

**MINUTES OF THE EIGHTEENTH MEETING OF THE NORTHERN IRELAND
AUTHORITY FOR UTILITY REGULATION (THE ‘AUTHORITY’) HELD ON FRIDAY, 12
DECEMBER 2008 AT QUEENS HOUSE, BELFAST**

Present	Mr Peter Matthews Mr Philip Johnson Mr Chris Le Fevre Mr Alan Rainey Ms Etain Doyle Mr Iain Osborne	Chairman Chief Executive
In attendance	Mr Donald Henry Ms Jo Aston Mr Brian McHugh Mr Dermot MacCann Mr Greg Irwin Ms Sarah Brady Mr Carl Hashim Ms Lesley Robinson Mr Sam Connolly Mr Neil Bingham	Director of Corporate Affairs Director of Water Director of Gas Director of Electricity Board Secretary and Communications Manager Social and Environmental Manager (for agenda items 9 and 10) IPSOS MORI (for agenda item 9) Gas Directorate (for agenda items 13 and 15) Gas Directorate (for agenda item 12) Gas Directorate (for agenda items 12, 13 and 15)

1. APOLOGIES FOR ABSENCE

Clive Elphick, Jim Oatridge, JP Irvine

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. It was requested that the specific legislative reference in the Action points section be updated to use the accurate legal title.

5. ACTION POINTS FROM THE NOVEMBER MEETING

The action points recorded at the last meeting had been circulated to the Board and progress against each action point was noted.

6. CHIEF EXECUTIVE'S REPORT

a) The Chief Executive updated board members on the consultation on the proposed enforcement order pertaining to NI Water. Board members indicated their disappointment that no undertakings had been received from NI Water to date, and supported the Executive in its endeavors to bring this matter to a satisfactory conclusion.

The Board was briefed on the Authority's initiative, in response to consumer concerns, to enquire about the treatment of direct debit surpluses by energy companies. It was noted that the Authority had decided to write to the energy companies in advance of a letter that was subsequently issued by the Consumer Council, on the same matter.

Separately, the Board discussed the release of information in the media about energy price reductions. The Chairman reflected the disappointment of the Board that information relating to energy price reductions had entered the public domain in advance of the official announcement.

Board members were informed that our solicitors had recommended acceptance of a settlement for party on party legal costs incurred on the judicial review involving AES Kilroot. It was confirmed that the settlement was within the range that would be expected to be recovered.

The Chief Executive also reported on the Authority's initiative to check the financial health of network companies against the backdrop of the credit crunch. He concluded that no significant issues have emerged.

A brief discussion on sustainable development followed an update on Minister Ritchie's fuel poverty package. Board members received clarification on the consequences for Northern Ireland of the new government department in Great Britain with responsibility for energy and climate change.

It was noted that the Authority had received the HR authorisation from the Department of Finance and Personnel. The Board expressed its gratitude to the Authority staff for their sustained efforts in obtaining the authorisation. It was agreed that the Executive would be charged with moving forward the practical tasks associated with the authorisation including issuing offers, secondment agreements and revised contracts of employment, without further recourse to the Board (while at the same time noting that the Remuneration Committee would have a governance role in the implementation of authorisation).

Board members also took the opportunity to clarify arrangements for disaster recovery and also the adequacy of resources available to enable the Authority to meet its challenging agenda. The Chief Executive indicated that the Executive was pro-actively taking steps to manage resources to meet the demands of its extensive programme of work.

The Chief Executive also presented an addendum to his report which addressed next steps arising from the recent publication of the McIlldoon report on electricity tariff setting. The Board had received the report prior to publication and the conclusion that the tariff review had been conducted properly was noted and discussion about the recommendations had taken place (acknowledging that some of these were already under consideration). It was agreed that the Authority would request the SEM Committee to review the relevant recommendations. It was also agreed, following discussion, that a seminar to discuss the findings of the report was not required at this time.

b) Finance and Performance Report

The Director of Corporate Affairs presented the report and highlighted the explanations for the budget variances on both staff and non staff costs. It was noted that approved recruitment plans were on track and that absence levels continued to be relatively low. The outcome from the mid -year review

of risk was discussed and it was noted, that actions were being taken to manage resources to meet the demands of the Authority's extensive programme of work.

7 REPORTS FROM BOARD SUB-COMMITTEES

Audit Committee

In the absence of the Audit Committee Chairman, it was noted that there were no significant or outstanding items which needed to be reported to the Board.

Energy BAG

Chris Le Fevre, as Chairman of the Energy BAG (Board Advisory Group), provided an update on its November meeting. The Energy BAG discussed the Firmus price control, issues affecting NIE and Common Arrangements for Gas.

Water BAG

The Director for Water provided a report on the Water BAG meeting in November. Several issues were discussed, including efficiencies, the scheme of charges, the costs and performance report, PC10 developments and billing errors. Board members were provided with an update on licence modifications relating to credit rating, the timespan for the price control and Condition B. On the latter item, the Director of Water indicated that this licence modification would be presented to the Board at a future date. The Chairman, in commenting on the recent NI Water enforcement issue, expressed the support and gratitude of the Board for the Executive's handling of this matter.

Remuneration Committee

Etain Doyle, Chairman of the Remuneration Committee, provided an update on the Remuneration Committee's November meeting. The meeting reviewed remuneration levels and associated issues and endorsed recommendations on employee remuneration. It was noted that some outstanding issues would be considered further at the next meeting of the Committee. A framework for the overall performance review process was also considered, and the Committee agreed an outline framework. Finally, the Committee agreed the approach to be taken in terms of progressing the pay remit.

