

**SUMMARY OF MINUTES OF THE THIRD MEETING OF THE NORTHERN
IRELAND AUTHORITY FOR UTILITY REGULATION (NIAUR) HELD ON
THURSDAY 7th JUNE 2007 IN QUEEN'S HOUSE, BELFAST**

Present:	Dr Peter Matthews Ms Etain Doyle Mr Chris LeFevre Mr Philip Johnson Mr. Clive Elphick Mr. Jim Oatridge Mr Iain Osborne	Chairman Chief Executive
In attendance:	Mr Dermot MacCann Ms Jo Aston Mr. JP Irvine Ms Fiona Gallen Mr. Neil McVeigh Mr. Brian McHugh Ms Juliet Corbett Mr. Tony Doherty Mr. Tadhg O'Briain Mr. Michael Campbell	Agenda Items 1 – 11 Agenda Item 7 only Agenda Item 8 only Agenda Items 11 & 12 only Agenda Item 11 & 12 only Agenda Items 11 & 12 only Agenda Items 11 & 12 only
Skypex:	Mr. Richard Haigh Mr. Peter Wibberly	
Kema:	Mr. David Nicol	
Wragge & Co:	Mr. Derek Goodban Mr. Gus Wood	
CER:	Ms Claire Madden	

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.

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 MAY MEETING**

It was noted that the majority of the points had been actioned. A note on actions to be circulated to the Board.

However, a few areas remained outstanding:

- a. The preparation of a note on the physical safety of assets (including how we satisfy our secondary H&S duty in electricity)
- b. Information on “quarantine period” in relation to board appointments to be circulated
- c. Note on water metering coverage for businesses to be circulated
- d. Confirmation of the contingency spend in relation to FEMO 2005
- e. It was also agreed that board members would receive a copy of the strategy paper (as this had yet to be issued to board members and that there had been problems with uploading onto the website) and that a schedule for future meetings would be drafted for approval.
- f. The Chairman reported that the website was not functioning as he would like and that it be given urgent attention.

ITEMS 6 TO 10 – NON-SEM RELATED

6. **CHIEF EXECUTIVE’S REPORT**

The Chief Executive informed the meeting that AES had recently announced plans to build a CCGT on site at Kilroot. He also briefed the board members on the HR framework and added that a number of issues remained unresolved with DFP.

7. **WATER ENFORCEMENT STRATEGY**

The meeting was informed that NIAUR proposed to meet fully its legal obligations by enforcing against NIW failures to deliver on its statutory

duties with regards sewerage treatment as the same are mapped out within the Water Order (particularly in respect of NIW failings at EU infracted sites and possibly further breaches which may come to light as a result of a detailed review of NIW's strategic business plan). The board recognised that, NIAUR was under a duty to enforce any realised breaches. The board asked the water team need to provide further advice as to how best to tackle future enforcement work relating to NIW's strategic business plan and third asset management plan, and that they should provide further information on the ramifications of enforcement (including undertakings options) as the case arises.

8. **PHOENIX GAS CONVEYANCE LICENCE GRANT**

Recognising the likely value to consumers of the mutualisation exercise, the board held a discussion on the merits of the licence grant.

9. **APPROVAL FOR SCHEME OF DELEGATIONS**

The Chief Executive explained that this proposal aimed to implement a more developed delegation, to mark a shift to managing the office through Directors. He added that the scheme was a form of secondary delegation and only applied to spend within budget. The Board endorsed the scheme subject to some suggested amendments, and delegated authority to approve the final draft to the Audit Committee.

It was noted that the Hospitality Register would be extended to include all invites received by Board Members.

10. **BAG/AUDIT COMMITTEE FEEDBACK**

Water BAG

The Water Director was formally welcomed to the meeting.

Topics discussed included

- Water Group – Work Plan
- Water Enforcement Paper
- Assembly Review
- Developing Stakeholder Relationships.

Audit Committee

The Chairman of the Audit Committee reported that five main topics had been discussed at the meeting on the previous evening.

1 Draft Internal Audit Report - It was noted that the draft report only

gave “limited assurance” overall and to the areas of Risk Management and Corporate Governance. However, the Chairman of the Audit Committee added that the auditors felt that “substantial assurance” would be readily achievable in the current financial year.

2 Financial Reporting - The meeting was informed that Finance Team were currently working on this area and that regular financial reports would be provided to the Board from September.

3 Terms of Reference for the Audit & Risk Committee – The Board agreed that the terms should be revised to take the latest Treasury Guidelines into account.

4 Register of Interests – It was noted that the Register had been reviewed and that it would continue to be reviewed annually at the June meeting.

5 Corporate Risk Register - Work is continuing on the Corporate Risk Register.

11. **SINGLE ELECTRICITY MARKET**

The SEM team and the consultants involved in the project joined the meeting at this stage.

