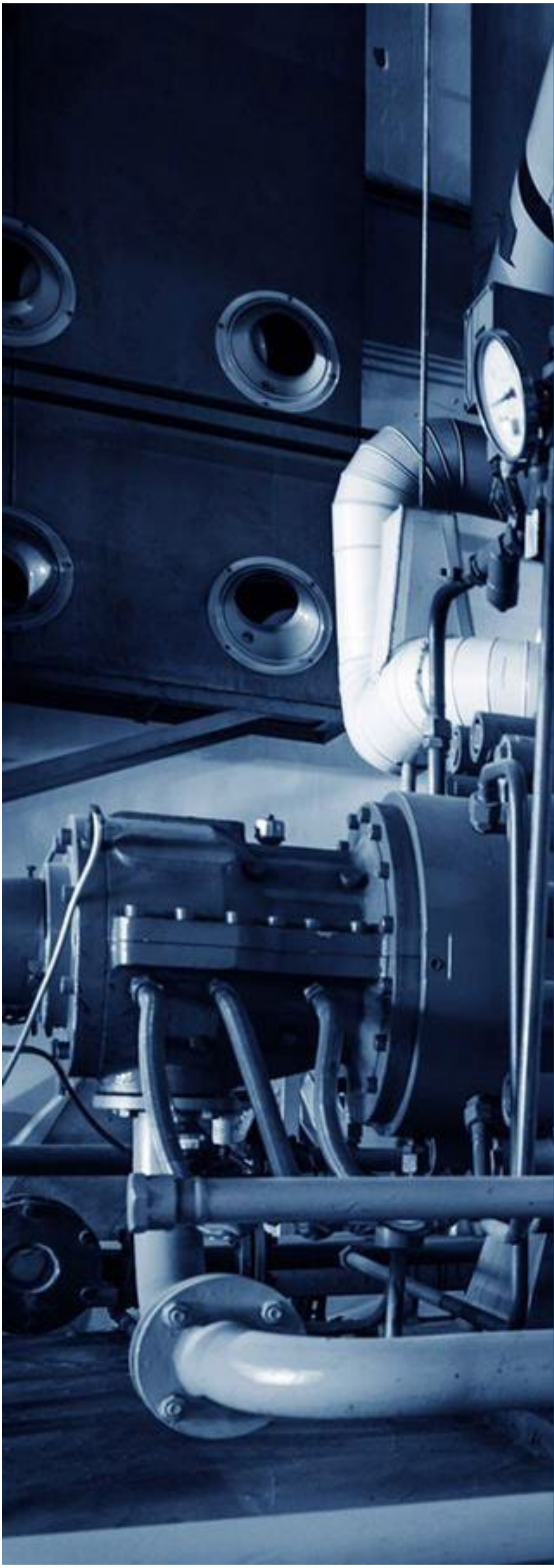

COMMERCIAL GAS CUSTOMERS

Consultation on proposed adjustments to the regulatory framework

Document Number: 15/25

Lught-reill son Gurneil Çhellinsh as Bun-shirveishyn

Communications & Utilities Regulatory Authority

Contents

1. Executive Summary

A. Background

1.1. The Communications and Utilities Regulatory Authority (the Authority) published an Information Notice in December 2024 (27/24). In the Notice it committed to consulting on adjustments to the current regulatory framework for gas tariffs relating to special agreement customers. This consultation is fulfilling that commitment.

1.2. Under the Gas Regulation Act 1995, the Authority is responsible for setting parameters that the public gas supplier must adhere to when fixing tariffs. To this end, the Authority put in place Regulations that control the gas tariffs paid by most customers and, amongst other things, defined two categories of customer:

- Regulated Tariff Customers; and,
- Special Agreement Customers.

1.3. When the current framework was put in place, it was argued by Manx Gas Limited[1] *('Manx Gas')* that customers consuming a large amount of gas would be protected by competition from other energy sources and therefore they did not need to be regulated as stringently as regular domestic customers. In the past, it was observed that these customers were typically subject to lower tariffs than domestic customers (which is what would be expected) and there was little evidence to suggest that the arguments raised by the gas supplier were invalid. However, the Authority did commit to monitoring the market for any abnormal trends.

1.4. Since then, the Authority has observed a trend of 'Special Agreement Customers' being subject to tariffs that are higher than expected and, importantly, that this trend has been sustained over time. The Authority is now acting on its commitment to "*take whatever steps are necessary should the need arise*" to regularise the situation. This consultation explores potential remedies furthering the interest of ensuring that, as in the regulated tariff market, tariffs are fair for all parties.

