The Northern Ireland Energy Efficiency Levy

Conclusions

March 2009

1. NI Energy Efficiency Levy Strategic and Operational Review 2008

1.1 On 1st August 2008, the Utility Regulator published a consultation document entitled "NI Energy Efficiency Levy Strategic and Operational Review 2008[1]" (the "August 2008 Consultation"). As part of this review, the Utility Regulator appointed Skyplex Consulting Limited ("Skyplex") to prepare a report identifying and discussing the key issues and presenting proposals for reform. This report was attached as Annex I[2] to the consultation and formed the basis of the Utility Regulator's consultation.

1.2 Twenty six responses to the consultation were received. The organisations who responded are listed in Annex 1 of this document. Full copies of all of the responses are available on our web site at: **http://ofreg.nics.gov.uk/18%20December%202008e.htm**

1.3 This document sets out the decisions, the recommendations put forward in the August 2008 Consultation, and the comments received. It is set out as follows:

2. Context and summary decision table and next steps
3. What the consultation said and key issues raised
4. Utility Regulator's views and how responses informed the decision table.

[1] http://ofreg.nics.gov.uk/pdf%20files/Elect%202008/EELCoverC1%20Aug%2008.pdf

[2] http://ofreg.nics.gov.uk/pdf%20files/Elect%202008/Skyplex%20EELP%20Review%20080801.pdf

2. Context Summary Decisions and Next Steps

2.1 Since its introduction in 1997/8 the Energy Efficiency Levy Programme (here after referred to as the EELP or the Programme) has represented an important element of the Utility Regulator's response to its duty to protect customers, and in particular vulnerable customers, and also to carry out its functions in a manner best calculated to secure a diverse, viable and environmentally sustainable long-term energy supply. As initially conceived, the EELP was introduced to implement energy efficiency schemes for domestic and non domestic customers with the aim of reducing carbon emissions. However in 2002, as a result of a consultative process, it was decided that the majority of funding (80%) would be targeted at helping to alleviate fuel poverty.

2.2 The Utility Regulator conducted a review of the EELP in 2006 and at that time promised a further review in 2009. We began the process of the review in August 2008 in order to allow time for due consideration of all the issues and to allow implementation time following the review.

2.3 This consultation was formed against the backdrop of an increased emphasis on issues such as fuel poverty, energy efficiency and environmental and social sustainability. There is a synergy between efforts to improve energy efficiency and efforts to reduce fuel poverty. This is demonstrated by successive Home Energy Conservation Reports which show how improving energy efficiency can reduce fuel poverty. However it must be stressed that that the EELP is, and will continue to be, one contributor among many to achieving these goals. Fuel poverty can only be eradicated by a combination of economic and social policies. In addition it must be stressed that the EELP has not been formulated to meet Northern Ireland's contribution towards the Energy End Use Efficiency and Energy Services Directive target of energy savings of 1% per year or 9%, for the period between 2008 and 2017.

2.4 Some of the respondents to the consultation felt that further consultation was necessary on the decisions flowing from the August consultation. Another respondent felt that it was important to first set the context and question whether the EELP should exist at all or whether a Carbon Emissions Reductions Target (CERT) style scheme, as operates in the rest of the UK, would be more appropriate. Presuming that the EELP should exist, the method of raising funds and the ring-fencing of funds for particular customer groups was also questioned. The key issues raised by respondents and the Utility Regulator's responses to them are set out in section 4 of this document. In particular, we set out why we think that an EELP style programme is a proportionate response to our duties and appropriate in the Northern Ireland context. We also set out why in Northern Ireland it is appropriate to continue to ring-fence a high proportion of funding for measures which, in addition to saving energy, benefit vulnerable consumers.

2.5 The summary decision table, Table 1 below, takes into consideration the wider strategic comments received as well as all the responses to the specific proposals of the August 2008 consultation.

Table 1: Summary Decisions

Decisions which clarify and respond to the wider questions and comments raised by respondents
The Northern Ireland Energy Efficiency Levy Programme will be renamed the Northern Ireland Sustainable Energy Programme (SEP). The name change will better reflect the contribution which the Programme makes to social and environmental sustainability. It will incorporate the reforms outlined in the remainder of this paper and it will continue for at least 3 years after which time we will review whether the introduction of competition to the scheme has enhanced performance.
For clarity we propose to have arrangements in place for a staged opening up of the scheme. We propose that by the September 2009 call for schemes natural gas licence holders should be permitted to apply directly for funding and by September 2010 organisations other than licensed energy suppliers will be invited to bid for funding. The next review will commence no later than 2011 to be completed by 2012.
Initiatives eligible for funding under the programme will be widened so that funding under the programme will be available not only to energy efficiency measures but also to renewable energy measures. The choice between energy efficiency and renewable energy schemes will depend upon cost effectiveness expressed in terms of £ per tonne of carbon saved. In addition innovative measures will be encouraged (see proposal 13 below).
Decisions in relation to specific proposals in the consultation
Proposal 1: Organisations other than licensed electricity suppliers should be permitted to compete for Funding.
The right to bid for funding for schemes under the programme will be opened up as follows: **September 2009** – The call for applications for funding for the scheme year commencing 1 April 2010 will be issued to licensed electricity suppliers and licensed gas suppliers. **September 2010** – Pre-registered organisations that meet the set eligibility criteria will also be permitted to apply.

April 2010 – The Utility Regulator will begin a pre-registration process whereby organisations, other than licensed energy suppliers, wishing to be included in the call for schemes in September 2010 will be asked to pre-register their interest in bidding for schemes.

Upon pre- registration organisations will be asked a number of questions including questions regarding their skills and experience. Pre-registration will be open to:

- All financially sound organisations capable of demonstrating a successful track record in the delivery of energy efficiency or renewable energy programmes within the commercial or domestic sectors. (Licensed electricity and gas suppliers have already demonstrated financial stability and a suitable track record through the licensing process and therefore will not be required to pre-register.)
- All primary bidders must submit a written statement detailing how they intend to manage the quality of measures. (e.g. minimum qualifications of installers, inspection and survey arrangements etc.)
- Primary bidders for funding will be required to name any scheme partners, which will be working with them on scheme delivery, and state any management arrangements in place. (e.g. in the past NIEE has partnered up with retailers, voluntary organisations etc. In the future we would encourage such partnerships to continue.) Primary bidders will have overall responsibility for any arrangements or agreements in relation to the bid.

