

**MINUTES OF THE FORTY FIFTH MEETING OF THE NORTHERN IRELAND  
AUTHORITY FOR UTILITY REGULATION (THE 'AUTHORITY') HELD ON FRIDAY,  
24 FEBRUARY 2012 IN QUEENS HOUSE, BELFAST**

Present:	Mr Peter Matthews Mr Philip Johnson Mr Jim Oatridge Mr Alan Rainey Mr Bill Cargo Mr Richard Rodgers 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 Ms Sarah Friedel  Mr Simon Scott  Mr Albert Shaw  Ms Leigh Smyth  Mr PJ McCloskey  Mr Kevin O'Neill  Mr Dermot MacCann Ms Sarah Brady  Ms Barbara Stevenson  Ms Karen Wilson  Mr Alan Craig  Ms Alison Farr  Mr Colin Broomfield	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 Electricity directorate (for agenda item 10 only) Electricity directorate (for agenda item 10 only) Electricity directorate (for agenda item 10 only) Electricity directorate (for agenda item 10 only) Electricity directorate (for agenda item 10 only) Electricity directorate (for agenda item 10 only) Project Zeus (for agenda item 10 only) Social and Environmental Manager (for agenda items 12 and 17) Retail and Social directorate (for agenda item 12 only) Gas directorate (for agenda item 12 only) Water directorate (for agenda items 13,14 and 15) Retail and Social directorate (for agenda item 17 only) Electricity directorate (for agenda item 18 only)
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## **1. APOLOGIES FOR ABSENCE**

Clive Elphick

## **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**

The following board members declared a potential interest in relation to specific items and subsequently voluntarily absented themselves from the meeting whenever the board came to that agenda item: Bill Cargo (relating to the PNG price control), Richard Rodgers (PNG price control and the Energy Supply Obligation items), and Alan Rainey (NIE T and D price control – part of relating to pensions). Tanya Hedley also voluntarily absented herself from the discussion on the NIE T and D price control – relating to the pensions element.

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

The minutes of the board meetings on 15 and 16 December were agreed subject to several minor amendments.

The board noted that Power NI had accepted the Authority's price control.

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

The Action Points from the previous board meetings were reviewed.

The board received an update on the further engagement with NIE relating to T and D price control.

The board also received an amended board paper on the Phoenix price control following comments received at its December meeting.

It was agreed that the Authority would receive papers in relation to Watersafe.

The board was notified of recent correspondence from the legal representatives of Phoenix Natural Gas Ltd.

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

(a) The Chief Executive presented his report and identified several areas for discussion. The Chief Executive updated the board on developments relating to NI Water governance. Board members discussed the various governance options. The timing of any consultation on future NI Water governance arrangements and opportunities for the Authority to make a contribution to the governance debate were clarified.

Further information was provided on the issues discussed with NIE as part of ongoing engagement on the T and D price control.

The board was provided background information on the potential buy-out of certain generation unit agreements and received a briefing on the latest situation.

On behalf of the Board, the Chairman formally recorded his appreciation to the Retail and Social staff team on their work in relation to the Power NI price control.

It was noted that the Authority had made recently a determination on a dispute relating to a grid connection offer.

A factual update on the Common Arrangements for Gas (CAG) project was provided. Actions taken by the Authority to address IME2 non-compliance were noted, and the timetable for delivering the actions was clarified. The impact of the work to address this non-compliance, on the Authority's resources, was also noted.

Finally, board members noted recent announcements pertaining to potential investment in gas storage and the Phoenix Supply Ltd gas tariff review.

(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 pressures identified. An overview of progress against Forward Work Plan targets was also presented. The risk register was also reviewed and suggestions for amendments were received from board members.

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

### **Energy BAG**

The Chairman of the Energy BAG, Philip Johnson, noted that the most recent meeting of the BAG discussed the BGE price control

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### **SEM Committee**

The Director of Electricity provided a high level update on current SEM policy matters. She reported the outcome of the judicial review relating to the Irish carbon levy, and addressed board member queries on the impact of the decision and legal costs. Board members were briefed on the licence modifications consultation pertaining to the purchase of NIE T and D by ESB. An update was also provided on regional energy market integration. Engagement with the EU on certification was also noted. Finally, she reported that the part of the Moyle Interconnector had now returned to service following repair.

## **8. UPDATES**

### **a) Network finance**

There was nothing to report on this issue on this occasion.

### **b) NI Water investigation update**

The Director of Water provided the board with a progress report on the delivery of the Freeze/Thaw Recovery plan. The board discussed NI Water's performance during the mock incident exercise. The importance of NI Water undertaking further tests of its incident planning procedure, particularly those that are called without prior notice, was noted by the board.

## **9. BRIGHT IDEAS**

The board received a brief update on plans for the award of a utility badge to scouts on 21 March.

## **10. NIE T AND D PRICE CONTROL (RP5)**

The Director of Electricity introduced this item. She clarified that while a working draft of a draft determination had been provided, the board was being asked to agree key decisions, which would then be reflected in the final draft determination issued for consultation. An update on key developments since the last board meeting was provided, and, in particular, she briefed the board on further engagement with NIE.

Kevin O'Neill then made a presentation to the board, which provided detail on the key decision items. The key decision items were: capitalization practice by NIE during the previous price control period, the RP5 capex submission, the RP5 opex submission, the treatment of renewables, the proposed Weighted Average Cost of Capital (WACC) and proposals on NIE pensions.

Board members took the opportunity to clarify information during an extended discussion on the proposed RP5 decisions.