[1] It is noted that the company trades as Isle of Man Energy however, the legal entity in this case is Manx Gas Limited.

1.5. The Authority is proposing that the current tariff fixing regulations are amended to include a third category of customer, Regulated Commercial Customers, to include large commercial customers who consume on average 500,000 units or more per year who will be subject to the same parameters as Regulated Tariff Customers.

B. Document Overview

1.6. The remainder of this document covers the core elements of the matter at hand and provides the Authority's analysis and preliminary views of the issues at hand; this includes:

Chapter 2: Legislative Basis

Chapter 3: Consideration of Commercial Tariffs

Chapter 4: Remedies

Chapter 5: Regulatory Impact Assessment

Chapter 6: Next steps

2. Legislative Basis

A. Gas Regulation Act 1995

2.1. The Gas Regulation Act 1995 (the Act) provides the vires for controlling tariffs in the gas sector. Section 6(2) of the Act empowers the Authority to, by regulations, "*set the parameters within which a public gas supplier may fix the tariffs in accordance with which the supplier may charge for supplying gas and such regulations may -*

(a) create different categories of customers, on such reasonable basis as the Authority considers appropriate, for the purpose of facilitating the charging of different tariffs as between such categories".

2.2. During the consultation process to implement the current regulatory framework (i.e. the Act and the Gas (Tariff Fixing) (Parameters) Regulations 2022[2] ('the Regulations'), the Authority exercised these powers and created two categories of consumer; this was codified in its Decision (Document 13/22[3]) and the Regulations, which defined Special Agreement Customers to which the Regulations do not apply.

As a result of the Regulations, the Authority currently recognises 2 different types of consumer:

a) **Special Agreement Customers** as defined in regulation 4(1) of the Regulations and to which the Regulations do not apply**:** this is comprised of large commercial customers consuming on average 500,000 units or more per year who are subject to individual negotiated contracts; and

b) **Regulated Tariff Customers:** all other consumers, domestic and small commercial, which are subject to tariffs determined in line with the Regulations.

B. Public Policy

2.3. Public policy in this matter is settled and this proposed course of action is in keeping with prevailing public policy in this matter; in February 2021 Tynwald passed a Motion requesting that the Authority "*introduce regulation to cover tariffs for the public supply of gas for all customers pursuant to s. 6 of the Gas Regulation (Amendment) Act 2021*".

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[2] Statutory Document No. 2022/0068

[3] https://www.cura.im/media/1832/20231105-response-to-consultation-amended-and-published.pdf

Following this the Authority put in place the current regulatory framework with the Amendment of the Gas Regulation Act 1995 and making the Regulations. The Authority also confirmed that all customers fell within the scope of regulation and that some are treated differently is a separate matter.

C. Regulatory Policy

2.4. In addition to the foregoing, the Authority is of the view that regulatory policy is likely to be questioned in this matter, specifically that the proposal would harm regulatory certainty or the predictability of the regulatory framework on the Island. The Authority holds that this is not the case and that the proposals in this document are in keeping with its public commitments.

2.5. In its response to the consultation on the current framework (Document 23/21[4]), Manx Gas suggested that the Special Agreement Customers should be exempted from regulation. However, the Authority clearly set out in Document 13/22 that "*all customers should be subject to regulation*". It was set out that, in line with Section 6(2) of the Act, the Authority could only create a category of customer where it was setting parameters for fixing tariffs. In other words, the Authority could not define a category of customer and then opt to exclude them from the regulatory net entirely, as was proposed.

2.6. Manx Gas suggested that Special Agreement Customers were large enough to be protected by competition; however, in its response the Authority noted that Manx Gas does not face any direct competition. Manx Gas claimed that price controls for larger customers would risk limiting its ability to compete effectively with alternative energy sources. It was further suggested that the imposition of a 'whole business return' model could lead to higher prices for domestic and small commercial customers; from which the Authority understood the implication to be that larger commercial customers would be subject to lower tariffs due to their economies of scale and ostensibly their ability to switch between energy sources.

2.7. The Authority noted the arguments made, but it was sceptical about the extent of competition with other energy sources and the ability to switch between them in response to price changes. While accepting the principle that larger consumers may be in a stronger position to negotiate favourable tariffs, the Authority explicitly stated that "*some concerns*

[4] https://www.cura.im/media/1482/20210810-price-control-consultation-publication-version.pdf

do remain in relation to the extent of competitive constraint and its ability to shape pricing over time[5]". Therefore, the Authority concluded that it would adopt a 'light-touch' approach to larger commercial consumers, but that it would "*be vigilant for any indications that the markets are not functioning in a way that would be expected. This would allow for regulatory interventions, if required, in future in a timely manner; to be clear, the Authority has no desire or intention to implement regulatory measures beyond what it is currently doing in these markets, but will take whatever steps are necessary should the need arise*[6]".

