

**MINUTES OF THE FORTY-SIXTH MEETING OF THE NORTHERN IRELAND  
AUTHORITY FOR UTILITY REGULATION (THE 'AUTHORITY') HELD ON THURSDAY,  
22 MARCH 2012 IN QUEENS HOUSE, BELFAST**

Present:	Mr Peter Matthews Mr Philip Johnson Mr Jim Oatridge Mr Alan Rainey Mr Bill Cargo Mr Clive Elphick Mr Shane Lynch	Chairman       Chief Executive
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In attendance:	Ms Jo Aston Mr Donald Henry Mr Kevin Shiels Mr Brian McHugh Ms Tanya Hedley Mr Greg Irwin  Ms Mary Jones Mr Paul Harland Mr Carl Hashim Mr Dermot MacCann  Mr Michael Campbell  Mr Colin Broomfield  Mr Kenny Dane  Mr Andrew McCorriston  Ms Roisin McLaughlin  Mr Graham Craig Ms Linda Beirne	Director of Water Director of Corporate Affairs Acting Director of Retail and Social Director of Gas Director of Electricity Board Secretary/Communications Manager Legal department Gas directorate (for agenda item 10) Gas directorate (for agenda item 10) Cross Utility price controls project (for agenda item 11) Retail and Social directorate (for agenda item 12) Electricity directorate (for agenda items 14 and 15) Electricity directorate (for agenda item 14) Electricity directorate (for agenda item 15) Gas directorate (for agenda items 17 and 19) Gas directorate (for agenda item 19) Gas directorate (for agenda item 19)
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**1. APOLOGIES FOR ABSENCE**

Richard Rodgers.

## **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**

Bill Cargo declared a potential interest in relation to the PNG price control and subsequently voluntarily absented himself from the meeting whenever the board came to that agenda item.

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

The minutes of the board meeting on 24 February were agreed subject to several minor amendments.

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

The Action Points from the previous board meeting on 24 February were reviewed.

The board was informed that correspondence had been recently received from the legal representatives of Phoenix Natural Gas Ltd regarding a Freedom of Information request.

An update on those actions from the Freeze Thaw Recovery Action plan, not falling to NI Water, was requested.

The Chief Executive updated the board on progress regarding the submission of statutory information by regulated companies.

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

(a) The Chief Executive presented his report and identified several areas for discussion. An update was provided on developments relating to NI Water governance. Board members discussed specific governance options and any legislative implications.

A general update on work being undertaken to advance the publication of the draft price control determination was provided. It was agreed that the optimal date for the publication was contingent on addressing issues of content and drafting.

The Chief Executive notified the board that Arcapita had filed Chapter 11 bankruptcy proceedings in the United States and it was agreed that a meeting should be organised as soon as possible with Viridian.

An update was provided on the publication of minded-to decisions and associated licence modifications in respect of the consumer protection measures in IME3. The requirement to undertake a regulatory impact assessment was noted and board members clarified the presentation of this assessment.

Progress was noted on addressing the issue of IME2 compliance.

The board discussed the latest position regarding the allocation of judicial review costs and noted that further work would be required in that regard.

(b) The Director of Corporate Affairs presented the Finance and Performance report which was considered and approved. A report was provided on the latest budget position with potential budgetary variances identified. An overview of progress against Forward Work Plan targets was also presented. The risk register was also reviewed.

Following a briefing on the recent public planning inquiry, the Board expressed its concern at the further delays in progressing the north/south interconnector.

## **7. REPORTS FROM BOARD SUB-COMMITTEES/ADVISORY GROUPS**

### **Audit Committee**

The Chairman of the Audit Committee reported on the last meeting of the Committee which took place on 28 February. He indicated that the main issues discussed at the meeting were the draft budget and the scheme of delegation. An overview of Committee's

consideration of the draft budget was provided. He also clarified the progress made by the Committee on its review the policy on interests.

### **Energy BAG**

The Chairman of the Energy BAG, Philip Johnson, noted that key energy issues recently discussed by the Energy BAG were on the board agenda.

### **SEM Committee**

The Director of Electricity provided an update on current SEM policy matters. Board members focused on licence modifications arising from the acquisition of NIE by ESB and progress on attaining the acceptance of the modifications.

## **8. NETWORK FINANCE UPDATE**

No update was provided on this occasion.

## **9. BRIGHT IDEAS**

The Chairman reported on the successful utility badge awards ceremony that took place the previous evening.

## **10. PNGL PRICE CONTROL REVIEW 2012**

The Director of Gas introduced this item, which sought the board's approval for the submission of referral documentation to the Competition Commission. He updated the board on progress in respect of the Competition Commission referral process since the last board meeting and annotated key aspects of the documentation.

Board members made some initial comments and suggestions on the introduction element of the documentation. The referral documentation was agreed subject to any further comments by board members by correspondence.

The board also delegated to the Chief Executive the authority to issue the Competition Commission referral notice with any further major decisions to be subject to board approval.

