

MINUTES OF A MEETING OF THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION (THE 'AUTHORITY') HELD ON THURSDAY, 13 DECEMBER 2012 IN QUEENS HOUSE, BELFAST AT 9.00 A.M.

Present:

Bill Emery (Chairman), Richard Rodgers, Bill Cargo, Alan Rainey, Shane Lynch (Chief Executive)

In attendance:

Jo Aston (Director of Water), Donald Henry (Director of Corporate Affairs), Kevin Shiels (Acting Director of Retail and Social), Brian McHugh (Director of Gas), Tanya Hedley (Director of Electricity), Greg Irwin (Board Secretary/Communications Manager)

Ravi Randhawa (Wragge and Co, for agenda items 4- 8), Philip Taylor (Wragge and Co, for agenda items 4- 8), Paul Harland (Manager, Gas directorate, for agenda item 7), Roisin McLaughlin (Manager, Gas directorate, for agenda items 8 and 9), Ian Campbell (Manager, Corporate Affairs directorate, for agenda item 14), Kevin O'Neill (Manager, Electricity directorate, for agenda item 6), Sarah Friedel (Analyst, Electricity directorate, for agenda item 5).

1. APOLOGIES FOR ABSENCE

1.1 None.

2. FIRE DRILL

2.1 The board members were informed of the evacuation procedures which apply at Queens House in the event of a fire.

3. DECLARATIONS OF INTEREST

3.1 The Chairman updated the board on recent correspondence with the legal representatives of Phoenix Natural Gas Ltd.

4. GAS (METER TESTING AND STAMPING) REGULATIONS

4.1 Brian McHugh introduced this item which sought the board's approval for the signing of the Gas (Meter Testing and Stamping) Regulations (Northern Ireland) 2012.

4.2 Following clarification of several points of detail, the board approved the signing of the proposed regulations by the Chief Executive.

5. NIE MEDIUM TERM PLAN – CAPEX INVESTMENT

5.1 Tanya Hedley introduced this item which sought the board's approval for capital investment to facilitate renewable generation in Northern Ireland.

- 5.2 She outlined the detail of the proposed capital expenditure projects and provided an assessment on the merits of each.
- 5.3 Board members clarified several aspects of the proposed projects. Clarification was provided on: the impact on consumer bills; the contribution of the projects to the NI Executive's target for demand provided by renewable generation, the outputs from the projects and the future development of renewable generation projects. There was also a discussion on the risk allocation associated with the projects and the benefits that would be realised. The board was also briefed on the process for advancing the projects and the Authority's associated consultation. Engagement with NIE was also discussed.
- 5.4 The board approved the capital expenditure projects as outlined.

6. RP5 PRICE CONTROL – FINAL DETERMINATION

- 6.1 Kevin O'Neill introduced this item, which provided an update in relation to the RP5 price control, and sought the board's guidance on next steps options. He provided a presentation to illustrate key issues and guide the board discussion.
- 6.2 The board conducted an initial discussion on the options available to the Authority arising from NIE correspondence rejecting the RP5 price control determination. There was also discussion on the potential to implement a revenue adjustment arising from the Authority's investigation into NIE's capitalisation practice within the current price control. Clarification on legal issues was also provided.
- 6.3 Board members discussed the revenue impact in respect of the current (RP4) and the RP5 price controls. The impact of any delay in implementation of the new RP5 price control was also explored.
- 6.4 The board agreed that the current price control should continue until such time as a formal decision on next steps is taken. It was also agreed that the potential to make the capitalisation practice revenue adjustment within the current price control should be explored. The executive team was also advised to advance preparations for a potential Competition Commission reference.

7. COMPETITION COMMISSION'S FINAL DETERMINATION ON PNGL12

- 7.1 Brian McHugh introduced this item. He briefed the board on the Competition Commission's Final Determination on PNGL12 (particularly with regard to changes compared to the Provisional Determination) and the Authority's plans to publish this document.
- 7.2 The focus of the board discussion was on the Authority's next steps. There was a discussion about aspects of the Final Determination, such as outperformance and rate of return, and the implications of the Competition Commission's conclusions for future price controls related to PNGL.