2.8. Given the foregoing, the Authority's provisional decision to take the proposed action is very much in line with current regulatory policy and the Authority's stated commitment to act. The proposed actions are intended to result in certainty for stakeholders.

D. Conclusion

2.9. The action proposed in this document is within the Authority's vires and in keeping with its publicly stated position and public policy as expressed by Tynwald. The Authority has a duty to protect consumers and ensure that the markets it regulates function appropriately and must act accordingly.

[5] https://www.cura.im/media/1832/20231105-response-to-consultation-amended-and-published.pdf - Para. 6.32
[6] https://www.cura.im/media/1832/20231105-response-to-consultation-amended-and-published.pdf Para. 6.33

3. Consideration of Commercial Tariffs

3.1. The action proposed in this document results from the Authority's belief that commercial gas consumers are, or have been, charged tariffs that are excessive or would otherwise not be observed in a competitive market. In this section, the Authority sets out its views on the pricing trends observed in the market and considers the need for, and the appropriateness of, the proposed action.

A. Pricing Concerns

3.2. Within economic regulation and competition theory, excessive pricing is where a dominant firm prices above an appropriate competitive benchmark; this is typically one of the behaviours that ex-ante regulation primarily seeks to prevent. In this case the Authority committed to monitoring the market[7] and has observed what it deems to be excessive pricing, specifically in terms of:

a) The operating margin[8] to establish whether profits are disproportionately high; and,

b) The inherent fairness of the price charged.

3.3. In this instance the Authority, in conjunction with Manx Gas, has established a cost model that encompasses all costs of the business and what is driving those costs; this allows for a detailed analysis of the operating margin being generated. Within the cost model, most of the costs the business incurs are recovered through the Regulated Tariff Customers; this reflects that there are significantly more of these consumers in the market as well as the economies of scale that exist for larger consumers. This is in keeping with the comments that Manx Gas put forward in the consultation process that established the current regulatory framework.

3.4. It is therefore reasonable to expect that large consumers would have tariffs that are lower than those observed within the Regulated Tariff Customer market; this is supported by observing pricing in other markets. It can be seen in Figures 1 and 2 below[9] that large consumers are typically charged less than the average domestic consumer. The comparison uses data available from European jurisdictions, but Ireland has been singled

[7] The Authority has received information on tariffs from stakeholders and from Manx Gas.
[8] The Authority is calculating the operating margin by dividing the Earnings Before Interest and Taxes by Total Revenue.
[9] Source: https://www.seai.ie/data-and-insights/seai-statistics

out as in a consultation response, Ireland was suggested as a useful comparator. It is noted that the markets in question are competitive.

3.5. The opposite of these trends is observed for the vast majority of large gas consumers on the Island. There are customers that are, or have been, charged tariffs that are significantly higher than the headline regulated tariff. Within the regulatory cost model used, approximately 10% of the costs incurred by the business are allocated to large consumers although they comprise 30% of the overall market of gas sold by volume, this replicates the scenario observed in the competitive markets in other jurisdictions. That would imply that a 'fair' tariff, or one which seeks to replicate how a notionally efficient operator in a competitive market would set prices, would be lower than the headline regulated tariff. As it stands, in the model provided by Manx Gas in December 2024, the returns being generated from large consumers are excessive – the operating margin currently observed is approximately 44% as opposed to 11% for the regulated tariff customers.

Figure 1 - Euro Area: Residential vs Commercial Gas Tariffs (Avg. €cent/unit)