11(a) OVERVIEW OF BUSINESS

A general overview of the business was presented by the Director of Electricity. He explained that this was a momentous day for the Single Electricity Market project, representing the culmination of over two and half years work involving the whole electricity team, admin support, various consultants, the legal team and colleagues in CER. He thanked all who had been involved in getting the project to this point. He added that the purpose of today’s presentation was to help the Board make an informed decision on the implementation of both the SEM project and EC Directive 2003/54/EC.

The Chairman asked the board to confirm individually whether they were satisfied that the suite of information received prior to the board meeting and the format of the proposed sessions on SEM today were sufficient to support their decision-taking. Each Member confirmed their satisfaction with the information and with the process

11(b) COST BENEFIT ANALYSIS OF SEM

The Board were briefed on the Cost Benefit Analysis and were satisfied that SEM implementation would lead to lower wholesale electricity prices in the longer term. The Board noted that there were a number of potential wider benefits for NI consumers including increased competition.

INTRODUCTION AND OVERVIEW OF GO-ACTIVE

11(c) LEGISLATIVE PROCESS AND NIAUR'S COMMENTS ON THE 2(2) REGULATIONS CONSULTATION

The Board were briefed on the legislative process and the 2(2) Regulations (implementing EC Directive 2003/54/EC). It was explained that the SEM project could be viewed as having reached a stage of development that justified the preliminary steps comprising Go-Active (planned for July 3) and if the board were satisfied on this point, then it may confirm its commitment to the resources required for the project to proceed from Go-Active to Go-live. It was added that Go-Active would require the first substantial exercise of powers by NIAUR (as the same are conferred by legislation) to implement the SEM and Directive. The relevant powers conferred by legislation permitted licence changes to be made outside the normal change process (i.e they are mandated) where changes are for the specific purposes of the legislation. In order to progress to Go-Active, the Authority would modify certain licence conditions. The Authority would therefore be asked to approve the proposed delegation to effect Go-Active, and approve a delegation to allow the Trading and Settlement Code to be 'designated' by a senior member of NIAUR staff

11(d) PROCESSES FOR ISSUING AND FOR AMENDING.

The processes for issuing and amending licences were also considered, including what powers are being exercised at each step and the conditions that will apply to decisions made at today's meeting. The Board were briefed on the various processes, including how they involved DETI and NIAUR respectively, and the conditions were highlighted which would apply to the decisions made today and on June 15.

11(e) REVIEW OF LICENCES CONSULTATION PROCESS

The licence consultation process was reviewed and considered, and the Board received a presentation on the process. All questions raised were answered to the satisfaction of the board.

11(f) REVIEW OF NIE RESTRUCTURING

NIE restructuring was explained to the Board. The Board was comfortable with the restructuring model adopted, and related progress.

11(g) CONSIDERATION OF RESOLUTIONS

The proposed resolutions as drafted between the NIAUR and external legal teams were explained to the Board.

The Chairman noted that (i) a clear process had been planned and followed with sound due diligence, (ii) that the appropriate documentation had been made available to the Energy BAG and the Board for consideration and (iii) that the Board were content with the proposed wording of the resolutions, including the forms of delegation envisaged.

11(h) NIE ENERGY – SUPPLY

The proposed modifications to the NIE Public Electricity Supply Licence and all of the Private Supply Licences were considered. A presentation set out the proposed modifications to the NIE Public Electricity Supply Licence and the Private Supply Licences, and all questions raised were answered to the Board's satisfaction.

11(i) PARTICIPATION IN TRANSMISSION – NIE

The proposed modifications to the NIE Participation in Transmission Licence were considered. A presentation explained the proposed modifications to the NIE Participation in Transmission Licence; and all questions raised on various conditions including the prohibition of cross subsidies, the Transmission Interface Agreement and meter registration were answered to the Board's satisfaction.

11(j) PARTICIPATION IN TRANSMISSION – MOYLE

The proposed modifications to the Moyle Participation in Transmission Licence were considered. A presentation covered the proposed modifications to the Moyle Participation in Transmission Licence.

11(k) GENERATION LICENCES

The proposed modifications to the Generation Licences were considered. A presentation covered the proposed modifications to the Generation Licences and the queries raised were answered to the Board's satisfaction. The meeting was told that the conditions would be updated to include new definitions. Particular focus was given to

Condition 17-Cost Reflective Bidding as it had proved to be of particular focus to stakeholders. The team proposed that an obligation to bid at short run marginal cost, interpreted as opportunity cost, be inserted at a relatively high level in the licences with the detail being set out in The Bidding Code of Practice as this was the most appropriate treatment to ensure a level playing field. The Board was also informed that certain terminology in certain licence conditions would have to be varied in order to comply with the terminology of the SEM Order and the Directive.