The Utility Regulator reserves the right to refuse the right to bid for funds to any organisation which has not successfully demonstrated financial soundness or a successful track record of delivery and/or does not meet any other eligibility criteria which may be required.

Proposal 2: Preventing Measures Providers from bidding directly for funds.

Measures providers will be not be prevented from bidding directly for funding. The competition within the bidding process should eliminate the potential for measures providers to inflate costs.

Proposal 3: Placing additional constraints on bidders
The minimum bid for funding will be £50,000 per scheme.
For first time participants in the programme the maximum total bid per new organisation will be £300,000. This will apply to organisations in their first year as a primary bidder to the scheme. Once an organisation has demonstrated successful delivery in the first year, the maximum bid will be removed. The proposed measure of success for a new organisation is that it achieves an incentive payment.
All primary bidders must submit at least one annual report for their organisation. They must demonstrate that they are financially sound and that they have a successful track record in the delivery of energy efficiency or renewable energy programmes within the commercial or domestic sectors. They must also submit a statement of how they intend to manage the quality standards of the installation of measures (where installers are to be used, this will include a statement of the minimum qualification of installers, proposed inspection and survey arrangements etc.).
Proposal 4: Retention of incentives, transparency and controls on management costs. **Proposal 5: Reduction of the incentive rate to £1000/GWh** **Proposal 6: More realistic targets**
The incentives available for exceeding targets set under the programme will be reduced to £1000 per GWh of target exceeded from £5120 per GWh
New targets will be set based on the forecast of the average marginal cost-effectiveness of schemes submitted in a particular group and the cost-effectiveness of the individual scheme. The new arrangements will have the effect of providing an expected incentive payment of 6% of the total energy savings of the scheme remunerated at £1000/GWh***.*** This arrangement means that the precise target savings for any particular scheme will not be capable of being determined until after the scheme submissions have been assessed. A more detailed explanation of how it is proposed that the targets will be calculated is included under the discussion of Proposal 6 in Table 4: "The Utility Regulator's Response to Comments Received on Specific Proposals".
Participants are currently required to commit to "recycle" any incentive above the threshold of 8% of total project funds into fuel poverty and/or energy efficiency schemes which are additional to work already planned. This feature of the existing programme will be retained although, given the

changes noted above, it is less likely that the 8% threshold will be reached.
Proposal 7: Greater clarity in the Framework Document where rules have not thus far been needed.
The framework document will be revised to reflect the new branding of the programme and the decisions arising from this review. Where necessary, incremental changes will be made to the framework document by September 2009. The fully revised framework document will be in place by September 2010 so that potential bidders will have greater clarity.
Proposal 8: No specific penalty for under-performance
It is not intended at this stage to introduce specific penalties for under performance. However, the Utility Regulator will retain the right to refuse to allow organisations who have underperformed in previous years to bid for funds. Underperformance of specific schemes will also be taken into consideration when considering each year's bids.
Proposal 9: Size of levy
The amount of funding available for schemes will increase by £1m to £7.34m for the year 2010-2011. It will then continue to increase by inflation until the time of the next review. An additional increase in funding available will be considered and consulted upon after at least Year 1 of the new scheme or following the outcome of the current debate on social tariffs.
Proposal 10: Focus on Fuel Poverty
The amount of programme funding ring-fenced for vulnerable customers will be retained at 80%. This is due to the current high level of fuel poverty in Northern Ireland. The level of this ring-fence for vulnerable customers will be reassessed during the next review at which time the Utility Regulator will take into consideration any government decisions relating to the implementation of social tariffs and also the level of fuel poverty.
The Utility Regulator does not consider that it is appropriate for non proven technologies to be installed in the homes of vulnerable customers.
The high level definition of a vulnerable customer will be assumed to be: 'a customer who for reasons of age, health, disability, ethnic background or severe financial insecurity is unable to safeguard their personal welfare or the personal welfare of other members of their household'. Within this high level definition, scheme providers will be expected to specify scheme specific criteria e.g. low income limits. The scheme specific vulnerability criteria to be used must be included within the scheme submission at the bidding stage and will be subject to approval from the Utility Regulator.
Proposal 11: Reduced emphasis on whole house solutions (WHS)
The amount of funding ring-fenced for "whole house solutions" will be

reduced by 50%. However, it should be noted that whole house type schemes can still receive funding above the level of the ring-fence, subject to the fact that they will be competing with other schemes which offer partial solutions to a greater number of properties. At the time of the next review the Utility Regulator will assess the impact of reducing the focus on "whole house solutions" and decide if the focus should continue or not.
Proposal 12: Assisted purchase of heating oil
It is not intended to permit funding for subsidised purchase of fuel such as home heating oil.
Proposal 13: Discontinuation of segregation between non-priority domestic and commercial sectors.
Of the remaining 20% of funding available. The split between the commercial and non commercial sectors will be removed. However, half of the remaining funding (that is 10% of total funding) will be ring-fenced for innovative schemes and new, but proven, technologies in the non-vulnerable sector.
Proposal 14: Cap on indirect costs
The cap on indirect costs will be as proposed in the consultation document. That is Indirect Cost = (250*measure cost)/(£1000+measure cost).
Proposal 15: Further justification of additionality.
The additionality criteria in the current framework document will remain. These are firstly that all scheme applications must contain a statement as to why the scheme would not proceed without levy funding and secondly. that (except in exceptional circumstances)funding from the EELP (now the SEP) must account for at least 20% of total scheme funding.
Proposal 16: Levy on Gas
The Utility Regulator does not intend to introduce a levy on gas customers for reasons set out in this paper.
Proposal 17: Obligations on Suppliers
The Utility Regulator does not intend to introduce a CERT style obligation on electricity and gas suppliers for reasons set out in this paper. Nor at this stage does the Utility Regulator propose to introduce an obligation on electricity and gas suppliers to bring forward a set number of schemes.
Proposal 18: Transparency of funding
Programme participants will be obliged to inform beneficiaries of schemes, of the origin of funding. We will be developing guidelines on how this can be facilitated. However it should be noted that scheme documentation, publications and publicity will be required to state the origin of funding as the SEP. However for reasons set out further in this paper there are no plans to

publish the cost of the programme on individual electricity bills.