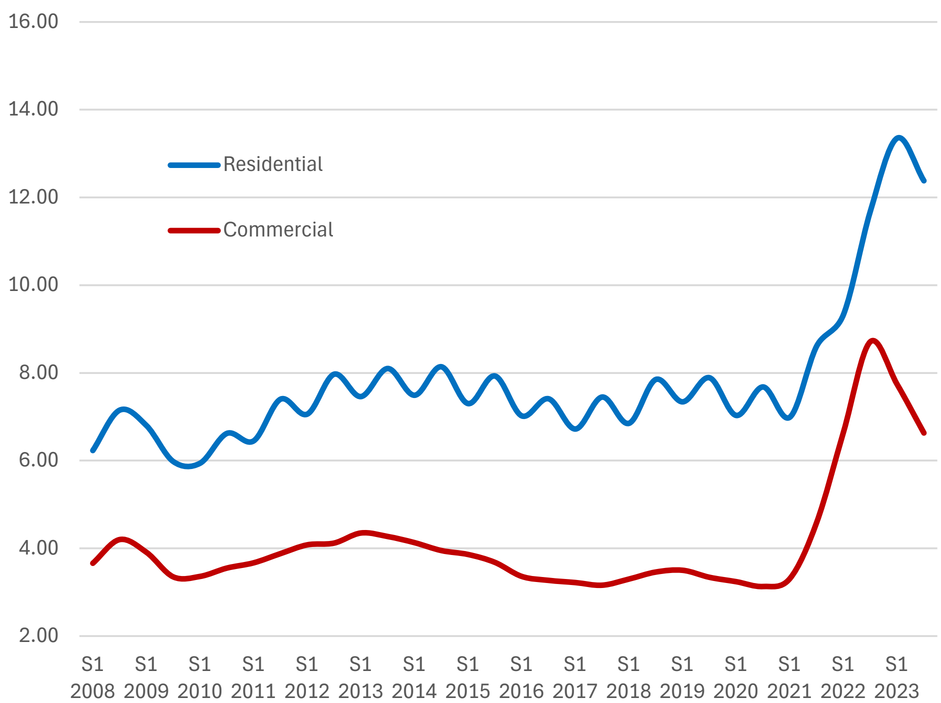
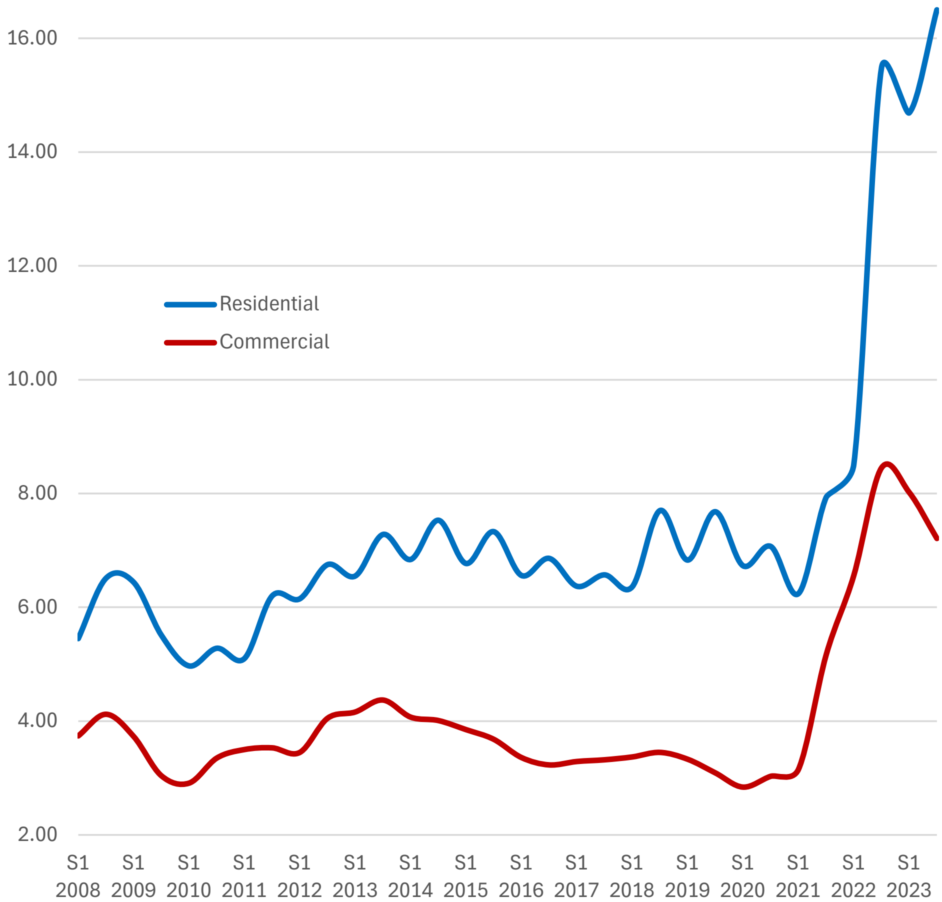


Figure 2 - Ireland: Residential vs Commercial Gas Tariffs (Avg. €cent/unit)



3.6. Given the foregoing, focussing solely on pricing, there is a strong case for the action proposed in this document.

B. Regulatory Principles

3.7. The Authority takes action where it is necessary, proportionate, and non-discriminatory to do so. As such, before imposing any regulatory obligations on the public gas supplier, it must be satisfied that it is appropriate within the above-mentioned criteria[10]. These principles, and the tests that flow from them, are considered best practice amongst economic regulators. The previous section has set out the Authority's concerns in relation

[10] This is of particular importance as the proposal at hand is to change an existing framework based on observed behaviour and market data.

to behaviour that has been observed in the market. However, there are other issues that must be considered to ensure the need for, and appropriateness of, the proposed intervention.

