



The Consumer Council

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Leigh Smyth
Utility Regulator
Queens House
14 Queen Street
BELFAST
BT1 6ER

Dear Leigh,

Re: Northern Ireland Electricity plc Transmission and Distribution Fifth Price Control (RP5) Strategy Paper

The Consumer Council is a Non-Departmental Public Body set up in legislation to safeguard the interests of all consumers, and particularly the vulnerable and disadvantaged. The Consumer Council is an independent organisation which operates to promote and protect the consumer interest.

We welcome the opportunity to respond to this consultation on the Northern Ireland Electricity plc Transmission and Distribution Fifth Price Control (RP5) Strategy Paper.

The Consumer Council is aware that this is the first in a series of consultations on the Fifth Price Control, 'Regulatory Period 5' (RP5), and we believe that it is important to shape RP5 correctly from the start, so that it properly takes account of the needs of Northern Ireland consumers.

RP5 should investigate the impact of the Third European Market Directive (IME3) and alternative unbundling options for full ownership unbundling. It is important the Utility Regulator works with DETI and DECC to ensure that Northern Ireland consumers will benefit from the option selected for Northern Ireland. The Renewable Energy Strategy (RES) and the Strategic Energy Framework (SEF) must also be considered. RP5 must take account of the SEF and the impact it will have on future energy policy and on consumers. The target of 40 per cent electricity generation from renewables by 2020 will

be crucial in forming investment priorities during RP5, and the funding of such projects will have a significant impact on consumers.

RP5 must also consider the outcome of the Department of Social Development's (DSD) Fuel Poverty Strategy. Fuel poverty levels in Northern Ireland are unacceptably high and it is important that RP5 considers the impacts it will have on all consumers in Northern Ireland and aims to mitigate any negative impacts which could lead to more households becoming fuel poor.

All components of Price Control should be critically assessed to ensure they provide the best outcome for consumers. Processes which encourage cost reduction should come in the form of efficiency savings and these savings must be passed on to consumers in the form of lower prices.

The un-controllable Opex allowance refers to operating expenditure which the regulated company has been deemed to have no or little impact on. Though wayleave payments may be set, consideration should be given as to whether there is a possibility for NIE to renegotiate these payments with land owners to increase the level of control of this operating expenditure. Rates are non-negotiable, though NIE does control the area and the size of land on which they locate, which ultimately determines the rates paid by NIE, it may be possible to consider to what extent this operating expenditure is un-controllable.

The inclusion of pension costs in the price control and in particular pension deficits should be reviewed. The Utility Regulator should give consideration to the recovery of the pension deficit, and whether it is fair that 70 per cent of the cost is borne by consumers. The pension scheme invests both employer and employee contributions in a mixture of equities and bonds. As a result of the economic downturn the pension account is currently in deficit. The Consumer Council believes that further information on this deficit is needed as once again all the risk is being borne by the consumer and we believe that it is unacceptable that consumers are paying for a deficit caused by underperformance of investments made by NIE. If consumers continue to bear all the risk of these investments there will be no incentive for NIE to act to reduce costs.

Incentive mechanisms should be used to benefit consumers. Incentives to reduce costs should ultimately lead to consumers paying lower prices. It is important to ensure that during RP5 incentives encourage efficiency savings and that any under spend in Capex as a result of these savings is passed on to consumers through lower bills.

The Consumer Council does not believe that all consumers should pay for illegal abstraction of electricity. This is a cost which should ultimately be borne by those involved in the illegal abstraction.

The SEF was published in September 2010, and investment in the network will be required in order to ensure the 40 per cent generation target is met.

The cost of this investment is expected to be substantial and RP5 must ensure that the costs associated with this investment are offset by the benefits to consumers. It is therefore important that efficiency savings are maximised during RP5 to ensure the costs to consumers are minimised.

It is prudent to consider alternatives to incentive regulation, however, the chosen option should represent the best outcome for consumers. Given that Totex is an unproven method more analysis is needed prior to adopting this method. It is important that incentive regulation does not provide gaming opportunities for NIE which could result in excess revenue being realised. Incentive regulation must encourage efficiency savings which will result in benefits for all consumers.

A bottom up approach to the Opex allowance would allow for more accurate scrutinising of how expenses are incurred. However, it is important that the differences between the existing approach and this option are outlined in more detail to allow a more informed decision to be made and to show that it will provide tangible benefits for consumers.

It is not clear what the outcome of IME3 will stipulate, but if the splitting of the two functions of NIE (Transmission and Distribution) is stipulated, it will mean that two separate price controls will need to be completed. The impact on the consumer of such a move must be considered and should only be undertaken if there are specific benefits to the consumer.

Given the uncertainty and volatility of current financial markets and the changes expected in energy policy and legislation, it is sensible to consider reviewing the length of future price controls. Indeed, if practical, a review RP5 during the price control period could ensure NIE is operating within the regulatory framework and providing the necessary benefits to consumers.

Setting WACC over 20-40 years may allow for better terms to be agreed when securing debt, however, it may also restrict the options available as a result of market conditions. Current financial markets are volatile and securing finance may be difficult, if debt is used as a form of finance it is important it is procured competitively to ensure the lowest cost options are chosen. The cost of financing debt must be offset by the benefits to consumers received through efficiency gains. It should also be noted that by setting the WACC over the next 20 – 40 years, it will remain a fixed and uncontrollable cost during future price controls.

It would be useful for the Utility Regulator to provide a time series of historic price controls from the earliest available point, for comparison. It would also be useful for the Utility Regulator to benchmark what they refer to as 'optimal efficiency' and explain how levels of efficiency are measured.

The current project being undertaken by the Utility Regulator in relation to RP5 must be published to give enough time for stakeholders to review and be consulted in it prior to finalising RP5.

Consideration should be given to the use of a reporter in electricity regulation similar to water regulation. More detail should be provided on the role the reporter would play and the benefits they may have in regulation.

The statutory role and duties of the Consumer Council in regards to energy are clearly set out within the Energy (Northern Ireland) Order 2003, and the General Consumer Council (NI) Order 1984. These orders provide the Consumer Council with the statutory functions and powers to review and provide information concerning energy-related consumer matters and investigate such matters. Therefore, we do not agree in the need for bringing in consumer expertise from outside Northern Ireland as part of this price control.

The Consumer Council understand that generation from renewable sources will become more widespread. It is important that access to the grid is available, affordable and equal for all connections including micro-generation. The significant grid development work required to meet renewable targets must provide value for money for consumers who will ultimately pay for this cost through their bills.

Smart Grids and Smart Meters will play an important role in future energy policy. The Consumer Council recognises the benefits of Smart Meters allowing greater control of energy usage. However, the benefit to consumers will only be felt if their home already has the necessary levels of insulation, and has installed energy efficiency devices, such as low energy light bulbs. Therefore any Smart Grid or Smart Meter programme must go hand in hand with an energy efficiency programme which will ensure consumers receive the maximum benefit. Smart Grids and Smart Meters should not come at a cost to consumers. It is the Consumer Council's position that Smart Meters should be installed at no extra cost to consumers, as they will create significant recurring savings for the energy companies that far exceed the cost of installation and operation. Savings will come as a result of ending the need to dispatch meter readers and estimate bills, whilst reducing significantly the call centre requirements and providing better load management through Smart Grid applications.

I hope that these comments are helpful and are given due consideration. Please contact me if you require any clarification.

Yours Sincerely,

Andrew Murray
Senior Consumer Affairs Officer