2.6 The Utility Regulator proposes to undertake a number of steps to implement the decisions outlined above. The detailed steps are listed in Annex 2 of this document. They include re-branding the scheme, rewriting the framework document and modifying (and consulting upon) a licence condition to allow the changes.

3. What the Consultation Said and Key Issues Raised

3.1 The August 2008 Consultation Document set out the history and background of the current operation of the EELP and similar schemes in operation in GB and Ireland. It went on to discuss a number of issues associated with the current EELP and recommended that the EELP should continue past the current three year period approved by the Authority, ending 2009/10, but should be subject to a number of reforms, the most notable of which was the opening up of the scheme to allow bids for funds from organisations other than licensed electricity suppliers.

3.2 In addition to the comments received in response to the specific proposals in the consultation document, which are set out below, a number of more general comments were received. These included that:

- it was questionable whether the EELP should exist at all;
- the business sector should not cross-subsidise the domestic sector and funding shortfalls should come from Government;
- objectives should be closely aligned to those proposed by NIAO for the Warm Homes Scheme;
- many vulnerable customers may pay disproportionately towards the Levy;
- the consultation on the Levy in isolation is too narrow and that a wider review taking into account energy efficiency targets currently under discussion in Europe is required;
- standardised calculations for measures should be set in advance and that new calculation methods should be published immediately to aid transparency;
- the existing maximum limit of £150k for funding by a new bidder in the first year is too small for industrial schemes;
- there is a need to guarantee EELP retention to help provide security within the Industry;
- consideration should be given to funding “innovative action” type schemes as under CERT;
- funding for the Warm Homes Scheme should continue;
- prohibition on educational schemes should not preclude those with a part-educational element;

- obstacles to adopting schemes such as those in GB and ROI should be re-assessed if such schemes can be shown to be more effective;
- a three-year approach to bidding should be considered;
- savings credited to old oil-fired boiler replacement does not reflect the reality in NI;
- the timeframe for operation of the Levy should be changed so that schemes open in September when consumers begin to turn their attention to energy matters;
- a further consultation on draft decisions should be undertaken to allow further debate;
- oil to gas conversions are currently excluded, and it is questionable whether this appropriate in a market dominated by old oil-fired systems.

3.3 Comments on the specific proposals set out in the consultation document are set out in Table 2 below.

Table 2: Comments on Specific Proposals

Proposal 1: Organisations other than licensed electricity suppliers should be permitted to compete for funding.
A majority of respondents supported the proposal to permit other organisations to compete for Programme funding. Five respondents, all of whom were electricity or gas suppliers or their parent companies, did not agree with the proposal. One other respondent stated that whilst it believed that this proposal could make the Programme more competitive, it thought that the Programme was best administered by one organisation alone, as having several would increase administration costs and might create confusion. A few of those respondents who were supportive of the proposal did so with caveats or reservations, including: - new entrant bidders should be offered guidance in participation, including for example on-site support for first time bidders and feedback on unsuccessful schemes; - there is the potential for customer confusion; - if competition did not emerge and the programme performance drops, the Utility Regulator should consider alternative arrangements.

Arguments made by those who did not favour opening up the scheme to permit non-suppliers to bid included:

- the key role of supply companies should be respected;
- Suppliers have a considerable advantage in terms of influencing customer behaviour and delivering energy efficiency measures due to their strong brands, direct linkage between savings and bills and their ongoing, regular, multi-dimensional customer contacts;
- increased competition would lead to only the most cost-effective measures being installed to the detriment of other measures which, although less cost-effective, should still be supported as they help alleviate fuel poverty or assist market transformation;
- there was the potential for this to lead to customer confusion;
- economies of scale would be lost;
- there would be increased administration costs;
- there were questions over whether NIAUR would take responsibility for schemes run by organisations other than licensed energy suppliers;
- NIAUR would not have the same level of control over non-licensed organisations as it does over supply licensees, making future changes much more difficult;
- there may be less financial transparency and accountability;
- there were additional difficulties with the concept of additionality - the Programme would in effect cross subsidise those organisations that are potentially already engaged in, or actively marketing to customers, a particular energy efficiency measure.

Proposal 2: Preventing measures providers from bidding directly for funds

There was a mixed view from respondents over this issue with several expressing the view that measures providers should be permitted to bid directly for funding whilst several others agreed that, for reasons of retaining management cost transparency, they should not be permitted to bid directly.

One respondent stated that, with the current arrangements, schemes with inflated cost measures could already be approved and funded.

Proposal 3: Placing additional constraints of bidders
A number of respondents expressed views on the proposal to place additional constraints on bidders. Several believed that the proposed minimum limit on scheme size of £10k was too small, with alternative limits of £15k, £75, £100k; and £250k being proposed by various respondents. One respondent believed that the tender process itself should be used to choose the most efficient schemes. Other respondents expressed views on the need to ensure that work is undertaken by a reputable contractor, one of whom believed that it would be difficult to develop and/or apply viable criteria to test this. Another suggested the use of performance bonds and the requirement for bidders to submit evidence of the competence or training of their measures providers.
Proposal 4: Retention of incentives, transparency and controls on management costs
The majority of respondents expressing a view on these matters supported this proposal which included: the retention of some form of incentive payment; the requirement to provide transparency on the cost of measures and constraints kept on the level of management costs. A number of supplementary comments were made. These included suggestions that: a degree of benchmarking should be introduced to determine rate of return and value for money; surveying and inspection costs should be included as "measures costs" rather than as management costs; and that some of the existing constraints could be relaxed over time as competition develops. One respondent stated that if the process was open and transparent it did not see any need for transparency of costs and of the level of expenses incurred by bidders.
Proposal 5: Reduction of the incentive rate to £1000/GWh
Most respondents supported a reduction in the incentive rate although whilst several expressed support for the proposed revised level of £1000/GWh, some suggested that the level of reduction was high and that perhaps some form of phased approach would be appropriate. A number of respondents agreed that the incentive rate should be kept under review in light of developing competition, one suggesting that incentives may

ultimately become redundant.