Substitutability

3.8. There is no requirement within the legislation for a Market Review to be carried out prior to imposing regulatory obligations on the public gas supplier; however, it is useful to define the extent of the relevant market. One of the core arguments put forward by Manx Gas when the Authority was consulting on the current framework was that the business faced competition from other energy sources and that this competition would protect large consumers.

3.9. It is the Authority's position that there may be weak or indirect competition from other energy sources, such as oil and electricity, but that there is no strong or direct competition. By this, the Authority means that it is of the view that energy from oil and electricity do not fall within the same market as natural gas as, while some consumers may switch, importantly the marginal consumer does not. For products to fall within the same market they must be substitutes, i.e. that when the price of the focal product (in this case natural gas) increases, the demand for substitutes increases, and vice versa. The Authority can find no correlation between the price of natural gas and the demand for electricity or oil[11]. Therefore in the reasonable opinion of the Authority, such products cannot be considered substitutes in this case.

3.10. In addition to this, the Authority observes that Manx Gas has been able to profitably maintain highly elevated prices, from which the Authority concludes that there is no significant substitution to other energy sources taking place. Please note that while the Authority is privy to detailed financial information, it does not believe that it is proportionate to publish this information as part of this consultation[12]. The Authority does, however, provide the following summary of the matter: it has observed that the overall business return was largely static prior to 2022[13] and increased significantly after this. As the return

[11] The Office for Fair Trading monitors and publishes information on the various fuels in use on the Island and has shared its data with the Authority.
[12] The Authority notes that in the event that any facts or figures in relation to earnings are challenged it may be required to provide more detail in its response to consultation.
[13] It is noted that the operating profits in 2020 and 2021 are outliers, however this is explainable and the average return across the two years is in line with the overall average. The high profit in 2020 was due commodity costs being at all time low due to the covid pandemic while the tariffs in the Manx market did not reduce; conversely, the low profit in 2021 was due to the regulatory price freezes that were in place at

that can be generated from regulated tariff customers has been fixed since 2022, the only reasonable conclusion the Authority can draw to explain the increased profitability is the level of the tariffs for the ‘Special Agreement Consumer’ category. In addition, it adds credence to the Authority’s views on the extent of the market and also heavily implies that there is Significant Market Power at play.

C. Significant Market Power

3.11. As established, the constraints to the public gas supplier’s behaviour from other fuel sources are weak at best and as such it is a monopoly supplier which enjoys Significant Market Power. While this may seem to be intuitive, it needs to be explicitly pointed out that this is the case as it is typically a prerequisite to considering any ex-ante economic regulation action. Furthermore, there are significant barriers to entry that would prevent the market from tending to competition over time.

D. Consumer Harm

3.12. One of the main principles of the regulatory framework is to minimise consumer harm; if it was shown that, despite there being an entity with Significant Market Power, there was no harm to consumers, there would be an argument against a regulatory action. However, when considering excessive pricing, the Authority believes that there can be little argument that consumer harm would occur.

3.13. It could be argued that excessive prices could be warranted to provide investment incentives, however the Authority does not consider this to be rational at this time. There is no evidence of growth in the demand for gas that would warrant expanding the footprint of the current network and the business already has sufficient incentives to preserve the integrity of the existing network. It is sometimes argued that there is no requirement for a regulatory intervention to correct excessive pricing as market forces are sufficient to correct it; however, significant barriers to entry would act against this[14]. Furthermore, the

a time when commodity costs were at all time highs. Significantly, there are no similar external factors that can be observed to explain the profit generated in 2023, it is solely due to the level of the tariffs for large commercial customers.

[14] In response to this regulatory intervention being announced, the public gas supplier has informed the Authority that it is taking steps to ‘rebalance’ commercial tariffs; while acknowledging this, the Authority holds that this would not have happened absent the threat of regulations being imposed and in any event the public gas supplier has demonstrated a willingness to act independently of its consumers and market. The Authority does not believe that it would be appropriate to halt this process in response.

