

**SUMMARY OF MINUTES OF THE THIRTY-NINTH MEETING OF THE  
NORTHERN IRELAND AUTHORITY FOR ENERGY REGULATION (the  
Authority) HELD ON MONDAY 15 JANUARY 2007**

<b>Present:</b>	Dr Peter Matthews Ms Etain Doyle Mr Jim Oatridge Mr Clive Elphick Mr Christopher Le Fevre Mr Philip Johnson Mr John Gilliland Mr Iain Osborne	Chairman       Chief Executive
<b>In attendance:</b>	Mr Dermot MacCann Mr Alan Smith Mr Tadhg O'Briain Mr Brian McHugh  Mr Mike Lowy  Ms Fiona Gallen	Deputy Chief Executive (Agenda Item 7 & 8 only) (Agenda Item 9 only) (Agenda Item 9 & 10 only) (Agenda Item 9 & 10 only)

**1. APOLOGIES FOR ABSENCE**

None.

**2. FIRE DRILL**

The Board members were reminded of the evacuation procedures in the event of a fire in Queen's House. A brief discussion on Health and Safety Policy ensued and it was agreed that the Chief Executive's Report would include any relevant information on this topic on a quarterly basis with any incidents/accidents being reported at the meeting following occurrence.

**3. DECLARATIONS OF INTEREST**

Nothing further to declare.

**4. MINUTES OF THE PREVIOUS MEETING**

Following a brief discussion, the minutes were agreed subject to a few minor amendments.

**5. ACTION POINTS FROM DECEMBER MEETING**

FEMO Projects - 2005 & 2007

It was noted that a cost breakdown of the FEMO 2005 project had been requested from NIE and that Ofreg staff were also currently considering with DETI how the 2007 package could be made compulsory.

#### Rules of Procedure and Board Governance

The Chief Executive agreed to circulate the revised scheme of delegation and further guidance on the expenses policy to the Board before the February meeting.

#### Forward Work Programme 2007

A list of publications had been forwarded to the Non Executive Directors in advance of today's meeting. The Board were informed that the Forward Work Programme 2007 consultation paper had been issued on 21 December and that it would be discussed further at the March and April meetings when comments had been received and collated.

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

The Chief Executive's report updated the Board on developments in relation to Water Reform, Gas and SEM.

#### Water Reform

The Chief Executive added that since drafting the report there had been developments on the recruitment front and that PriceWaterhouse Coopers had received a wide field applications for the posts advertised.

#### SEM

It was noted that a positive Bilateral Ministerial meeting had taken place on Friday 12 January. The Chief Executive told the meeting that there was some real evidence of progress in the form of a signed memorandum of understanding and that he hoped that the relevant legislation would be with Westminster by the end of the month.

#### Report Format

It was suggested that future reports presented to the Board should include headings on Finances and Resources, Ofreg Development, Industry Development and Political/Regulatory Developments. As previously discussed under agenda item 2, Health and Safety would also feature quarterly in the report.

### **7. NIAER / OFREG BRANDING**

A decision paper on branding had been circulated to the Authority in advance of today's meeting. The Chief Executive explained that a decision needed to be taken at this meeting to facilitate a smooth transition when the organisation's legal name changed to the Northern Ireland Authority for Utility Regulation (from 1 April 2007) with the addition of water regulation to the portfolio. During debate, it was agreed that retaining the "Ofreg" brand had some value, but that emphasising the unity of the board and office, and projecting a fresh identity as we become a multi-utility regulator, were seen as more important considerations. It was agreed that although the Northern Ireland Authority for Utility Regulation would be used for legal and formal purposes, "The Utility Regulator" should be the central feature of the new brand. The

Board also agreed that preparatory work on the launching the new brand (developing logo, improving website and generating publicity) should begin as soon as possible.