One respondent suggested that additional rationale should be provided for the proposed £1000/GWh level whereas another could see no rationale for the proposed reduction. A third respondent stated that it would be disappointing if the scheme were to be undermined by a significant change, especially without taking account of the difficulty in finding additional customers and that they were not persuaded that monies could be put to better use. This respondent also believed that the current scheme is pound for pound far better value and more cost effective than other similar energy efficiency schemes, and recommended that the incentive rate remains at £5120/GWh. They did, however, support a firm commitment by participants to reinvest incentive payments in excess of 8% of the total project cost, back into energy efficiency initiatives.

Proposal 6: More realistic targets

The majority of respondents supported the proposal to introduce more realistic targets and several supported the specific suggestions put forward in the August 2008 Consultation Document. A number of other comments were made on this subject including:

- NIAUR may wish to consider a range of targets encompassing CO_2 savings through to increases in SAP ratings or numbers of households removed from fuel poverty;
- It would seem perverse if organisations were penalised for efforts to secure 3rd party funding.

Two parties also noted it is becoming increasingly more difficult to find customers and to develop energy efficiency measures for them.

Proposal 7: Greater clarity in the Framework Document where rules have not thus far been needed

The majority of respondents agreed with this proposal. Whilst a number of respondents stated that they believed that the existing Framework Document was generally clear, many agreed with the proposal that there should be greater clarity where rules have not been needed thus far.

Proposal 8: No specific penalty for under-performance

The majority of respondents agreed that it would not be appropriate at this stage to introduce penalties for underperformance. Other respondents pointed out that more rigorous arrangements for the monitoring of schemes had been introduced recently and that this would improve the early

identification of problems. Some stated that this should be kept under review and that penalties should be considered if underperformance becomes an issue on either a general or an individual bidder basis. One respondent stated that in the event that the Programme were opened up to unlicensed organisations, it may be prudent to put in place arrangements for underperformance. This respondent felt that how this underperformance might then be managed for un-licensed organisations was an important issue and that, for this reason, it would be wise to ensure that bidders are licensed suppliers.
Proposal 9: Size of the Levy
Respondents expressed a significant divergence of views on the proposal to keep the current level of funding with indexation, pending analysis of the 2006 House Condition Survey and pending analysis of the success of opening up of the Programme to bids from organisations other than licensed suppliers (if appropriate). Several respondents expressed the view that it was important that the level of funding be increased in order to tackle the issue of fuel poverty and/or to deliver energy/CO2 emissions savings of comparable levels to those under the CERT scheme in GB. Some respondents suggested that it was appropriate to increase the level of funding, but that the fuel poor should not pay for the increases or that it was not appropriate to introduce increases until fuel prices were reduced. Others suggested that it might be appropriate to increase the size of the Levy on commercial customers so long as the proportion of the funding spent on commercial schemes was increased. Other respondents agreed with the proposal to keep the Levy at current levels for the time being some expressing strong views that the Levy should not be increased, particularly at a time of high and rising energy prices.
Proposal 10: Focus on fuel poverty
A spectrum of views was expressed in relation to this issue. Some respondents believed that the focus on fuel poverty should either be increased or remain at current levels, whereas others believed that the focus should move towards delivering energy efficiency and CO_2 emissions savings in other sectors (i.e. non-priority domestic and commercial) and that consequently the proportion of funding directed at priority groups should be decreased. Other respondents suggested that many working fuel poor were currently excluded from the priority group and that changes should be made to include them.

Proposal 11:	Reduced emphasis on 'Whole House Solutions' (WHS)

Respondents' views were divided upon whether explicit support for WHS should continue. Several respondents agreed with the proposal in the August 2008 Consultation Document that discontinuing the ring-fencing of funds for WHS would lead to greater overall CO_2 emissions savings and that the overall benefits to society as a whole would be greater. One respondent also commented that the emphasis on WHS was at the expense of a greater number of fuel poor households that consequentially receive no assistance at all. Some indicated that it was becoming increasingly difficult to find houses that required WHS and that, in some cases, customers did not always want their heating system changed. Others respondents believed that it was important to continue to focus on WHS. Three main arguments appear to have been put forward in favour of retaining a degree of emphasis on WHS. These are:

- Installing heating measures in poorly insulated homes (or vice versa) would not be value for money;
- WHS are the most effective way of delivering efficiencies. Without WHS, for example, houses would need to be visited several times, which would be inefficient.
- If a house requiring measures is identified, then all relevant measures should be taken.

Proposal 12:	Assisted purchase of heating oil

With a few exceptions, the majority of respondents were strongly opposed to allowing funding to be used to assist in the purchase of heating oil. The reasons given for opposition included:

- This would amount to a fuel subsidy and would thus be outside the scope of the Programme;
- It would be inappropriate to use funds intended for energy efficiency as a fuel subsidy and one that does not result in carbon savings;
- For consistency it would be necessary to extend this to all forms of heating (which would essentially become a social tariff);
- It would be difficult and expensive to administer and not as sustainable as tackling energy efficiency;

- This would represent a mis-use of the funds and would be difficult to justify to consumers.

Of those relatively few respondents who did support the proposal, one suggested that a levy funded fuel stamp scheme would help to alleviate the issue. Two other respondents who supported the proposal in principle suggested that such a scheme would be difficult to sustain and may reduce incentives for energy efficiency.

Proposal 13: Discontinuation of segregation between non-priority domestic and commercial sectors

Most respondents supported the discontinuation of the segregation between schemes for non-priority domestic and commercial sectors principally on the grounds that this would be likely to result in greater CO2 emissions savings.

Several did not agree however, principally on the grounds of equity. There was a strong supposition that, if the segregation were discontinued, most of the 20% of ring-fenced funds would be spent in the commercial sector, rather than in the non-priority domestic sector, and that this would then represent an "unfair" deal for non-priority domestic consumers. One respondent believed that if emissions targets were to be achieved, all sectors would have to contribute and therefore some funds should be allocated to each sector.

One respondent questioned the additionality of commercial schemes.

Proposal 14: Further justification of additionality

Most respondents agreed with this proposal, although some suggested that it would be important to ensure that it did not lead to substantial additional bureaucracy. One respondent suggested that the percentage of funding was not sufficient to justify additionality and that it would also be difficult to objectively determine additionality even with additional justification.

Proposal 15: Cap on indirect costs

Most respondents supported a change in the treatment of indirect costs, with several supporting the introduction of the DEFRA model put forward in the August 2008 Consultation Paper.

