

SUMMARY OF THE MINUTES OF THE NINTH MEETING OF THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION (NIAUR) HELD ON THURSDAY 8 NOVEMBER 2007, AT THE GREEN ENERGY CENTRE, LONDONDERRY

Present: Dr Peter Matthews Chairman

Mr Clive Elphick

Mr Philip Johnson

Mr Chris LeFevre

Mr Jim Oatridge

Mr Alan Rainey

In attendance: Mr Dermot MacCann Director of Electricity

Ms Jo Aston Director of Water

Mr Brian McHugh Director of Gas

Mr Donald Henry Director of Corporate Affairs

Mr David Flinn In-House Legal

Mr Greg Irwin Board Secretary and Communications Manager

Mr Kevin Shields Strategy Manager

Mr Alan Smith Principal Economist

Mr Michael Campbell Analyst

1. APOLOGIES FOR ABSENCE

Apologies were noted for Etain Doyle and Iain Osborne.

2. FIRE DRILL

The Board Members were informed of the evacuation procedures which apply at the Green Energy Centre in the event of a fire.

3. DECLARATIONS OF INTEREST

Mr. Rainey indicated that he had previously been an Executive Director and Board Member of Northern Ireland Energy Holdings until June 2007.

4. MINUTES OF THE PREVIOUS MEETING

The minutes of the Board meetings on 3 November, and a subsequent meeting of the Board on 15 October were agreed subject to minor amendment.

5. ACTION POINTS FROM THE OCTOBER MEETING

The action points recorded at the last meeting had been circulated to the Board and it was noted that the majority of these points had been actioned.

The Board queried progress in relation to the delegation of funding from the Department of Finance and Personnel. Separate items pertaining to financial reporting and engagement with the environmental governance sector were also clarified by the Board.

6. CHIEF EXECUTIVE'S REPORT AND FINANCE UPDATE

A. Chief Executive's Report

In the Chief Executive's absence, the Chairman asked senior officials to address relevant parts of the report.

The Director of Water outlined key developments in relation to the Hillyard report. Subsequent discussion related to the Authority's role and its relationships with other key stakeholders, Northern Ireland Water's (NIW) charging scheme and the forthcoming metering seminar and related research work.

The Board was clear that the Authority should continue to engage constructively with key stakeholders. Furthermore, the Board agreed that it would formally consider the NIW charging scheme in February and members were keen that the Water Board Advisory Group (BAG) would play a key role in assisting the Board in formulating its view on the scheme. Finally, the Chairman articulated the view that the Authority had an open-minded stance on the question of metering and would assess the outcome of the metering seminar and research work as it was an important aspect of the process to inform policy makers in this important area..

Board members noted and agreed the request from the Chief Executive to delegate to any of the Directors the ability to exercise the Chief Executive's functions in an emergency.

It was also agreed that the Chief Executive's report would henceforth contain an update on health and safety matters.

B. Finance Update

The Director of Corporate Affairs presented an update. He indicated that in overall terms that the forecast outturn was still broadly in line with the budget position. However, he pointed out that it is also now possible that additional budget may need to be set aside for legal costs later in the year.

The Chairman asked that the Authority's Annual Report be published as soon as possible:-

7. FREEDOM OF INFORMATION REQUEST

David Flinn introduced this item, which related to request from the Consumer Council Northern Ireland to be provided with a copy of NIW's Annual Land Disposal Return under the Freedom of Information Act 2000.

The Utility Regulator Board, acting through its Chairman decided that the site, identity, number of sites and valuation information relating to Northern Ireland Water contained in the Northern Ireland Annual Land Disposal Return should not be released to the Consumer Council as the release of information by the Utility Regulator would or would be likely to inhibit the free and frank exchange of views for the purpose of deliberation (being the exemption in Section 36 of the Freedom of Information Act 2000).

8. LETTER FROM AES KILROOT (Item 16 (1) on the Agenda)

David Flinn provided a verbal update on the issues in respect of this correspondence, which raised concerns about the requisite arrangements on the Single Electricity Market (SEM).

9. CORRESPONDENCE RE REGULATORY SANCTIONS AND ENFORCEMENT BILL (Item 16 (2) on the Agenda)

Board members considered and discussed the broad issues emanating from correspondence received on this matter. It was agreed that there would be clarification on the issue of hypothecation of fines before a reply to correspondence would be issued.

10. NORTHERN IRELAND ELECTRICITY (NIE) SUPPLY PRICE CONTROL (Item 8 on the Agenda)

Alan Smith and Michael Campbell presented this paper which sought a continuation of NIE Supply price control arrangements from 1 April 2007 until 31 March 2009.

Board members considered this issue carefully. There was an extended discussion on the extent to which proposals on these elements posed efficiency challenges for NIE Supply. Members were also mindful of the impact of the new all-island wholesale arrangements from 1 November on the market.

