

**MINUTES OF THE TWENTY- FIRST MEETING OF THE NORTHERN IRELAND  
AUTHORITY FOR UTILITY REGULATION (THE ‘AUTHORITY’) HELD ON  
WEDNESDAY, 11 MARCH 2009 AT QUEENS HOUSE, BELFAST, AT 5.00 P.M.**

Present	Mr Peter Matthews Mr Clive Elphick Mr Jim Oatridge Mr Chris Le Fevre Mr Philip Johnston Mr Alan Rainey Mr Iain Osborne	Chairman       Chief Executive
In attendance	Mr Donald Henry Ms Jo Aston Mr Brian McHugh Mr Dermot MacCann Mr Greg Irwin  Mr JP Irvine Ms Sarah Brady  Mr Ian Campbell  Mr Sean Lyons  Mr Peter Naylor	Director of Corporate Affairs Director of Water Director of Gas Director of Electricity Board Secretary and Communications Manager Head of Legal Social and Environmental Manager (for agenda item 9) Finance and Administration Manager (for agenda item 10) Water Directorate (for agenda item 14) Water Directorate (for agenda item 14)

**1. APOLOGIES FOR ABSENCE**

Etain Doyle

**2. FIRE DRILL**

The board members were informed of the evacuation procedures which apply at Queens House in the event of a fire.

**3. DECLARATIONS OF INTEREST**

No declarations of interest were made.

#### **4. MINUTES OF THE PREVIOUS MEETING**

The minutes of the previous meeting were agreed subject to several amendments.

#### **5. ACTION POINTS FROM THE FEBRUARY MEETING**

The action points recorded at the last meeting had been circulated to the Board and progress against each action point was noted. A brief update was provided to the Board on the connection dispute and next steps in the process. The Chairman also reported on further discussions that had taken place in relation to the potential for Authority playing a role in a Northern Ireland environmental summit.

#### **6. CHIEF EXECUTIVE'S REPORT**

a) The Chief Executive presented his report which focused on several items.

Board members were informed of the imminent announcement of the new Chief Executive of NI Water.

A discussion on the recent energy price reductions in the Republic of Ireland, and the context for the announcements, also took place. The political and economic environment in which the price reductions had been made was recognised by board members. The Board was agreed that in such situations it was important that the regulatory authorities in both jurisdictions maintain effective communications.

The entry of new energy suppliers to the domestic market in the Republic of Ireland was noted. There was some discussion regarding the outlook for energy retail competition in Northern Ireland, and the Board was advised that a paper on competition would be presented later in the year, pending clarification on several issues.

The Director of Gas informed board members that the proposed code modification to the GB unified code had been approved by the code industry panel in Great Britain and awaits a final decision from Ofgem.

Board members were updated on the latest position regarding the take up of contracts and secondment agreements by the previously on-loan and seconded staff.

It was noted that the Chief Executive had been invited to participate in an economic taskforce being convened by the First and Deputy First Ministers.

One board member asked for clarification as to who would receive the Household Fuel Payment announced by the Northern Ireland Executive recently.

#### **b) Finance and Performance Report**

The Chief Executive presented an overview for board members, focusing on Forward Work Plan targets classified as ‘some attention required’ and the associated risk of not meeting these targets. It was noted that the Audit Committee would be reviewing at the risk register at its next meeting.

### **7 REPORTS FROM BOARD SUB-COMMITTEES**

#### **Audit Committee**

The Audit Committee had considered the 2009-2010 budget as the substantive item at its meeting in February, and a number of changes had been made as a consequence of that review. The scheduled discussion on the board agenda on the same item would provide a further opportunity for the views of the Audit Committee to be reflected.

#### **Energy BAG**

No Energy BAG meeting had taken place since the last board meeting.

#### **Water BAG**

No Water BAG meeting had taken place since the last board meeting.

#### **Remuneration Committee**

The Chairman of the Remuneration Committee would present the report at the next meeting of the Board.

## **SEM Committee**

The Director of Electricity briefed board members on the key discussions at the last meeting of the SEM Committee relating to the SONI divestment and the Terms of Reference for the Capacity Payment mechanism review.

## **8 BRIGHT IDEAS**

The Board Secretary/ Communications Manager briefly updated board members on the work associated with the Guide to Regulation. An update on a recent conference attended by a board member drew on learning relating to utility competition and regulating new networks. There was some discussion about the possibility of organising a board-to-board discussion with other relevant regulatory bodies in Great Britain.

## **9 REVIEW OF THE NORTHERN IRELAND ENERGY EFFICIENCY LEVY PROGRAMME**

The Social and Environmental Manager introduced this item, outlined the key proposals and commented on responses received during the consultation.

Board members commended the drafting of the paper. There was discussion relating to the administrative costs of the new arrangements, the role of the third party delivery organisation and the extent of the Authority's general involvement in the operational aspects of the programme. It was specifically noted that the Audit Committee would at a later stage review the administrative arrangements associated with the programme after they had been finalised. A further query was raised regarding the level of funding allocated to vulnerable customers.

After comment and clarification of the issues raised, the Board agreed the decision paper for publication and the draft action plan for implementation.

## **10 DRAFT BUDGET 2009-10**

The Director of Corporate Affairs presented this item, and provided an overview on key features of the draft budget. He made reference to the discussion of the draft budget at the February Audit

Committee meeting, and the reflection of observations by that Committee in the draft budget being discussed by the Board.

The Chairman of the Audit Committee, reported on that Committee's recent scrutiny of the draft budget.