One respondent believed that technical surveys and inspections should be classed as operational and not administrative costs. Another believed that provision for workers to be employed to identify suitable households should be included. A third respondent stated that commercial sector measures require tailored/engineered solutions that need careful management and they quoted examples as to how administrative costs can rise to as much as 10%.

They recommended applying a two-tier administrative charging structure that would better reflect the high mass and high density domestic sector versus the individual and specialised nature of the commercial sector. Another respondent suggested that with a transparent and competitive process, the level of indirect costs should not be capped.	
Proposal 16:	**Levy on gas**
Most respondents agreed that it would be inappropriate to introduce a levy on gas unless one was also introduced on coal and oil. A few respondents suggested that a levy should in fact be imposed on both gas and oil (and LPG etc.). One respondent stated that a levy on gas should not be dependent upon the introduction of a levy for oil.	
Proposal 17:	**Obligations on Suppliers**
Most respondents agreed that it was not appropriate to place obligations on suppliers to submit a certain quantity of schemes. One respondent suggested that it would be difficult to see how such an obligation would operate in parallel with open bidding and another suggested that this would result in increased costs for suppliers and therefore for the Programme itself.	
Proposal 18:	**Transparency of funding**
The majority of respondents believed that it was appropriate to require scheme beneficiaries to be informed of the origin of the funding for measures. One respondent believed that greater transparency was required in the composition of electricity bills and that consumers should be made aware of how much they pay into the EELP each year and how the monies are used. One respondent believed that any obligation to inform customers should apply to all bidders, not just dominant suppliers. They also believed that the wording should be approved by the Utility Regulator. Another respondent suggested that existing nomenclature could suggest to customers that funding originated from NIE Energy profits rather than from a general customer levy. Another suggested that all bidders' schemes should be required to use the same branding in addition to the branding of the bidder so as to make the source of funding clear. It was also suggested that supplier branding of schemes should be recognised as a positive contribution to supplier competition.	

4. Utility Regulator's Response to the Issues Raised in the Consultation

A. General Concerns and Comments Received

4.1 Responses to the consultation show a variation in support for increasing the level of support for the Programme with some respondents advocating an increase in the level of customer support to at least the level of the CERT programme in GB, while others felt that the level of support should not be increased due to the impact on consumers. There was also a question as to whether the Programme should exist at all. The Utility Regulator considers that an EELP or SEP style programme is an appropriate and proportionate response to its statutory duties in relation to sustainable energy supplies, promotion of energy efficiency and protection of consumers. The Utility Regulator believes that too a small response to these duties would be unacceptable. Conversely if the Utility Regulator increased the level of support for the Programme by a large amount at this time there could be potential impacts in relation to customer support for the Programme or the ability of Programme participations to bring forward good quality schemes. Therefore the decisions set out in this paper are designed to be balanced and proportionate.

4.2 The Utility Regulator does not have the statutory vires to introduce a CERT style obligation. In addition, given the current industry structure in Northern Ireland, an EELP or SEP style programme is perhaps more appropriate. This is because competition in the supply of electricity in Northern Ireland is relatively undeveloped. The CERT obligation relies on the fact that, as the obligation is on all suppliers who are in competition with each other, competition will ensure that suppliers pass on only efficiently incurred CERT related costs to consumers. The EELP has relied on a combination of regulatory oversight, the operation of the incentive mechanism and competition for funding to ensure efficiency. The new SEP will increase the effect of competition for funding to ensure efficiency.

4.3 In terms of value for money, the overall carbon emissions reduction target to be achieved collectively by all suppliers over the three years of the CERT arrangement (2008-11) is 154 million tonne of CO_2. The cost of CERT to suppliers has been estimated[3] to be £2.8 billion over the three years of the programme. This represents an average estimated cost of £67/tonne of carbon

[3] "Carbon Emissions Reduction Terget (CERT) update," Energy Saving Trust, http://www.energysavingtrust.org.uk/housingbuildings/localauthorities/newsitems/certupdate/

savings. This may be compared with the EELP in 2007/08 under which 122,368 tonnes of carbon were saved. The total cost of the EELP to electricity consumers in 2007/08 would have been £6.58m if DETI had not been able to fund the domestic schemes operating under the programme. This equates to an EELP cost of £54/tonne of carbon saved. (Although it should be noted here that when leveraged/partner funding is taken into account these figures will change.)

4.4 It should also be borne in mind that the EELP has a much higher proportion of funds (40% for CERT, 80% for the EELP) ring-fenced to aid vulnerable customers. Therefore the Utility Regulator has concluded that a voluntary incentivised programme such as the EELP or SEP has the potential to offer value for money compared to CERT style obligations.

Table 3: Comparison of EEL and CERT

EELP for year 07/08	**CERT for year 2008-2011**
Total fund for measures plus total incentives £6,578,923	**Estimated cost to energy suppliers: £2.8bn**
Average cost: **EEL funding alone - £54/tonne of carbon saved**	**Average cost:** **Energy supplier funding alone - £67/tonne of carbon saved**
Proportion ring-fenced for vulnerable customers: 80%	**Proportion ring-fenced for vulnerable customers: 40%**

Source EST

4.5 The Utility Regulator considers that a cautious approach to the size of the Levy is appropriate. We acknowledge that the level of customer support for the Programme (an average of £7 per customer which equates to less than £3 for the average domestic consumer, and which was reduced still further in the years when government funding was available) is considerably lower than the level of customer support for the CERT programme (estimated to be at approximately £36 per household consuming both electricity and gas). However, a relatively modest first year increase of £1m in the total fund when taken in conjunction with the other reforms is appropriate. This amount will be reviewed after the new scheme has been in operation for one year.

4.6 The Utility Regulator does not agree that it is necessary to ensure that business sector funding should necessarily be targeted at business sector measures and domestic sector funding at domestic sector measures. The effect of the EELP is that some consumers pay for energy efficiency measures for other consumers – no additional “fairness” arises if the beneficiary of funds happens to be in the same market segment as those paying for the measures. In addition, DETI has funded the contributions earmarked for the priority and non-priority domestic sectors in 2004/5, 2005/6 and 2007/8.

4.7 The Utility Regulator agrees that it will be appropriate to review the Framework Document in light of the proposals put forward by the NIAO in its review of the Warm Homes Scheme in order to help ensure that the EELP benefits from the lessons learned.