The key issues discussed included: estimating the quantum associated with capitalisation practice and how this might be treated within the RP5 price control, the explanation of the capitalisation practice, information provided by NIE in relation to its capex requirements, metering, the proposed withdrawal of the subsidy relating to connectionsconnections proposals, the role of the reporter, provision for asset management in RP5, the specification of quality, the proposal for the treatment of renewables, comparative perspectives on the WACC, resourcing implications associated with the opex proposals and, incentive arrangements. The pensions area was the subject of a separate paper, and the key issues discussed by the board included: the extent of the pension deficit, the deficit repair period, the regulatory fraction and historic adjustments.

The Chairman took the opportunity to record the gratitude of the board to the electricity directorate for the work that it had undertaken on the RP5 price control to date.

At the conclusion of the discussion, the Board approved in principle the key decisions outlined in the presentation. It was agreed that further work would be undertaken on the working draft of the draft determination to reflect the key decisions and drafting items raised by the board. Finally, it was also agreed that an amended version of the board paper would be produced to reflect board member comments.

## **11. PHOENIX NATURAL GAS LTD PRICE CONTROL**

The Director of Gas provided the background to the papers presented and noted developments since the last board meeting. Following the submission of a Review Disapplication Notice by Phoenix Natural Gas Ltd (PNGL), in respect of the Authority's decision on the price control, the Board was asked to decide on the appropriate course of action.

In conducting its deliberations, the board discussed a number of issues. The consideration of any further information from PNGL was discussed. Board members also discussed the process and timing associated with a referral to the Competition Commission. The impact of any referral on the Authority's resources was also explored. In this regard, board members commented on the likely involvement of additional support to ensure that the Authority's position would be effectively advocated.

Following this discussion, the Board approved in principle, based on the evidence presented thus far, to refer the PNGL gas distribution price control to the Competition Commission and directed that the referral documentation is prepared for final approval. The Board agreed that the Authority would still consider any new evidence forwarded by PNGL. The Board also approved the business case, subject to amendments, for consultancy support in relation to the referral of the PNGL price control to the Competition Commission.

## **12. IME3**

The Acting Director of Retail and Social introduced this item on the implementation of the EU third package of energy directives (IME3). Board members received a final proposals paper, a licence implementing modifications pack and consequential changes to the Authority's rule/ procedures. He provided background on IME3 and details of stakeholder engagement, and also provided a broad overview of consultation responses. The board's view was also sought on the handling of material issues that may emerge during the consultation on the licence modifications.

The board discussion focused on issues raised by respondents during consultation. There was also some discussion on the later implementation of the majority of the electricity transmission and distribution licence modifications. Consultation comments relating to universal service standards were also discussed. The timing for the final publication of licence modifications was also clarified.

The Chairman of the Energy BAG, Philip Johnson, indicated that the BAG had reviewed several papers relating to IME3 and endorsed the papers presented to the board.

In closing, the Chairman recorded the gratitude of the board to the team for its work on IME3.

The Board approved the release for a final 28 day consultation of the IME3 implementation paper and related papers. It was also agreed that if there were further items of detail raised during the consultation that these should be considered by the Energy BAG in the first instance. Should matters of substance be raised during the consultation, the Energy BAG was asked to refer these matters back to the board for consideration.

## **13. NI WATER UNDERTAKINGS**

The Director of Water introduced this item which set out recommendations for the board, following analysis of further evidence provided by NI Water, in relation to release from Undertakings.

The Board agreed to release NI Water from Undertakings A, B, C, D and H, to take effect from 1 April.

#### **14. NI WATER SCHEME OF CHARGES**

Alan Craig briefed the board on the Scheme of Charges submitted by NI Water on 31 January.

Board members discussed information relating to the main factors behind the increase in charges.

The Board approved the NI Water Scheme of Charges 2012-13 under Article 201 (7) of the Water and Sewerage Services (Northern Ireland) Order 2006.

#### **15. NI WATER RELEVANT ITEMS**

The Director of Water provided background information on this issue, which sought the board's approval to release 'Relevant items' funding to NI Water.

Issues associated with the mechanism for relevant items funding and the impact on charges to non-domestic consumers were raised and clarified.

The Water BAG had previously reviewed the Relevant Items issue and were content with the proposed board decision.

The Board approved the release of up to £23.5 million of public expenditure funds as detailed in the paper and the associated joint determination by the Authority and the Department for Regional Development to implement this.

#### **16. FORWARD WORKPLAN**

The Director of Corporate Affairs introduced the Authority's draft Forward Work Plan (FWP) 2012-13 for consideration, following the conclusion of a public consultation.

Board members comments focused on the impact of likely additional workstreams that were not currently included in the draft FWP. In this regard, it was noted that the board would



have a further opportunity to discuss the broader resourcing issue when the draft Budget 2012-13 was presented at the March board meeting.

The Board noted the Authority's response to the comments received during the consultation. The Board also approved the FWP as revised for publication – subject to a further review of drafting and following consideration of the budget at both the February Audit Committee meeting and March board meeting.

## **17. ENERGY SUPPLIER OBLIGATION**

Sarah Brady introduced this update to the board on the options being considered by the Department of Enterprise, Trade and Investment in relation to energy efficiency targets and the possible implications for the Authority.

The board also discussed the future of NISEP, the funding mechanism for NISEP and energy efficiency targets generally. There was endorsement of the view that NISEP should be extended pending further developments.

## **18. UPDATE ON GUA CANCELLATION**

Colin Bloomfield provided an update on the analysis into the financial impact of the Generator Unit Agreements (GUAs) in place between NIE Energy's Power Procurement Business and the independent generators.

The Board noted the content of the update and also that a decision paper on GUAs would be provided at the March board meeting.

## **19. ANY OTHER BUSINESS**

None

All items of business having been discussed, the Chairman brought the meeting to a close at 3.30 p.m.