11(l) A CANCELLATION OF GENERATOR UNIT AGREEMENTS

The board noted the relevant and informative explanatory paper which had been circulated in advance of today's meeting. The Board confirmed that it was content for the executive to proceed with the consultation exercise on potential powers to direct cancellation of GUAs. It was agreed that this topic could be picked up by the Energy BAG and the outcome of the consultation could be discussed further in the autumn.

The conditions concerning cancellation of the legacy Generator Unit Agreements were considered. The Board accepted the proposed licence modifications and resolved to consider their decision as part of the wider Decision B to be taken in full later in the day's proceedings.

11(m) NIE ENERGY – PPB

A presentation covered the proposed enduring licence conditions for the Power Procurement Business, and the questions raised were answered to the Board's satisfaction. The Board considered the proposals, expressed their satisfaction with them, and emphasized the need for clarity and the use of the appropriate terminology for drafting purposes.

11(n) SO

A presentation covered the new System Operator Licence to be granted by DETI and questions raised were answered to the Board's satisfaction. The conditions were considered by the Board and they were informed that SONI divestment, a SEM driven change would take place one year after Go-Live.

11(o) MO

An overview of the new Market Operator Licence to be granted by DETI was presented, and questions raised were answered to the Board's

satisfaction.

The board were made aware for the avoidance of doubt that they were being asked to note the development of these SO and MO licences, but to do nothing more, as these licences were outside the scope of the licences being modified for the purposes of today's decisions at 11(t)

11(p) TRANSITIONAL LICENCE CONDITIONS

The proposed transitional licence conditions were discussed including the more contentious condition B. A presentation covered the proposed modifications to all licences to regulate transition to the new market; questions raised were answered and the Board were satisfied with the explanations provided.

11(q) TRADING & SETTLEMENT CODE

A presentation covered the Trading and Settlement Code, the proposed designation was considered and questions raised by the attendees on blended VAT were answered. The board noted its confidence in the delegation to designate the TSC and agreed to confirm its approval at the relevant stage of proceedings.

11(r) TREATMENT OF RENEWABLES

An overview was presented of how the Northern Ireland Renewable Obligation Order and Levy Exemption Certificates granted under the Climate Change Levy will be affected by SEM, and the questions raised were answered to the Board's satisfaction.

11(s) This agenda item had been cancelled prior to today's meeting.

11(t) RESOLUTIONS

After full consideration of the information presented to them, the Board satisfied itself that it was in possession of all relevant and material information which would allow it to proceed. The Board unanimously resolved to accept the proposed resolutions as prepared (and amended at the meeting to reflect the precise will of the board) and contained at the appendix to these minutes.

11(u) COMMUNICATIONS/PRESS RELEASE FOR SEM LAUNCH

Juliet Corbett took the Board through the various communications proposals. It was noted that the Go-Active phase would be firstly

announced to the industry via the AIP website (19 June), an event to mark Go-Active would also be scheduled to take place in the Ballymascanlon Hotel on 3 July and that more formal publicity would be organised for Go-Live in October.

12. **ARRANGEMENTS FOR 15 JUNE EXTRAORDINARY BOARD MEETING**

It was noted that a meeting (conference call) would take place on 15 June at 10.15am.

13. **ANY OTHER BUSINESS**

Energy White Paper

It was agreed that a paper would be tabled for the July meeting on our response to the DTI Energy White Paper, although we should begin discussions with stakeholders earlier as required.

Domestic Gas Bills

An information paper comparing annual domestic gas bills in Great Britain and Northern Ireland was distributed to the attendees.

14. **BRIGHT IDEAS**

The Chairman proposed that the organisation should investigate the possibility of introducing a green star rating for power in Northern Ireland.

15. **ARRANGEMENTS FOR JULY MEETING**

It was agreed that the next meeting would be held in Queen's House on Wednesday 4 July commencing at 8am. It was to be confirmed whether other parties would be invited to dinner on that evening.

Appendix

Decisions of the Northern Ireland Authority for Utility Regulation (the “Authority”) with respect to the introduction of the Single Electricity Market (SEM) and further implementation of EC Directive 2003/54/EC

Introduction

These decisions relate to:

- the proposed introduction of a Single Electricity Wholesale Market for the Island of Ireland (the **SEM**) pursuant to the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (the **SEM Order**); and
- proposed further steps in implementing Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 (the **Directive**).

It is currently proposed that the SEM be introduced and the Directive further implemented simultaneously, in November 2007, such introduction and further implementation often being referred to as **Go-Live**. In order for Go-Live to occur in November, certain preliminary steps must first be taken. Such preliminary steps are often referred to as **Go-Active**.