4.8 The Utility Regulator accepts that there may be instances where vulnerable customers who use electric heating pay disproportionately toward the EELP. Whilst this is not desirable, unless external funding for the Programme is forthcoming, the Programme is discontinued or domestic consumers no longer pay for Programme funding, such instances are likely to continue to exist. On balance it is appropriate to continue to raise funds as a per kWh charge on all consumers. It should be noted that vulnerable customers with electric heating are likely to be eligible for assistance under the Programme to switch away from electric heating.

4.9 The Utility Regulator accepts that the Programme is just one element of the overall approach to tackling fuel poverty and energy efficiency in Northern Ireland and continues to work with partners to examine all elements of fuel poverty. In addition, the Utility Regulator notes that the Programme makes a contribution to meeting Northern Ireland’s contribution to the Energy Efficiency targets set out in the UK Energy Efficiency Action Plan (UKEEAP), but is not the sole instrument used. Under the Energy End Use Efficiency and Energy Services Directive, the Department of Enterprise Trade and Investment (DETI) is currently working with net bound and non net bound energy suppliers to finalise voluntary agreements by the end of March 2009. These voluntary agreements provide for a range of measures that, when taken together, will realise savings within the range of the cost effective potential for the target sector. The aims of the agreements are to promote and monitor energy services and energy efficient improvement measures in the target sector, to contribute to the reduction of primary energy consumption targets set out in the UK EEAP and not to impede the demand for energy services and energy efficiency improvement measures in the target sector. Much of what needs to be done is outside the direct aegis of the Utility Regulator and we consider that it remains appropriate to consider the narrower question of how the EELP or SEP can be made to operate most effectively.

4.10 The Utility Regulator agrees that where new calculation methods are accepted, these should be published as soon as is practicable in order to aid transparency.

4.11 The Utility Regulator agrees that the existing limit of £150k for funding by a new bidder in the first year could restrict the potential for the development of competition for funding. However it is important to ensure that funding is allocated to organisations with a proven track record of delivery. Therefore the Utility Regulator has decided, firstly, that the £150k limit can be increased to £300k and, secondly, that the pre-registration criteria will include the requirement for organisations to demonstrate a successful track record in the delivery of energy efficiency or renewable energy programmes within the commercial or domestic sectors.

4.12 The Utility Regulator considers that, in order to review progress and take into account any economic, legislative or other developments, it is best practice to conduct regular reviews. Therefore it has been decided that the SEP will be subject to a review after 3 years.

4.13 The Utility Regulator notes that under the current arrangements it is already possible to bid for more than one year's funding at a time.

4.14 The Utility Regulator accepts that there may be a case for ring-fencing some funding for "innovative schemes". Therefore half of the funding (that is 10% of total funding) available to the non-priority sector will be ring-fenced for innovative schemes and new, but proven, technologies.

4.15 The Utility Regulator continues to be of the view that it is appropriate to discontinue specific support for the Warm Homes Scheme. The appropriate level of support for the Warm Homes Scheme is a matter for the Department for Social Development (DSD). Although the Utility Regulator works within the overall policy framework set by government, individual Utility Regulator programmes should be viewed as independent from and additional to government initiatives. In addition the Utility Regulator is not minded to align the objectives of the Programme with the Warm Homes Scheme. This is because the Warm Homes Scheme is primarily aimed at helping the vulnerable, the EELP (now SEP) is primarily an energy saving programme, with a ring fenced amount for energy saving initiatives aimed at helping the vulnerable. Due to the synergies between our objectives in relation to energy efficiency and helping vulnerable customers it is appropriate, at this time, to retain the vulnerable customer "ring fence", but it is not appropriate to change the entire objective of the scheme. Further the Utility Regulator considers that there is merit in allowing the EELP (now SEP) to help those vulnerable customers who fall just outside the criteria which would allow them to gain help from government.

4.16 Insofar as part-educational schemes are concerned, these have been rejected in the past because of a desire to ensure that schemes being adopted result in demonstrable energy efficiency measures being provided and measurable customer benefits being shown. The Utility Regulator notes that there are a number of organisations in Northern Ireland involved in the communication, education and promotion of energy efficiency. This includes the Electricity and Gas licence holders who have separate licence conditions regarding the promotion of energy efficiency. Suppliers' work in relation to these licence conditions is currently additional to the EELP. In addition, the Utility Regulator notes that DETI has recently completed a Sustainable Energy Communications Audit, which showed that the communications landscape in Northern Ireland is saturated, resulting in confusing messages for the consumer. Measurement of the effectiveness of current messages is inadequate and hence a key recommendation arising from this audit is the creation of an overarching NI approach to sustainable energy communications that embraces all stakeholders. The recently convened Inter Departmental group on Sustainable Energy, chaired by the Minister for Enterprise, Trade and Investment, has set up a sub-group on communications chaired by the Government's Executive Information Service to look at this area in more detail. Given the already overcrowded communications landscape and the ongoing work by DETI and the Executive Information Service in this area, it would be inappropriate to direct funding, currently ring-fenced for measures, towards further communication and education.

4.17 Apart from legislative constraints, the principal obstacle to adopting a GB-type scheme is that there is a lack of competition in electricity supply in Northern Ireland. The decision to permit other parties to compete to deliver SEP schemes is intended to mirror the more competitive arrangements in GB, absent of competition in electricity supply. The Utility Regulator also undertakes to keep under review the idea of imposing explicit supplier obligations in terms of energy savings and/or a requirement to submit a certain number of schemes.

4.18 A number of respondents suggested moving the timeframe of the Programme so that schemes open in September and also that the duration of schemes should be extended. While there may be merits in both of these suggestions it is most important, initially, to put in place arrangements for opening up the scheme to a wider range of bidders. In addition it is noted that, firstly, there is nothing in the current arrangements to prevent bidders from applying for more than one years funding and, secondly, under the current arrangements bidders can profile their spend over the year as appropriate. That said, it is proposed to continue to monitor the situation and return to this question once the new SEP has had more experience of operation.

4.19 The energy savings associated with old oil-fired boiler replacements, is monitored by EST, where bidders can provide evidence of energy savings this will be considered.