7.3 A discussion on the potential for judicial review of the Competition Commission's Final Determination also took place. The board agreed that further legal advice should be provided on this issue and the extent to which the Competition Commission's conclusions were binding in respect of future price controls.

7.4 Finally, the board provided guidance on the Authority's plans for publishing the Competition Commission's Final Determination and the communication of key messages.

8. BGE (UK) CERTIFICATION

8.1 Roisin McLaughlin presented this item which related to the submission of an application to the European Commission for the certification of BGE(UK) as an Independent Transmission Operator (ITO).

8.2 The board considered the options for certification. A series of discussion points were addressed. Board members explored the scope and nature of qualification measures. Clarification was provided on timing issues associated with the certification process, the company's likely view on qualification measures and potential for the transfer of resources.

8.3 The board indicated its support for certifying BGE(UK) subject to qualification measures being taken.

9. PTL/BGTL CERTIFICATION

9.1 Roisin McLaughlin introduced this item which sought the board's view on the certification of PTL/BGTL.

9.2 The main focus of the board's discussion was on the contractual obligations in respect of PTL/BGTL information in the control room. In this regard, board members discussed the extent to which further safeguards could be provided.

9.3 The board endorsed the certification of both PTL and BGTL subject to review of the contractual measures as agreed by the parties.

10. STAKEHOLDER ENGAGEMENT APPROACH

10.1 Shane Lynch introduced this item which sought the board's guidance on stakeholder engagement proposals.

10.2 The board discussed current perceptions of the Authority. Key comments emerging from discussion were: the need to explore opportunities for increasing the range of communications channels, engaging more pro-actively with consumers and investor audiences and identifying the most important stakeholders and our approach to these.

The board also suggested that the Executive should consider how it might objectively and systematically gather feedback from consumers.

- 10.3 The Executive undertook to reflect board comments in an operational plan for stakeholder engagement.

11. MINUTES

- 11.1 The board agreed the minutes of the board meetings on 11 October and 5 December.

12. ACTION POINTS

- 12.1 The board noted that the action points from previous meetings were complete.

13. CEO REPORT AND CORPORATE DASHBOARD

- 13.1 Shane Lynch presented his report and focused on several issues.
- 13.2 He reported on recent meetings with DRD and a presentation to the Regional Development Committee.
- 13.3 The board was briefed on the Energy Bill and the impact of key changes. In particular he outlined changes to the Authority's duties.
- 13.4 Developments in the retail electricity market, relating to the commencement of the Power NI price control and complaints about a supply company, were also noted.
- 13.5 He also noted work being undertaken in respect of: the separation of the NIE T and D licence, the publication of a consultation paper on offshore connections and South-North pipeline tariffs.
- 13.6 Donald Henry then briefed the board on the finance and performance report. Board member comments focused on budgetary pressures and reputational risks.

14. MANAGEMENT OF FRAUD AND BRIBERY ACT

- 14.1 The board noted a briefing on the management of fraud risk and the Bribery Act 2010 provided by Ian Campbell.

15. REPORTS FROM BOARD SUB-COMMITTEES/ADVISORY GROUPS

• AUDIT COMMITTEE

Richard Rodgers reported on the most recent Audit Committee meeting. He noted that it was Jim Oatridge's first meeting as independent chairman. The Committee reviewed the outcome of the Internal Audit programme and the 2011/12 Audit carried out by the Northern Ireland Audit Office. The staff register of interests was also approved.

- **ENERGY BAG**

Shane Lynch reported on the most recent meeting of the Energy BAG, with several of the issues discussed on the board agenda. The BAG also included a discussion on the NI Water price control, PC13. Plans for future BAG meetings were also discussed.

- **SEM COMMITTEE**

Tanya Hedley presented this report and focused her comments on regional integration (and a recent consultation on this, which closes on 21 December), dispatch and scheduling and the purchase of NIE by ESB.

16. ANY OTHER BUSINESS

16.1 The board noted office holiday arrangements and the Chairman wished everyone a Happy Christmas.

There being no other business, the meeting concluded at 2.10 p.m.