

Gas Distribution Marketing Code

Version 1.0

As approved by the Northern Ireland Authority for Utility Regulation

Coming into Effect: 1st March 2013

1. Aim:

This Distribution Marketing Code (the “Code”) has been prepared by the natural gas Distribution System Operators¹ in Northern Ireland in compliance with Condition 2.7A of their licences reproduced at Annex A of this Code.²

This Code ensures Distribution System Operators employ good marketing practices.

The marketing activities of Distribution System Operators must also meet the requirements of all other relevant legislation (as amended) applicable to Northern Ireland, including but not limited to, the Data Protection Act and other examples provided at Annex B of this Code.

The marketing materials produced by Distribution System Operators will consider the Advertising Standards Authority guidelines.

Specific requirements

The Distribution System Operators have agreed an additional set of conditions with the Northern Ireland Authority for Utility Regulation (the “Authority”).

Each Distribution System Operator MUST:

- i. provide the consumer with an explanation of the role of the Distribution System Operator and the role of the Gas Supplier when discussing connection to the natural gas network;
- ii. provide “*Supplier Information*” of all “*Gas Suppliers*” who are active in the market; and
- iii. ensure that their marketing activities in respect of the conveyance of gas through distribution pipelines are conducted in a fair, transparent, appropriate and professional manner.
- iv. make provisions relating to the recruitment and training of their “*Representative(s)*” who undertake marketing activities as set out in Condition 2.7A.4 of their licenses.
- v. Ensure that any information provided by the Distribution System Operator to consumers about its business, including in particular about connections between consumers’ premises and its network is complete and accurate; is capable of being easily understood by consumers; and does not mislead consumers to whom it is directed and is otherwise fair and accurate both in terms of its content and its presentation

¹ firmus energy and Phoenix Natural Gas Ltd .

² Licences means the licences for the conveyance of gas in Northern Ireland by Distribution System Operators

Each Distribution System Operator must NOT:

- vi. discriminate against any individual consumer or group of consumers;
- vii. restrict, distort or prevent competition in the supply of gas;
- viii. offer any indication that one Gas Supplier is any better than any other in any area of performance or otherwise show preference to or discrimination against any Gas Supplier;
- ix. comment on any individual Gas Supplier's prices, tariffs or services;
- x. offer any personal experience that they may have had with Gas Suppliers either in gas supply or any other form of service;
- xi. in the Phoenix Natural Gas Limited Licensed Area, indicate to the customer that they will automatically switch to their 'preferred *gas supplier*' which has been recorded on the "*Gas Connection Agreement*" of Phoenix Natural Gas Limited having been initially supplied by the '*commissioning supplier*'.

2. Monitoring and enforcing of the Code

Each Distribution System Operator shall provide the Authority with all assistance reasonably necessary to enable the Authority to monitor the implementation and Operation of the Distribution Marketing Code. This assistance shall include permitting the Authority access to the relevant documentation held by the Distribution System Operator. The relevant documentation means a record of all sales appointments³, and appropriate training⁴.

Compliance with this Code will be reviewed when required and at the request of the Authority. The Authority may request from each Distribution System Operator, having given reasonable notice (but not less than 14 days), the relevant documentation.

Each Distribution System Operator will be required to monitor and keep a record of complaints received in relation to this Gas Distribution Marketing Code, in accordance with the template issued to it by the Authority for a period of one year.

3. Reviewing and modification of the Code

This Code and the manner in which it has been operated shall be reviewed by the Distribution System Operators whenever requested to do so by the Authority, with a view to determining whether any revisions should be made to it.

The review will include representation from the Consumer Council for Northern Ireland, and may require a meeting of the Distribution Operators' Forum.

³ Including dates, time, addresses and the name of Representative, for a minimum of 2 years

⁴ as set out in Condition 2.7A.4(b) of the licence

A Distribution System Operator may propose an amendment to this Code by preparing an “**Application for Change**” which will include the proposed change and the proposed text amendments to this Code together with the proposed date of implementation.

The Application for Change should be sent to the Authority, all Distribution System Operators and the Consumer Council for Northern Ireland with a request for a meeting of the Distribution Operators’ Forum.

If the Authority approves the change to this Code, it will reissue the Code to all Distribution System Operators.

4. Publication

Each Distribution System Operator shall publish this Code and any revision to this Code as soon as practicable on, and make it readily accessible from, its website; and give or send free of charge a copy to any person who requests it.