4.20 Finally, as part of the next steps, it is agreed that it will be necessary to consult further on such issues as the necessary licence modification.

B. Comments Received on Specific Proposals

4.21 The Utility Regulator's responses to comments received on the specific proposals within the consultation paper are set out in Table 4 below.

Table 4: Responses to Comments on Specific Proposals

Proposal 1: Organisations other than licensed electricity suppliers should be permitted to compete for funding.
The Utility Regulator welcomes the substantial support for this proposal and agrees that a number of concerns raised by those supporting the proposal need to be addressed. Therefore we have decided to open up the Programme to competition and we will continue to review and monitor pre-registration and administrative requirements. In response to the issues raised by those who did not favour opening up the Programme to competition, the Utility Regulator continues to be of the view that energy suppliers have a key role in promoting energy efficiency. The proposed changes are not intended to remove this key role, but rather to allow greater competition in the delivery of energy efficiency measures. Under the new arrangements energy suppliers should continue to bring forward high quality schemes, all be it that they will now be competing with others who are permitted to do the same. The Utility Regulator does not accept that opening the Programme to competition will result in a loss of economies of scale. There are already a plethora of schemes under the existing EELP umbrella. The Utility Regulator's decision to introduce a minimum bid of £50,000 should improve economies of scale and reduce the administration costs associated with very small schemes. Some respondents suggested that the opening up of the scheme to competition will lead to only the most cost-effective measures being installed. Subject to the ring-fencing arrangements in the framework document, the Utility Regulator considers this to be a positive step.
Proposal 2: Preventing measures providers from bidding directly for funds
The Utility Regulator's principle concern is that, if the Programme is opened up to competition, competition may be slow in developing. Consequently competition alone may not be enough to ensure that schemes are bid at

minimum cost. However, we have taken the decision to allow measures providers to bid because in the initial stages of competition, measures providers should at least be subject to competition from energy suppliers who should continue to bring forward schemes.
Proposal 3: Placing additional constraints of bidders
The Utility Regulator agrees that it is important that the work is carried out by reputable contractors which is why all potential bidders must pre-register and must; • produce at least one annual report, • demonstrate that they are financially sound and that they have a successful track record in the delivery of energy efficiency or renewable energy programmes, • submit a statement of the minimum qualification of installers, proposed inspection and survey arrangements etc. Further detail in relation to the necessary pre-registration criteria is currently being considered.
A minimum bid for funding of £50,000 has been introduced to; • maximise economies of scale; • prevent customer confusion, which can result from a large number of very small schemes; • reduce administration costs.
A maximum first time bid of £300,000 will allow the Utility Regulator to gauge the performance of organisations before awarding them larger proportions of the funding available.
Proposal 4: Retention of incentives, transparency and controls on management costs **Proposal 5: Reduction of the incentive rate to £1000/GWh** **Proposal 6: More realistic targets**
The effect of proposals 4-6 should be taken together in that they are aimed at ensuring that organisations are incentivised to bring forward good quality schemes. Setting management costs and incentives at too low a rate (or targets which are unattainable) and the risk is that no schemes come forward. On the other hand setting incentives too high or setting targets

which are unrealistically low risks delivering poor value for money. The Utility Regulator agrees with the majority of respondents that some form of incentive payment, the requirement to provide transparency on the cost of measures and constraints on the level of management costs should all be retained. Again, whether or not reporting requirements on bidders can be relaxed in future should be kept under review in light of the degree of developing competition.
The proposal for setting targets for schemes is as follows: • First accepted schemes will be grouped according to scheme type (e.g. insulation measures, boiler replacement etc.) • The target/measure for any particular scheme in a group will be set at the minimum of: a) the cost/measure of the scheme multiplied by 1.06; and b) the average of the cost/measure for that scheme and the cost/measure of the most expensive scheme in the group (disregarding any outlying expensive schemes) • For outlying expensive schemes, the target will be set at the cost/measure multiplied by 1.06. This arrangement will have the effect of providing an expected incentive payment of 6% of the expected energy savings of the scheme. Given that the proposed incentive payment rate will be £1000/GWh, the expected incentive will be in the region of 6% of the total energy savings of the scheme, remunerated at £1000/GWh. This approach also has the benefit of setting incentive payments based on the relative savings of schemes of a particular type, rather than on an assumed mix of measures which can change. The framework document will set out the arrangements for scrutinising forecast energy savings.
It is considered that, in order to assess whether or not competition is working, some form of benchmarking is necessary and that this should primarily come from experience of past EELP schemes, although if necessary in future, it might be appropriate to seek additional benchmarking information from other jurisdictions (e.g. GB).
Insofar as surveying and inspection costs should being included as “measures costs” is concerned given the revised formula for determining permissible indirect costs, it is proposed that for the time being such costs

should continue to be included as indirect costs rather than measures costs.	
Proposal 7:	**Greater clarity in the Framework Document where rules have not thus far been needed**
The Utility Regulator agrees that the Framework Document should be updated as proposed, in particular, to reflect matters that have rarely been required in the past, e.g. arrangements for dealing with underperformance.	
Proposal 8:	**No specific penalty for under-performance**
In light of the responses, the Utility Regulator continues to be of the view that, initially at least, no specific penalties for underperformance should be introduced. However, as noted in response to Proposal 7, the Utility Regulator intends to update the Framework Document to explicitly set out the arrangements that apply to programme management and monitoring. The Utility Regulator does not accept that there is a need to introduce penalties for underperformance just because parties other than suppliers are permitted to bid for scheme funding.	
Proposal 9:	**Size of levy**
While there may be a case for increasing the size of the levy, we note that it is just one of the instruments available to help towards Northern Ireland's fuel poverty, energy efficiency and carbon targets. In particular we note that DETI is currently working with net bound and non net bound energy suppliers to finalise voluntary agreements by the end of March 2009. These voluntary agreements provide for a range of measures that, when taken together, will realise savings within the range of the cost effective potential for the target sector. The aims of the agreements are to promote and monitor energy services and energy efficiency improvement measures in the target sector, to contribute to the reduction of primary energy consumption targets set out in the UK EEAP and not to impede the demand for energy services and energy efficiency improvement measures in the target sector. These voluntary agreements are aimed at helping Northern Ireland meet its commitment under the Energy End Use Efficiency and Energy Services Directive. In addition the benefits of the EELP must be balanced against the potential impact on electricity charges. The Utility Regulator has no ability to introduce a levy on any energy other than gas and electricity and, without the introduction of a levy on oil, remains of the view that it would be inappropriate to introduce a levy on gas. Insofar as fuel poverty is concerned, the Utility Regulator is continuing to work	

with wider partners in this area. For example we are separately considering the potential for social tariffs in order to provide further contributions to the fuel poverty debate.