It was agreed that, at this time, the price control arrangements would be approved for the period 1 April 2007 until 31 March 2009. The Board was clear that it would take the opportunity at the appropriate time to further assess NIE Supply price control arrangements for the period beyond 2009.

11. POWER PROCUREMENT BUSINESS (PPB) PRICE CONTROL (Item 9 on the Agenda)

Alan Smith presented this paper which outlined proposals relating to Power Procurement Business Price Control, which had previously been subject to consultation.

The substantive discussion by Board members related, in part, to whether the costs of a guarantee to the generators that they would still receive payment in the event of a default by the PPB, should be recovered through PPB price control arrangements, and the payment of a management fee to the company to support its role in delivering efficiencies outside of any incentive mechanism. Board members discussed the payment of a management fee and the extent to which that might be linked to performance criteria.

The Board's preliminary view was that any decision on the Price Control proposals would have to focus on reducing margins, would recognise the guarantee, would be limited in timing and would have to build-in performance criteria associated with the management fee. It was agreed that officials would take account of the comments in a further iteration of this paper that would be provided to the December Board meeting for information.

12. SONI PRICE CONTROLS (Item 13 on Agenda)

Alan Smith presented this information paper, which outlined key proposals relating to SONI Price Controls, in advance of a consultation.

Members did not engage in significant discussion on the information paper, but it was agreed that an Energy BAG would be convened at the earliest opportunity – and in advance of consultation.

13. SEM UPDATE (Item 15 on the Agenda)

The Director for Electricity provided a brief verbal update on SEM, noting that the SEM Committee had been appointed.

14. PHOENIX TRANSMISSION MUTUALISATION (Item 10 on the Agenda)

The Director for Gas in noting the general delegation for regulatory agreements, sought approval for the necessary regulatory documents to facilitate the proposed sale of the Phoenix transmission business to Northern Ireland Energy Holdings.

Board members sought clarification on a range of issues related to bond financing and the wording of the licence.

The Board decided to approve the granting of the gas conveyance licence, direction, comfort letter and security consent letter to Phoenix Natural Gas Limited ('PNG'), subject to no materially significant modifications to the drafts attached in Appendix 2,3, 4 and 5. It was agreed that the approval of the regulatory documents would facilitate a more efficient, economic and co-ordinated gas industry in Northern Ireland in line with the Authority's principle objective in relation to gas. In addition, the Board approved the Chief Executive or Gas Director signing all the necessary documents to be executed by the Authority in connection with the Phoenix Natural Gas mutualisation.

15. WATER PRICE CONTROL (Item 11 on the Agenda)

The Director for Water presented this paper which explored issues and presented options in relation to setting prices for NIW from April 2010. Board members were asked to endorse a recommendation to implement a two year price review from April 2010 to April 2012 followed by a five year price review from April 2012 to April 2017.

Much of the ensuing discussion related to engagement with stakeholders and the need to ensure that the Authority adequately interacts and consults with key organisations in advance of a price control determination. Board members were conscious that a key context for the engagement was the restoration of a devolved Assembly and the need to reflect the outcome of the Executive's consideration of the findings of the Independent Water Review Panel.

The Board agreed in principle to the general direction of the proposals presented in the paper, recognising the influence of wider contextual issues, and mandated the Director of Water to

move forward on the process of stakeholder engagement. The Director of Water was requested to provide a further report to the Board on the development of the programme for coming to a final determination on setting prices for NIW.

16. UPDATE ON PHOENIX PRICE CONTROLS (Item 12 on the Agenda)

A brief update was provided by the Director for Gas, and no significant discussion took place.

17. STRATEGY SESSION OUTCOME (Item 14 on the Agenda)

Kevin Shiels presented a report for information on the outcome of the strategy prioritisation exercise previously undertaken by the Board on the second day of its October meeting in Birmingham.

On a query from a Board member he confirmed that a Retail Competition Strategy paper would be finalised in March. The Chairman also sought a summary of the discussion and key action points from the Sustainability Update item from the September Board meeting.

18. ANY OTHER BUSINESS (Item 16 on the Agenda)

- The Director for Corporate Affairs presented the Operation Symphony Progress Report for information. The Chairman stressed that the leadership team were advocating the idea of ‘one team, one mission’, and he was keen to see this communication throughout the organisation. The Board noted that the Executive team was scheduled to meet on 19 November to further progress Operation Symphony.
- The Chairman noted that revised remuneration levels for Board members had been implemented.

19. ARRANGEMENTS FOR DECEMBER MEETING (Item 17 on the Agenda)

The Board Secretary outlined arrangements for the December Board meeting and related events which were scheduled to take place in Belfast on 12-13 December. He drew particular attention to the Stakeholder Dinner, which was due to take place on the evening of the 12 December at the Waterfront Hall.

The Chairman suggested that colleagues from other Government Departments be invited to attend the Board dinner on 12 December. A request was also made that a forward schedule for future Board, BAGs and Audit/Remuneration Committees be provided to the Board.

All items of business having been discussed, the Chairman brought the meeting to a close at 4.20 p.m.