5. Contacting a Consumer

Each Distribution System Operator will follow the provisions below when contacting consumers for marketing purposes.

a) By Appointment

A Distribution System Operator may arrange an appointment at a consumer’s premises at any date and at any time agreeable to both parties. Each Distribution System Operator should maintain a record of each appointment attended as detailed in section 2 above.

If a Distribution System Operator attends an appointment at a consumer’s premises, upon arrival, the Distribution System Operator Representative must clearly identify:

- a) their name;
- b) the name of the Distribution System Operator on whose behalf the appointment is being kept;
- c) the purpose of the visit; and
- d) produce an identity card, and if appropriate, a business card, with their full name, photograph and the name of the Distribution System Operator, if requested.

b) Door-to-door marketing (in person)

If a Distribution System Operator engages in door-to-door marketing calls at a consumer's premises without an appointment, upon arrival, the Distribution System Operator Representative must clearly identify:

- a) their name;
- b) the name of the Distribution System Operator on whose behalf the appointment is being kept;
- c) the purpose of the visit; and
- d) produce an identity card, and if appropriate, a business card, with their full name, photograph and the name of the Distribution System Operator, if requested.

If the Distribution System Operator Representative is made aware that a homeowner is living in sheltered accommodation, they will advise the Warden or other authorised person of the purpose of the call before contacting the individual occupants.

The Representative must obtain permission from the consumer before entering their premises. A consumer has the right to refuse to let the salesperson enter their premises / residence, and may wish to either end the conversation or continue with it at their doorstep.

Each Distribution System Operator will ensure that door-to-door marketing calls at a domestic consumer's premises without an appointment commence between the hours of:

- i. 9am to 8pm on weekdays
- ii. 9am to 7pm on Saturdays.

Excluding:

- Christmas Eve;
- Sundays; and
- any other "*Non Business Day of the Distribution System Operator*"⁵

Each Distribution System Operator will ensure that door-to-door marketing calls at a business consumer's premises without an appointment are within the consumer's normal business hours.

A consumer has the right to refuse to sign any form or document.

c) Face to face marketing

If a Distribution System Operator engages in face to face marketing activities in a public place e.g. in a supermarket, an identity card and if appropriate, a business card should always be worn showing their full name, photograph and the name of the Distribution System Operator they represent.

⁵ These are defined in Annex C, Glossary of Terms.

d) Marketing by Mail

Each Distribution System Operator should respect the appropriate advertising regulations applicable in Northern Ireland for all marketing communications, including the Mailing Preference Service.

Consumers are entitled to request that they no longer receive direct marketing material (i.e. marketing material which is addressed to them) from a Distribution System Operator. Where a customer has asked to be removed from receiving direct marketing material the customer database should be amended accordingly. Consumers may continue to receive general marketing information (e.g. flyers) from the Distribution System Operator delivered with their mail.

e) Marketing by telephone

If a Distribution System Operator contacts a consumer by telephone to discuss general marketing activities, the caller must clearly identify:

- a) their name;
- b) the name of the Distribution System Operator on whose behalf the call is being made;
- c) the purpose of the call; and
- d) the business address and telephone number of the Distribution System Operator, if requested.

Each Distribution System Operator will use the telephone preference service available to them.

Each Distribution System Operator will ensure that general marketing telephone calls commence between the hours of:

- iii. 9am to 8pm on weekdays
- iv. 9am to 7pm on Saturdays.

Excluding:

- Christmas Eve;
- Sundays; and
- any other "*Non Business Day of the Distribution System Operator*"

Each Distribution System Operator will ensure that general marketing telephone calls at a business consumer's premises are within the consumer's normal business hours.

If at any time during the telephone call the consumer states that they do not wish to continue, the Distribution System Operator must end the call.

f) Marketing by e-mail, text and social media

Each Distribution System Operator should respect the appropriate regulations applicable in Northern Ireland for marketing communications by e-mail, text and social media.

Where a Distribution System Operator uses e-mail or text for general marketing communications, the following information must be provided:

- a) the Distribution System Operator's name, telephone number, e-mail address or other means of electronic contact and postal address for e-mail communications; and
- b) details of an easy and free way to unsubscribe or remove their e-mail address or mobile phone number from future messages.