Authority has monitored the situation for sufficient time to establish that it was not a transitory situation[15].

[15] It is noted that some commercial customers have been offered reduced rates, however this correlates with the Authority making the gas supplier aware of its intentions to intervene in the market in November 2024. Absent a regulatory action, the gas supplier has the ability to raise prices above a competitive level and also the willingness to do so, in the interest of consumer protection, it is therefore incumbent on the Authority to ensure that there are sufficient regulatory controls in place to prevent such behaviour.

4. Remedies

4.1. Having identified the harmful practices and establishing the need for a regulatory action, the Authority must consider the appropriate remedies to deal with the situation. When considering remedies, in line with best practice, the Authority seeks to strike a balance between rectifying and preventing the unwanted behaviours without creating an undue burden on the regulated entity. In this regard, the Authority has identified two potential remedies and sets out its preliminary views on each below.

A. Amending the Consumer Categories in the Regulatory Framework

4.2. At present there are two recognised groups of consumer, 'Regulated Tariff Customers' to which the Regulations apply and 'Special Agreement Customers' to which the Regulations do not apply. It is the latter that are at the heart of this matter so the Authority does not propose to make any changes to the definition of Regulated Tarff Customers. It does, however, propose that the definition in the Regulations of 'Special Agreement Customer' is amended and that a further category of 'Regulated Commercial Customer' is added to the framework. The resulting three categories would be:

a) **Special Agreement Customers:** specifically large commercial customers 10,000,000 units (341,840 Therms) or more per year who are subject to individual negotiated contracts;

b) **Regulated Commercial Customers:** specifically large commercial customers consuming on average 500,000 units or more per year; and,

c) **Regulated Tariff Customers:** all other consumers, domestic and small commercial, which are subject to tariffs determined in line with the Gas (Tariff Fixing) (Parameters) Regulations.

4.3. The rationale for the amendment to the 'Special Agreement Customer' definition and the addition of the 'Regulated Commercial Customer' category is explored further in the following sections.

Special Agreement Customers

4.4. Section 6(9) of the Act makes specific provision for the existence of special agreements in the market and sets out the criteria applying to them, specifically that they are appropriate where:

a) the tariffs in force are not appropriate, owing to special circumstances; or,

b) the agreement provides for a minimum supply of gas to any premises in excess of 2,500 therms, or such other number of therms as may be prescribed, in any period of 12 months.

4.5. In principle, the Authority does not object to large commercial customers being able to negotiate favourable terms by virtue of their buying power or the economies of scale in providing the service to them; indeed, this is widely observed in competitive markets. However, a key distinction is that the parties both enter into the agreement as it is mutually beneficial and there is relative parity in the bargaining power enjoyed by each party. What was observed in the Island's gas market was not in keeping with this principle, the customers that would be expected to be in a position to negotiate favourable rates were paying the most as there was little by way of alternatives.

4.6. Having assessed the terms offered to the 'Special Agreement Customers', the Authority could only identify one contract where neither party enjoyed a dominant position over the other; in all other contracts the customer was subject to tariffs that were in excess of what would reasonably be expected. Accordingly, it appears to the Authority that the level of consumption in this contract represents the point at which normal market forces counteract the gas supplier's dominant position. This has formed the basis of the 10,000,000 units required to meet the proposed threshold for entering into a Special Agreement[16].

4.7. This amendment to the statutory circumstances in which a special agreement may be entered into would be made by Regulations that would be subject to Tynwald approval.

[16] The Authority recognises that the tariffs in force being inappropriate still applies, however it is of the view that it would be incumbent on the gas supplier to make the case to justify this and that all agreements are to be notified to the Authority.

Regulated Commercial Customers

4.8. The Authority has used the existing definition of 'Special Agreement Customers' as the basis for this proposed category. The Authority believes that this is appropriate as it is in keeping with what is observed in other competitive markets (accounting for the relative differences in scale). The level of consumption is also the point at which the gas supplier begins to differentiate between customers as it suggested the definition, therefore it is unlikely to require the gas supplier to make many adjustments to its systems or regulatory reporting.

4.9. The Authority is further of the view that this definition would result in minimal disruption to the cost model that forms the basis of the current regulatory framework; the only adjustment would be to add an additional category for Regulated Commercial Customers with costs continuing to be allocated in accordance with current principles.