In making their comments on the budget, board members were conscious of the external environment and the ongoing economic downturn in particular. Discussion also focused around the adequacy of the proposed budget to deliver the projected work-plan.

Regarding pay, it was acknowledged that the current economic climate was an important factor determining any pay award, but it was accepted that the decision on remuneration levels would ultimately be taken in the context of the public sector pay remit for 2009-10.

The Board was conscious of the recent commitments made in the 2009-10 Forward Work Plan – in the context of the forecast reduction in the consultancy budget - and sought assurance that the projected reduction in the headline budget compared to the 2008-09 budget, would still enable the organisation to meet its targets.

After significant discussion, the Board agreed the proposed budget for publication and inclusion in the Main Estimates. It was noted that the Board receive regular finance reports on the budget position during the year and that this would provide an opportunity, should events make it necessary, to review relevant budget assumptions. Finally, it was noted that further queries may arise in the context of agreeing the Main Estimate position in the coming weeks.

## **11 PROPOSED MODIFICATIONS TO PHOENIX NATURAL GAS CONVEYANCE LICENCE**

The Director of Gas introduced this paper, which outlined the background, rationale and detail of the proposed licence modification.

It was noted that the proposed licence modification had been discussed at a previous Energy BAG and that the licensee had consented to the proposed modification.

The Board approved the licence modifications to the Phoenix Natural Gas conveyance licence which introduces a fixed revenue control and connections incentive scheme, subject to the outcome of the statutory consultation.

## **12 PREMIER TRANSMISSION LTD (PTL) / BELFAST GAS TRANSMISSION LTD (BGTL) OPERATING EXPENDITURE REVIEW**

The Director of Gas introduced this paper, pointing in particular to the rationale for the operating expenditure review of the gas companies concerned.

Several board members sought further information on the expenditure projections of the gas companies and the application of efficiency factors. A wider discussion took place on the extent of the benefits arising from the review, with board members weighing up methodological factors with the positive message conveyed through the application of regulatory scrutiny.

In making its decision the Board noted that the consultation paper had been published. The Board decided, subject to the outcome of the consultation, that the controllable operating expenditure set out in Annex One is an appropriate level of operating expenditure for PTL and BGTL to operate and maintain their networks effectively and safely, while incentivising them to continue to create efficiencies.

## **13 VERIFICATION OF COSTS FOR GAS TRANSMISSION PIPELINE TO ARMAGH**

The Director of Gas briefed board members on the key elements in this paper, particularly in relation to costs, noting the licence provision enabling the Authority to set an allowed figure for capital expenditure, referred to as the Verified Forecast Capital Expenditure (VFCE).

Board members' discussion focused on the contingency provisions for the capital expenditure proposed, consultancy costs and the extent to which an appropriate incentive framework could be

applied to ensure that the transmission pipeline could be delivered within budget projections and on time.

The Board was content to approve the VFCE based on the principles presented, subject to further discussions with BGE (Northern Ireland) regarding the construction contract.

#### **14 NI WATER – SCHEME OF CHARGES 2009-10**

The Director of Water provided an overview on progress and the Scheme of Charges and, along with colleagues from the Water directorate, commented on the key elements for consideration by the Board.

Board members raised several queries for clarification. Specifically, board members sought clarification on the level of government subsidy and the impact on charges. The charges applied to large users were also queried. Trade effluent charges and the basis for setting these charges was also raised. Debt and bad debt provision for non-domestic users was also discussed. Finally, board members received clarification regarding Ministerial involvement in enabling the approval of the Scheme of Charges.

Having received clarification on the points raised the Board approved in principle the Scheme of Charges, to be delegated to the Director of Water and the Chief Executive for final approval.

#### **15 FINANCIAL REVIEW OF NIE TRANSMISSION AND DISTRIBUTION BUSINESS IN LIGHT OF THE ECONOMIC CLIMATE**

Board members noted the overall comment that regulatory controls for the T and D business appeared to be robust, and were pleased with the suite of regulatory protections in place. Going forward, and essentially as a precautionary measure, ongoing meetings with the network companies and monitoring their situations would be sensible in the present economic climate.

Board members sought clarification on the issue of how cash lock-up provisions worked in regulatory licences (i.e. how triggered and operated).

One board member asked whether DETI were aware of, and willing to introduce a special administrator regime for energy companies in Northern Ireland, which was provided for in the water industry in Great Britain and Northern Ireland – and whether the Utility Regulator could usefully contribute to the discussion..

There was agreement that ongoing assurance over the financial health and corporate independence of Northern Ireland’s key energy network companies is important in these difficult times.

## **16 EXTENT OF MINISTERIAL POWER IN THE FIELD OF CLIMATE CHANGE**

The extent of Ministerial power was noted by the Board.

## **17 STREETWORKS AMENDMENT (NORTHERN IRELAND) ORDER – IMPACT ON UTILITY COSTS**

Board members briefly discussed this information item. It was agreed that the paper provided a useful overview of the issue, but that costs were a fundamental matter that required more consideration.

## **18 PC10 UPDATE**

The Director of Water provided a verbal update on the overall approach and timetable to the PC10 work programme.

Board members discussed the timetable and (1) its relationship with the anticipated OFWAT final determination (PR09) later in the year, and (2) the extent to which the availability of critical information and relevant approvals would be achieved within the period specified.

## **19 ANNUAL COSTS AND PERFORMANCE REPORT FOR NI WATER**

Board members welcomed the publication of this report, which was attached to the board papers.



All items of business having been discussed the Chairman brought the meeting to a close at 9.15 p.m.