6. Opting Out by a consumer

If the consumer chooses to opt out of future direct marketing to their premises or via text or e-mail, the Distribution System Operator will not contact the consumer for marketing purposes via that media and will suppress their details or move them to a "not for contact" file or database. Distribution System Operators will also use the telephone preference services⁶ and mailing preference services⁷ database available to them.

7. Contracts

Each Distribution System Operator will endeavour to ensure that contracts are customer-friendly with explanations of energy terminology provided.

On signing a contract, new consumers will receive a copy of the document and be given a specified period during which they can change their mind at no cost. The standard terms and conditions of connection are also published on the websites of each Distribution System Operator.

8. Complaints

Each Distribution System Operator has a complaints procedure in place to deal with any complaints raised by gas suppliers or consumers. Copies of the Distribution System Operator's complaints handling procedure are available on their respective websites:

⁶ For more information on the TPS visit www.tpsonline.org.uk/tps/whatistps.html or contact 0845 070 0707.

⁷ <http://www.mpsonline.org.uk/mpsr/what/>

firmus energy Limited

<http://www.firmusenergy.co.uk/>

Phoenix Natural Gas Limited

<http://www.phoenixnaturalgas.com/naturalgas/>

Annex A: Condition 2.7A Distribution Marketing Code

2.7A.1 Requirement to Prepare etc. a Code

The Licensee shall, no later than three months after this Condition takes effect or such later date as the Authority directs and together with every other distribution system operator, prepare, submit to and have approved by the Authority a code of practice to be known as the Distribution Marketing Code.

2.7A.2 The Code

The Distribution Marketing Code shall:

- (a) be designed to facilitate achievement of the relevant objectives set out in paragraph 2.7A.3; and
- (b) make provision relating to the relevant matters set out in paragraph 2.7A.4.

2.7A.3 The Relevant Objectives

The relevant objectives are that:

- (a) the marketing activities of distribution system operators in respect of the conveyance of gas through distribution pipelines:
 - (i) are conducted in a fair, transparent, appropriate and professional manner;
 - (ii) avoid any preference or discrimination being shown to or against any gas supplier;
 - (iii) do not restrict, distort or prevent competition in the supply of gas;
 - (iv) do not lead to consumer confusion about the relationship between and activities of gas distribution and gas supply; and
- (b) any information provided by the Licensee (whether in writing, by electronic display or verbally) to consumers about the Licensee's business, including in particular about connections between consumers' premises and the Licensee's Network:
 - (i) is complete and accurate;
 - (ii) is capable of being easily understood by consumers;
 - (iii) does not name or otherwise show preference to or discrimination against any gas supplier;

(iv) does not mislead consumers to whom it is directed and is otherwise fair and accurate both in terms of its content and its presentation.

2.7A.4 The Relevant Matters

The relevant matters are:

(a) the establishment and implementation of procedures for the selection of staff or other representatives who are employed or engaged in roles which involve or are likely to involve communication with consumers for the purpose of the Licensee's marketing activities;

(b) the provision or procurement of appropriate training for staff or other representatives who will or are likely to communicate with consumers for the purpose of the Licensee's marketing activities, which training shall at least include training about the role, position and obligations of the Licensee as a gas distributor in respect of the Northern Ireland gas sector and about the Licensee's obligations under this Condition; and

(c) the establishment and implementation of procedures for the written approval, by a senior officer of the Licensee, that such information as is referred to in paragraph 2.7A.4(b) is compliant with the relevant objectives set out in paragraph 2.7A.3.

2.7A.5 Consultation on the Code

The Licensee shall, before submitting the Distribution Marketing Code to the Authority for its approval, consult with, and consider any representations made by, the General Consumer Council.

2.7A.6 Review of the Code

The Licensee shall, whenever requested to do so by the Authority and together with every other distribution system operator, review the Distribution Marketing Code and the manner in which it has been operated, with a view to determining whether any revisions should be made to it.

In carrying out any such review the Licensee shall consult with, and consider any representations made by, the General Consumer Council.

2.7A.7 Direction to Modify the Code

The Authority, following consultation with the Licensee, other distribution system operators, the General Consumer Council and any other person who in the opinion of the Authority is likely to be interested or affected, may direct the Licensee to make such modifications to the Distribution Marketing Code as the Authority considers are necessary or expedient to meet the relevant objectives, and where the Authority gives such a direction to the Licensee it will at the same time give the same direction to all other distribution system operators.