The Utility Regulator proposes to revisit the issue of the size of the levy after at least one year of operation or following the outcome of the current debate on social tariffs.

Proposal 10: Focus on fuel poverty

The Utility Regulator considers that there is a synergy between our duties in relation to energy efficiency and the vulnerable, this synergy is expressed in the ring-fencing of 80% of Programme funds for the vulnerable. While we agree that the primary purpose of the Programme is energy efficiency and that, in general it is easier to achieve more cost effectiveness in the non-vulnerable sector, we continue to be of the view that due to the level of fuel poverty in Northern Ireland the proportion of funds ring-fenced for vulnerable customers should remain at the level of 80%. However this figure can be kept under review and will depend on a number of factors including;

- the ongoing level of fuel poverty in Northern Ireland;
- the outcome of the current debate on social tariffs.

In addition the Utility Regulator intends to keep under review those groups which can be defined as vulnerable, keeping in mind our statutory duty to have due regard for those on low income, of pensionable age, living in rural areas, or who are disabled or chronically sick.

Proposal 11: Reduced emphasis on whole house solutions (WHS)

While the Utility Regulator remains of the view that it is likely that a greater benefit to the vulnerable sector as a whole would result from a large number of marginal improvements in energy efficiency to vulnerable homes than for a small number of substantial improvements, we understand that scheme providers do not wish to be perceived as having left the job “half done” in those vulnerable homes which they have identified.

We have also taken into consideration some respondents who claim that homes in need of WHS are becoming more difficult to find. Therefore we intend to reduce the ring-fencing for WHS by 50%.

The situation can then be monitored so that we can consider whether this figure should be reduced further at the time of the next review. It should be noted that although the ring-fenced provision for WHS will be reduced by 50%, WHS above this level can be provided where they have proved to be

more cost effective that competing alternatives.
Proposal 12: Assisted purchase of heating oil
Having taken on board the views of the vast majority of respondents the Utility Regulator has decided that funding should not be permitted for the assisted purchase of heating oil.
Proposal 13: Discontinuation of segregation between non-priority domestic and commercial sectors
The Utility Regulator remains of the view that it would be appropriate to discontinue the split between non-priority domestic and commercial schemes. Discontinuing this split will have the effect of increasing the potential for cost effective savings.
Proposal 14: Further justification of additionality
The Utility Regulator agrees with the vast majority of respondents who believe that additonality is of vital importance.
Proposal 15: Cap on indirect costs
As proposed in the August consultation document, it is proposed to adopt a revised approach to determining the cap on indirect costs in line with that assumed by DEFRA in GB. Hence, it is proposed that the formula for maximum costs will take the form: Indirect Cost = (£250 * Measure Cost)/(£1000 + Measure Cost) Furthermore it will be a requirement of any scheme that the indirect costs are reasonably and prudently incurred and that there is no cross subsidy between indirect costs and measures costs.
Proposal 16: Levy on gas
The Utility Regulator notes the general support for the proposal not to introduce a levy on gas, in light of the fact that there is no levy on oil. Whilst in Great Britain, the CERT does apply to both gas and electricity, but not to oil. It is noted that the gas industry in the remainder of Great Britain is much more established than the gas industry in Northern Ireland. Bearing in mind that the majority of householders in Northern Ireland use oil (over 70%) it would seem perverse to place additional costs on the 12% of households in Northern Ireland who consume natural gas. Especially when it is taken into consideration that natural gas (when it displaces oil and coal) is displacing the more polluting fuel.

Proposal 17: Obligations on suppliers
Whilst the Utility Regulator continues to be of the view that it may be appropriate in future to introduce obligations on suppliers to submit a certain quantity of schemes, even if more generally an open bidding process for Programme funding is in operation, as proposed in the August 2008 Consultation Paper, it is not proposed to introduce such obligations at this time. This will continue be kept under review in light of the future operation of the Programme.
Proposal 18: Transparency of funding
The Utility Regulator agrees that successful bidders should be required to make it clear to those receiving Programme funding that the source of funds is the SEP, and that they do not imply that the funding has been made available, or is being offered by the supplier (or other successful bidder or measures provider) itself. More generally, there is already a reasonable degree of transparency over the fact that the programme costs are borne by customers. It is accepted that the customer contribution has often been quoted as an average payment per customer, which is not necessarily representative of the typical contribution to funding made by different customer groups. However it may be counter productive to separately identify on consumer bills each and every item of expenditure to which they contribute as bills would become unwieldy and difficult to understand.

Annex 1 – List of respondents to the August consultation

Twenty six responses to the consultation were received. The respondents included:

B&Q	Energia (Viridian)	National Trust
Belfast City Council	ESB	NI Energy Agency
Carbon Trust	ESBIE	NIE Energy Supply
CBI	EST	NI Environment Link
Cookstown District Council	firmus energy	Northern Investing for Health Partnership
Consumer Council	Help the Aged	NIHE
DETI	Mark Bailey	Phoenix
DSD	National Energy Action	World Wildlife Fund
EAGA	National Insulation Assoc.	

Annex 2 - Next Steps

1. **Publish Decision Paper** on website and send out to consultation respondents
2. **Revise Framework Document** to take account of the new branding and decisions contained within Decision Paper. This will be done in two stages:
    a. for September 2009 most of the changes will be incorporated except for those relating to opening up the right to bid to organisations other than licensed energy suppliers;
    b. for September 2010 the other changes, such as the eligibility criteria for organisations other than licensed energy suppliers, will be incorporated.
3. **Review Management and Administration Procedures** for new Programme.
4. **Publicise launch of new Programme (NISEP)**
5. **Set up a Pre-Registration Stage** for organisations to register their interest in participating in the Programme. This in order that their eligibility to apply for funds can be checked.
6. **Carry out a review of NISEP** in the third year of its operation. Also carry out ongoing monitoring and review of the success of the changes introduced following this current review.