B. Limiting the Number of Tariffs in the Market

4.10. Section 6(3) of the Act empowers the Authority to "*impose conditions in connection with parameters set by it under this section*". With that in mind, the Authority is of the view that it should, by Regulations, limit the number of tariffs in the market. The rationale for this proposal is that the gas market on the Island is relatively small and the Authority considers there is no need for a large number of bespoke tariffs. Having a large number of tariffs in the market leads to a lack of transparency from a consumer perspective, specifically whether the tariff they are paying is 'fair'. The Authority is of the view that the lack of transparency in the market allowed the problems described above to be sustained. While the Authority acknowledges the place of 'price discrimination' in the market, it is not of the view that limiting this discretion would be unduly onerous on the gas supplier but would enhance consumer protection.

4.11. The Authority is minded to limit the number of tariffs in the market to six[17]. This should allow sufficient discretion to discriminate between different use cases and consumer categories, but also foster certainty and confidence in the market. This measure, coupled with the requirement to prominently publish the tariffs, as set out in section 6(6)(c) of the Act, would result in a situation where consumers can make informed choices while purchasing gas

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[17] For example, it would permit a high, medium, and low usage tariff in each category subject to regulated tariffs acknowledging that even within categories consumers are likely to be differentiated by the amount of gas they consume.

and can assess where their tariff fits in the overall market. The Authority would accept publication on the website as meeting this obligation.

5. Regulatory Impact Assessment

5.1. When considering implementing any regulatory change the Authority must first consider the impact on all stakeholders to ensure it is proportionate, appropriate and justified, and that available options have been considered in an objective manner. This recognises that regulation, regardless of its potential benefits, is not without its costs. To that end a Regulatory Impact Assessment is widely used to analyse the potential benefits and impacts that a decision or decisions may have on stakeholders.

5.2. In line with the guidelines, and its legislative obligations, the Authority must consider all options taking account of Relevant Stakeholders. In this context Relevant Stakeholders are:

a) Consumers;

b) The public gas supplier; and,

c) The public interest.

5.3. The Authority has had due regard to the Isle of Man Government's Guidelines on the Use of Impact Assessments for Primary Legislation, European guidelines, and regulatory best practice[18].

5.4. The focus of the Regulatory Impact Assessment is to assess the proposed impact of the proposed changes to the existing regulatory framework on all Relevant Stakeholders, both of which are considered separately for convenience.

A. Changes to Consumer Categories

Options

5.5. In this matter, the Authority has considered three options:

a) **Option 1:** Allow market forces to address the issue, intervening to facilitate competition as required;

b) **Option 2**: Develop a new framework for regulating tariffs that apply to large commercial consumers; or,

[18] https://commission.europa.eu/law/law-making-process/better-regulation/better-regulation-guidelines-and-toolbox_en

c) **Option 3**: Amend the existing 'Special Agreement Customer' category and add a 'Regulated Commercial Customer' category.

Assessment

5.6. Considering Option 1, this would in effect amount to the Authority adopting the view that normal market forces would work to counteract the high prices observed and, importantly, maintain prices at a competitive level. The Authority is of the view that this would not be a reasonable assumption to make based on the status quo and would potentially lead to consumer harm over time. Firstly, the main market mechanism for counteracting high prices is new entry and that is extremely unlikely at this time. Taking account of the prevailing market structure, it is unreasonable to assume that a new entrant would arise through investment in a new network and there is no obligation to provide access to the existing infrastructure.

5.7. Therefore, the only way the Authority could safely adopt the view that price controls are not necessary for large commercial consumers would be to exercise its power under section 6(3) of the Act. This would involve exploring making regulations to oblige the gas supplier to allow effective access to its distribution network and/or meters to enable new entrants at the retail level. This option would likely distort the gas market in an unacceptable way and be viewed unfavourably by the public gas supplier and be counter to consumer interests in the medium to long-term. While the Authority has outlined its view that alternative energy sources are not substitutes, they are however, complementary or at least interlinked for many consumers – many households require connections to more than one energy source. Facilitating competition in the retail market for only one energy source would not amount to healthy or sustainable competition. With the foregoing in mind, it appears to the Authority that this option would not be in the wider public interest of the Island either.

5.8. Turning to Option 2, this option would see the Authority develop a separate regulatory framework that would deal with the tariffs for large commercial customers; whilst this would certainly address the issues identified above, there would be a question as to whether it would be the most proportionate intervention. This Option would take considerable time to develop and implement and place an additional burden on the gas supplier; therefore it is unlikely to be the optimal choice for consumers or the gas supplier. It is also likely that having parallel regulatory frameworks within the same sector would result in confusion. The impact of having customers on different regulatory cycles would also likely to be problematic for the gas supplier, as it would add to the regulatory burden and possibly result in customers having tariffs changed at different times in a given period. In the absence of an existing regulatory framework, Option 2 would likely be most favourable to all stakeholders, but, given the existing framework has proven to be stable, predictable, and effective, there is no strong argument for overlooking it.