2.7A.8 Revision of the Code

Where the Licensee revises the Distribution Marketing Code following a review undertaken in accordance with paragraph 2.7A.6 or following a direction from the Authority given under paragraph 2.7A.7 it shall submit the revised Code to, and have it approved by, the Authority.

2.7A.9 Publication of the Code

The Licensee shall:

(a) as soon as practicable following the Authority's approval of the Distribution Marketing Code (including following a revision):

(i) send a copy of it to the Authority and the General Consumer Council; and

(ii) publish it on, and make it readily accessible from, its website; and

(b) give or send free of charge a copy of the Distribution Marketing Code to any person who requests it.

2.7A.10 Compliance with the Code

Subject to paragraph 2.7A.12, the Licensee shall comply with the Distribution Marketing Code as approved by the Authority.

2.7A.11 Monitoring

The Licensee shall provide the Authority with all assistance reasonably necessary to enable the Authority to monitor the implementation and operation of the Distribution Marketing Code and this assistance shall include permitting the Authority access to relevant documentation held by the Licensee.

2.7A.12 Derogation

The Authority may (following consultation with the Licensee and distribution system operators) issue directions relieving the Licensee of any of its obligations under this Condition to such extent as may be specified in those directions and subject to such terms and conditions as the Authority thinks fit.

Annex B: Legislation

The marketing activities of Distribution System Operators must meet the requirements of all other relevant legislation (as amended) applicable to Northern Ireland, including but not limited to:

- The Consumer Protection (Cancellation of Contracts concluded away from Business Premises Regulations 1987 (SI 1987 No 2117) as amended by the SI 1988 No 958 and SI 1998 No 3050
- UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing, Edition 12, 2010
- UK Code of Broadcast Advertising, Edition 1, 2010
- Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011
- Unfair Terms in Consumer Contracts Regulations 1999
- Consumer Protection (Distance Selling) Regulations 2000
- The Data Protection Act 1998
- The Competition Act 1998
- Sale of Goods Act 1994

Annex C: Glossary of terms

"Commissioning Supplier" means the Gas Supplier approved by the Authority for the purposes of the New Connection Process in the Phoenix Natural Gas Limited Licensed Area who will initially supply gas to the customer from the point of connection to the natural gas network

"Consumer" means a person or organisation connected or not connected to the natural gas network

"Gas Connection Agreement" means the agreement entered into between Distribution System Operators and a customer under which the Distribution System Operator agrees to connect and the customer agrees to pay for (if appropriate) the connection of the customer's premises to the distribution network to enable the offtake of gas from the distribution network.

"Gas Supplier" means a person authorised to supply gas pursuant to a licence granted to him pursuant to Article 8(1)(c) of the Gas Order and who is a User for the purposes of the Distribution Code of each Distribution System Operator and who has completed the market entry assurance process and received approval from the Authority and the Distribution System Operator to operate in a particular market sector.

"Marketing / Marketing activities" means any activities of the Distribution System Operators that are directed at, or incidental to, identifying and communicating with consumers for the purpose of promoting the activities of the Distribution System Operator.

"Non Business Day of the Distribution Operator" means the bank and public holidays observed by the Distribution System Operator listed below:

- New Year's Day*
- St Patricks Day*
- Easter Monday
- Easter Tuesday
- Early May Day
- Late May Day
- 12th July*
- 13th July*
- Late August Holiday
- Christmas Day*
- Boxing Day*

*When the usual date falls on a Saturday or Sunday, the 'substitute day' is normally the following Monday. For example in 2013, St Patrick's Day is on Sunday 17 March, so the substitute bank holiday is Monday, 18 March.

"Preferred Gas Supplier" means the Gas Supplier identified to the Distribution System Operator by a New Domestic Customer as the Gas Supplier who the New Domestic Customer may wish to take a supply of gas from.

"Representative(s)" means a person or persons directly employed or contracted by the Distribution System Operator.

"Supplier Information" means, in relation to the Gas Supplier, all such documents and other information including:

- (a) published leaflets setting out gas supply tariffs offered by the Gas Supplier; and
- (b) corporate contact information relating to the Gas Supplier;

The Gas Supplier shall ensure that at all times it has provided the Distribution System Operator with the most up to date Supplier Information and that such information is at all times accurate in all material respects.