These decisions concern Go-Active and those preliminary steps comprising Go-Active that fall to be taken by the Authority.

A. Decision to Proceed to Go-Active

- (1) In accordance with the Authority’s principal objective and general duties under Article 12 of the Energy (Northern Ireland) Order 2003 (the **Energy Order**), and based on empirical data evidencing the likelihood that the SEM will satisfy such objective and duties, the Authority hereby confirms that:
 - (a) in its opinion, the SEM project has attained a point of development at which it is appropriate for preliminary steps towards its introduction to be taken; and

- (b) it shall proceed to commit its efforts and resources towards achieving Go-Live.

B. Licence Modifications

- (1) Subject to paragraph (2) below, the Authority hereby agrees:

- (a) in accordance with its principal objective and duties under Article 9 of the SEM Order, and in the exercise of its powers under Article 3 of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007; and

- (b) in the exercise of any powers granted to it under regulations made pursuant to section 2(2) of the European Communities Act 1972 for the purpose of implementing the Directive,

to modify, with effect from the Effective Date (as defined in paragraph (3)), the conditions of the SEM operator licence, all participation in transmission licences, all generation licences, the public electricity supply licence and all private electricity supply licences in accordance with the draft licence conditions at Annex A and the transitional provisions at Annex B.

- (2) The decision referred to in paragraph (1) above is subject to:

- (a) any changes which it is appropriate to make to the drafting at Annexes A and B in the light of a public consultation process not concluded prior to 31 May 2007;

- (b) any legal drafting changes which it is appropriate to make to the drafting at Annexes A and B that do not materially amend the effect of those drafts;

- (c) in the case of each individual licence, any drafting changes which it is necessary to make to the drafting at Annexes A and B to reflect the circumstances of the relevant licence holder (including the names, dates, figures and other data contained in the existing conditions applicable to that licence);

- (d) the Department of Enterprise Trade and Investment (**DETI**) making regulations under section 2(2) of the European Communities Act 1972 which empower the Authority to modify the conditions of the licences for the purpose of implementing the Directive, and which (subject to DETI making changes to those regulations in line with the substantive consultation responses made on behalf of the Authority) make provision in substantially similar terms to those contained in the draft regulations which are the subject of a consultation paper issued by DETI on 3 May;
- (e) DETI commencing Articles 3 and 9 of the SEM Order on or before the Effective Date;
- (f) DETI consenting to the modifications;
- (g) the Commission for Energy Regulation (**CER**) confirming that it intends, with effect from on or around 3 July 2007, to proceed with such preliminary steps as it considers appropriate to allow introduction of the SEM in the Republic of Ireland in November 2007;
- (h) the receipt by the Authority, from CER, of confirmation that CER currently considers that the introduction of the SEM is likely to be to the benefit of consumers in the Republic of Ireland;
- (i) DETI commencing the provisions of Articles 28 and 29 of the Energy Order (the conversion of existing electricity transmission licences);
- (j) DETI granting a SEM operator licence and a participation in transmission licence to SONI Limited, in each case, in substantially the form in which the Authority concluded such licences should be granted; and
- (k) no event occurring between the date of this decision and the Effective Date (inclusive), which would be likely to have caused the Authority to alter its decision,

and the Authority hereby delegates to the Director of Electricity (or in said officer's absence, the Chief Executive) the decision as to whether any changes should be made, or whether any event has occurred, within the terms described in sub-paragraphs (a) to (k) above.

- (3) The Effective Date shall be 3 July 2007, 4 July 2007 or 5 July 2007, as determined by the Director of Electricity (or in said officer's absence, the Chief Executive).

C. Ancillary Documents

- (1) The Authority notes the current stage of development of the ancillary document known as the Single Electricity Market Trading and Settlement Code.
- (2) In accordance with the Authority's principal objective and general duties under Article 12 of the Energy Order, the Authority hereby delegates the function of designating the Code, for the purposes of the conditions of any licence in which it is referred, to the Director of Electricity (or in said officer's absence, the Chief Executive); provided that the provisions of the document so designated are consistent with the principles set out in the presentation made to the Authority on 7 June 2007.

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Peter Matthews (Chairman)

for and on behalf of the

Northern Ireland Authority for Utility Regulation

Annex A

(1) Participation in Transmission Licence (Northern Ireland Electricity plc)

Annex A

(2) Supply Licence (NIE Energy Limited)

Annex A

(3) Power Procurement Business Conditions (NIE Energy Limited)

Annex A

(4) Participation in Transmission Licence (Moyle Interconnector Limited)

Annex A

(5) Generation Licence (Kilroot Power Limited)

Annex A

(6) Cancellation of the Generator Unit Agreements

Annex B

Transition Conditions