## **11. NETWORK PRICE CONTROLS: A CROSS UTILITY APPROACH**

Dermot MacCann introduced this item, which was a decision paper on a cross utility approach to network price controls. He described the process of developing the decision paper, the responses to the consultation and the key features of the decision paper.

Board members discussed the following issues: incentives, the treatment of outperformance, stakeholder engagement on price controls and Totex.

With all the issues clarified, it was agreed that the decision paper would be published after further consideration by the Executive team.

## **12. POLICY POSITION PAPER ON THE REGULATION OF ENERGY RETAIL COMPETITION**

The Acting Director of Retail and Social introduced this item which sought the board's approval of a decision paper outlining the Authority's approach on energy supply competition in Northern Ireland. He outlined: the background to the paper, provided an overview of approaches to energy supply competition in other jurisdictions, outlined engagement with the board advisory group and identified key issues arising from the consultation on the paper.

Key issues raised in the subsequent discussion were: the costs of service for suppliers, market share and the assessment of a competitive market, the approach to price controls and associated implications and the potential for the entry of new entrants.

Subject to a small number of suggestions, the board approved the decision paper.

### **13. REVIEW OF SCHEME OF DELEGATION**

The Director of Corporate Affairs presented this item, which invited the board to approve a revised scheme of delegation. The proposed changes were outlined in tracked mode in document.

The Chairman of the Audit Committee reported on the Committee's recent consideration of the document.

Board members clarified specific points in relation to the approvals process.

The Board approved the revised Scheme of Delegation.

### **14. GUA CANCELLATION**

The Director of Electricity introduce this item, which sought the board's approval to instruct the cancellation of Generating Unit Agreements(GUAs) for peaking plants at Ballylumford, Coolkeeragh and Kilroot (subject to revised Ancillary Service arrangements being in place) and to keep under review the GUAs for the Ballylumford CCGTs. An analysis was presented to support these proposals.

The subsequent board discussion focused on the impact of the proposals. In particular, board members discussed the security of supply issue. There were also several comments from board members relating to items of drafting in the board paper and the formal resolution.

At the culmination of the discussion, the board agreed that authority for making the decision on the GUAs would be delegated to the Chief Executive. This would be subject to an assessment of the impact of the proposals on security of supply, final comments on the decision paper and the consideration of some drafting issues relating to the board paper and the formal resolution.

## **15. PPB PRICE CONTROL**

The Director of Electricity introduced this paper which sought the board's approval to the decision paper on the Power NI Power Procurement Business's (PPB) price control. Board members received a briefing on the background to the price control, engagement with the Energy BAG on the price control, key features of the decision paper and issues relating to the consultation.

Board members clarified items of detail on PPB's resourcing and the IC<sub>t</sub> amount. A drafting suggestion was made in relation to the format of the decision paper. There was, in principle, support for a specific suggestion that emerged during consultation and it was noted that this would be discussed further at the April Energy BAG.

With all issues addressed, the Board approved the price control decision paper for publication.

## **16. FIRMUS ENERGY DISTRIBUTION NETWORK CODE**

This paper sought the board's approval for the firmus distribution network code for the ten towns area.

The board was provided with a copy of the proposed distribution network code for inspection.

The board approved the firmus distribution network code.

## **17. IME2 INFRINGEMENT**

Roisin McLaughlin presented this item, which sought the board's approval for the decision-making on products and arrangements necessary to meet the IME2 infringements.

The board clarified items associated with the designation of the relevant point and the timetable for the delivery of actions.

The Board agreed to initially delegate the engagement on decision-making to the Energy BAG, with the board required to ratify any decisions by correspondence.

#### **18. DRAFT BUDGET 2012-13**

The Director of Corporate Affairs introduced this item which sought the board's approval for the 2012-13 budget.

Board members noted the proposed allocation for each category of expenditure and sought further information on specific budgetary allocations. It was agreed that the draft budget balanced the need to resource some key issues with the need to constrain costs generally.

Board members sought further information on specific budgetary allocations.

With the issues clarified, the board approved the 2012-13 budget.

#### **19. BGE PRICE CONTROL**

The Director of Gas introduced this item which sought the board's view on the work-in-progress draft BGE price control paper.

There was an initial discussion on the extent of the debate on the issues in the draft price control paper. The potential for mutualisation of the pipeline and the impact of this was also discussed. Board members also enquired about the dialogue with BGE.

The board endorsed the thrust of the draft decision paper and the specific recommendation regarding engagement with BGE.

#### **20. RENEWABLES OBLIGATION ANNUAL REPORT**

The board noted this report.

#### **21. ANY OTHER BUSINESS**

The Chairman expressed his gratitude to Dermot MacCann on behalf of the board for his years of service and conveyed his best wishes to him on his retirement.



Future board dates: it was agreed that the May, October and December dates should be considered.

All items of business having been discussed, the Chairman brought the meeting to a close at 2.50 p.m.