SEM Committee

The Director of Electricity provided a report on the last meeting of the SEM Committee which took place at the end of November. The key issue discussed by the Committee related to the SONI divestment. Other issues discussed included the Committee's Strategy Away Day, a Market Monitoring Unit update and wind and pricing dispatch. It was also noted that the SEM Committee had had a useful meeting with the Department of Enterprise, Trade and Investment and the Department of Communications, Energy and Natural Resources.

8 BRIGHT IDEAS

A brief paper presented by the Chief Executive, on 'kick-starting retail competition', was discussed by the Board. Board members broadly welcomed the specific idea, and empowered the Executive to work up the proposal for the Board's consideration.

The Chairman's suggestion that an accessible guide to regulation be produced was also welcomed by Board members, and the Executive was asked to progress work on this idea.

9 THE UTILITY REGULATOR'S SOCIAL ACTION PLAN

The Social and Environmental Manager and Carl Hashim from Ipsos MORI, presented the draft Social Action Plan (SAP), providing background and annotating key features of the document for board members.

Board members, in welcoming the document, made several comments. The broad question of the relationship between the separate consultations on the SAP, social tariffs and the Energy Efficiency Levy was clarified. Suggestions were made by Board members in relation to a consultation question on social tariffs vis a vis energy efficiency, reviewing some of the terminology used and the water references in paragraph 1.4.

The Board approved the publication of the draft SAP for consultation - subject to consideration of board members' comments – and the Chairman congratulated the authors on the excellence of document

10 CONTRACTING WITH GEMA TO PROCESS LECs AND REGOs ON BEHALF OF THE UTILITY REGULATOR

The Social and Environmental Manager briefed the Board on this matter. Board members clarified issues associated with terminology, financial exposure and legislative provisions. At the culmination of the short discussion, the Board gave its approval for the Authority to enter into Agency Service Agreements with the Gas and Electricity Markets Authority (GEMA) in relation to the processing of Climate Change Levy Exemption Certificates (LECs) and Renewable Energy Guarantees of Origins (REGOs).

11 COMMON ARRANGEMENTS FOR GAS (CAG)

The Director of Gas introduced this paper, and gave a presentation which focused on the key issues associated with the overall benefits of CAG and the detailed aspects of the operation and tariff workstreams. The responses to operations and tariff workstreams were also presented.

A substantial discussion ensued. Board members sought further information and clarification on the following: organisational roles and responsibilities associated with the CAG, the network coding option, respondents to the consultation on the CAG, the potential for legal challenge, the timescale and governance arrangements. Discussion on matters associated with the strategic benefits of the CAG and the structure for the single operations regime also took place.

The Chairman drew the discussion to a close, indicating that the Board was content with the plans for progressing the CAG project. More specifically, the Board agreed to endorse the proposal that further time and resources be allocated, based upon the conclusions set out in paper, to the operational and tariff workstreams.

12 FIRMUS ENERGY DISTRIBUTION PRICE CONTROL DETERMINATION

Samuel Connolly, from the Gas directorate, briefed board members on the draft price control determination.

Board members discussed the impact of the potential introduction of the Traffic Management Act legislation on the capex determination. In noting some concern relating to the specific capex determination, board members resolved to discuss the broader issue of the implications of the Traffic Management Act at its February meeting. Clarification was also provided on the consumer charge per therm and the timetable for Firmus's tariff review.

The Board approved the determination values for capex, opex and volumes subject to the outcome of the public consultation that is due to end on 15 December 2008.

13 PHOENIX SUPPLY LTD PRICE CONTROL PC02 2009-2011

Lesley Robinson, from the Gas directorate, briefed board members on the draft price control determination.

Questions from board members about the proposed decision in terms of revenue versus price allowance considerations, the treatment of gas costs and hedging policy were discussed and clarified. Board members also discussed, and were content with, the bad debt provision proposed in the price control.

The Board approved the duration of the price control to run from 2009-2011 and its application to customers using less than 25,000 therms per annum. Opex proposals were also approved by the Board. Finally, the Board approved the proposal that gas costs will be treated as a pass through – to be reviewed during 2009/10, and providing for a reopener to take account of this review (with the margin retained at 1.5% pending the outcome of the review).

14 FREEDOM OF INFORMATION

The Board Secretary/ Communications Manager presented this paper which addressed the work required to ensure that the Authority complies with Freedom of Information requirements.

A brief discussion on risks associated with non-compliance with the legislation took place.

The Board agreed to adopt the Model Publication Scheme that had been approved by the Information Commissioner. It also noted the definitions document and the Action Plan that had been developed to ensure that the Authority complies with Freedom of Information requirements.

15 PHOENIX SUPPLY TARIFF REVIEW

Lesley Robinson, from the Gas directorate, briefed the Board on the tariff review, and updated some of the figures that had changed since the paper was sent to board members.

A brief discussion took place on comparisons with tariffs with Great Britain and metering issues.

The Board endorsed the overall approach outlined

16 NIE ENERGY SUPPLY TARIFF REVIEW

The Director of Electricity briefed the Board on this tariff review. Board members discussed the difficulties associated with hedging arrangements and there was also a specific query about the impact of carbon prices on the tariff.

The Board endorsed the overall approach outlined.

17 ANY OTHER BUSINESS

- Board/ Staff away day – it was agreed that arrangements would be made to accommodate an away day to discuss organisational development issues between the Board and Authority staff, around the time of the March Board meeting
- January Board meeting arrangements – following an initial discussion on NI Water correspondence received during the Board meeting, it was decided that time should be allocated on 14 January before the BAG meetings to discuss the NI Water enforcement issue

All items of business having been discussed the Chairman brought the meeting to a close at 1.55 p.m.