5.9. Option 3 seeks to address the matter at hand but does not carry the same risks and drawbacks of the other options. It seeks to proportionately achieve a balance between the interests of all parties over time. This option is likely to be viewed favourably by consumers as it would ensure tariffs are 'fair' and the market is transparent enough to allow for informed decision-making. It is also likely to be favourable to future customers as it ensures that the network is sustainable over time, while providing certainty that future tariffs are more predictable.

5.10. It is likely that the gas supplier would be opposed to this option as it represents a reduction in its market power and profits, but this is only based on the alternative being maintaining the status quo, which in the Authority's opinion is not a viable option. When viewed in the context of the other options that are available, it is likely that this is the optimal option for the gas supplier – it does not contain the risks of Option 1 and would be less disruptive and burdensome than Option 2. Option 3 is most likely to address the wider public interest in a similar way, it addresses the negative and distorting effects of the issues identified, but it also fosters certainty and confidence in the Island's regulatory framework.

Preliminary Decision

5.11. Having had regard to this assessment, the Authority is of the preliminary view that Option 3 best balances the needs and interests of all Relevant Stakeholders while minimising the cost and disruption to all.

B. Restriction on the Number of Tariffs in the Market

Options

5.12. In this matter, the Authority has considered two options:

a) **Option 1**: Forbearance – take no action at this time; or,

b) **Option 2**: Make regulations that would limit the number of tariffs in the market to six.

Assessment

5.13. When considering the issues previously identified, the Authority deems it necessary to both address the high tariffs observed in the short-term, but also address the underlying transparency issues that helped to sustain the high tariffs. The lack of transparency means that consumers are unable to determine where their tariff sat in the market, i.e. whether they are paying a comparable rate to their peers. It also potentially allows the gas supplier to make adjustments in discrete cases without having to reduce tariffs for other similar consumers. This has led the Authority to believe that Option 1 is not a realistic option as it leaves part of the problems identified unaddressed.

5.14. Option 2 however, does address the transparency issues that have been identified without being onerous for the gas supplier. Having a maximum of six tariffs in the market would, in the opinion of the Authority, ensure that there is simplicity and clarity around tariffs charged and it would be easy for a consumer to identify where their tariff sits within the market. It also allows the gas supplier to discriminate between different consumer and usage types. It could be argued that it restricts the consumer's ability to negotiate a more favourable tariff with their supplier. However, this is not behaviour that the Authority is observing in the market. On balance, while it may restrict the pricing options available to the public gas supplier, the Authority is of the view that the benefits that accrue for the consumer outweigh this.

Preliminary Decision

5.15. Having considered the matter, the Authority is of the preliminary view that Option 2 would be preferable in the circumstances.

6. Next Steps

6.1. The Authority is inviting responses by 5pm on the 5th August 2025.

6.2. When submitting any views please indicate if you are responding on behalf of an organisation. To ensure that the process is open and transparent, responses can only be accepted if you provide your name with your response. The transparency of regulatory processes is paramount; therefore, unless specifically requested otherwise, any response received will be published either in part or in its entirety dependent of whether the response includes confidential or commercially sensitive information.

6.3. If you believe that elements of your response should be kept confidential, please clearly identify which part(s) this applies to and explain why. If asked to keep part of a response confidential, the Authority will consider this request and try to respect it. However, sometimes the Authority may be required to make publicly available all responses, including those that are marked as confidential, to meet legal obligations. An automatic confidentiality disclaimer generated by your IT system will not be regarded as binding or sufficient to claim confidentiality or commercial sensitivity of information.

6.4. All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2015 and the Data Protection Act 2018).

6.5. The purpose of this consultation is not to be a referendum, but an exercise to gather sufficient evidence with which the Authority can make the most informed decision possible. In any consultation exercise the responses received do not guarantee changes will be made to the Authority's proposals.

6.6. Following the closure of the abovementioned Response Period, all responses will be fully considered before the Authority makes and publishes any decision(s). The Authority will include its rationale as part of the publication. As such, it is important for respondents to ensure they have included sufficient rationale, objective justification, and/or evidence to support any proposals or arguments they make.

6.7. If you wish to discuss the issues and questions raised in this consultation, or simply seek clarification, please contact us; using the contact details provided.

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