## **8. ELECTRICITY TARIFFS CONSULTATION**

Alan Smith joined the meeting at this point and talked the Board through the issues concerned. As a result of complaints from suppliers and feedback from an industry forum, Ofreg had recently consulted on Electricity Tariff timeliness and transparency. The consultation exercise had highlighted various problems which centred on a number of key inter-related issues including The Bulk Supply Tariff, The Public Service Obligation, Make-up and Spill Charges, The Renewables Output Factor (ROF) Scheme and Non-BST Sales. Following a discussion on the technicalities, the Board agreed that to address the associated problems and increase confidence, NIE must adequately demonstrate that costs are appropriate before they can be passed on through tariffs (except where confidentiality requirements would dictate otherwise) and in particular that the PSO can only include costs which the PPB can explain to the Industry. PPB must also demonstrate that any negative 'out-of-market' costs will be returned to customers. NIE must demonstrate that balancing charges reflect true costs. The Board also endorsed proposals to closely monitor non-BST sales and ensure their transparency and non-discrimination, and to reduce the ROF Scheme to a 20% margin.

## **9. PHOENIX MUTUALISATION**

As part of the deal brokered with Phoenix in November 2006 to reform the Phoenix regulatory regime, it was agreed that Phoenix would sell its transmission business. It was the view of the Gas Transmission team that mutualisation of the transmission asset would simplify the operational regime and result in savings which would benefit consumers. The Board were informed that since November, Ofreg had been approached by a number of parties interested in further understanding the regulatory approach which would be taken in the new transmission licence. It was noted that in the interests of transparency and to ensure a level playing field for potential buyers, Ofreg proposed to respond by publishing a note which set out current thinking on how a new licence might be structured and outlined fundamental licence principles. The Board endorsed the publication of an Ofreg Position Paper.

## **10. VIRIDIAN ACQUISITION**

Tadhg O' Briain joined the meeting at this point. The Board endorsed the governance proposal, and recognised that whilst requiring the NIE Board to have a majority of independent non-executive directors is in advance of UK regulatory precedent, it was in line with best corporate practice. In relation to information provision, they agreed that subject to a positive outcome from the review of the proportionality of the likely use of the information to its costs, NIE would be obliged to publish annual regulatory accounts on the same basis as a listed company. Following a discussion on ringfencing arrangements, it was noted that cash lock-up provisions in line with GB practice should be included in the licence with an explicit trigger clause. The Authority also agreed that the position paper should confirm its understanding that the ultimate controller undertakings can be required from more than one entity and clarify that Ofreg will continue to work with DETI towards the implementation of the

Supplier of Last Resort and Special Administrator regimes. It was agreed that the proposals document should be issued as soon as possible and the review of the proportionality of the likely use of the information to its costs should be carried out in parallel with the licence due to be drafted in April.

## **11. BRIGHT IDEAS**

The Chief Executive told the meeting that at the Chairman's request "Bright ideas" would now feature as a standing agenda item. He added that he hoped it would stimulate creativity and innovation and would give the NEDs an opportunity to put forward proposals for innovative change in relation to the industry or Ofreg itself.

## **12. ANY OTHER BUSINESS**

### Grid Connection - Rathlin Island

The Chief Executive reported that NIE had contacted Ofreg requesting approval to go ahead with grid connection for Rathlin Island at a cost of £280k. He informed the Board of all the relevant facts in this matter, including that the alternative had been to replace current generators on the island at a cost of £200k but added that although grid connection was more expensive it would provide a better quality and a more secure supply for islanders. He added that on this basis, and in pursuance of the Chief Executive's delegated powers, NIE were allowed to proceed in this matter.

### Audit Committee Meeting

It was noted that the first meeting would take place at 2pm on 8 February.

### Schedule of Future Meetings

It was noted that the draft schedule should be amended and invites for the March and April dinners should be issued to NIE, Phoenix and Firmus respectively.

## **13. ARRANGEMENTS FOR FEBRUARY MEETING**

It was noted that the Authority meeting would be held on 8 February in Queen's House. Dinner with the Water Service Board would be held in the usual venue on the evening previous.