

**MINUTES OF A SPECIAL MEETING OF THE NORTHERN IRELAND AUTHORITY FOR  
UTILITY REGULATION (THE 'AUTHORITY') HELD ON WEDNESDAY, 28 APRIL 2010  
AT QUEENS HOUSE, BELFAST AT 3.30 P.M.**

Present:	Mr Peter Matthews	Chairman (by telephone)
	Mr Philip Johnson	
	Mr Alan Rainey	
	Ms Etain Doyle	
	Mr Chris Le Fevre	
	Mr Clive Elphick	(by telephone)
	Mr Jim Oatridge	(by telephone)
	Mr Iain Osborne	Chief Executive

In attendance:	Mr Shane Lynch	Director of Electricity
	Mr JP Irvine	Head of Legal
	Ms Jo Aston	Director of Water (for agenda item 5)
	Mr Greg Irwin	Board Secretary and Communications Manager
	Mr Paul Bell	Electricity Directorate
	Mr Colin Broomfield	Electricity Directorate

**1. APOLOGIES FOR ABSENCE**

Brian McHugh, Donald Henry, Kevin Shiels

**2. FIRE DRILL**

None.

**3. DECLARATIONS OF INTEREST**

No declarations of interest were made.

#### **4. GENERATING UNIT AGREEMENTS (GUAs)**

The Chairman in his opening comments referred to the importance of the matter under consideration. He made reference to the extensive discussion that had taken place on GUAs at previous board meetings, at board advisory group meetings and via briefings to the Board. He also noted that the GUA issue had been the subject of two public consultations.

The Head of Legal provided a copy of the Authority's matrix of up to date statutory duties for ease of reference by board members.

The Director of Electricity briefed board members on the outcome of the recent consultation on a minded-to proposal (that had been agreed for publication by the Board at its March meeting). He summarised the key points emerging from consultation and efforts made to meet, correspond and otherwise engage with stakeholders to help inform any decision on the cancellation of GUAs. He also noted that the Energy BAG had conducted an extensive discussion prior to the board meeting on the consultation responses, and the Authority's consideration of these.

Board members then received a presentation from key electricity directorate staff, which focused on economic analysis, addressed policy considerations and made recommendations to the board.

The economic analysis element of the presentation provided board members with an update on the input variables that contributed to the overall model assumptions. This included an update of forward fuel prices and foreign exchange rates, and a more recent run of the economic model with modified input variables included – for this purpose the board took on board much of AES and PPB's economic arguments. Throughout the presentation, board members took the opportunity to seek clarification on the analysis. Board members also specifically sought clarification on elements of the economic analysis that had been raised by respondents to the consultation. Requests for clarification by board members on the capacity demand ratio, infra-marginal rent, the impact of the gas price assumptions on the Public Service Obligation, the situation regarding the non-AES Units and the Options Value

effect were addressed. Throughout the discussion, board member comments focused on the impact of the analysis on costs to customers.

Board members also discussed the policy considerations – such as security and diversity of supply - and specific comments received during the consultation, such as certain concerns aired by PPB and AES in particular.

The Chairman of the Energy BAG, Chris Le Fevre, also provided a report on the group's consideration of GUAs prior to the commencement of the special board meeting. He indicated that the Energy BAG had reviewed the consultation responses and the economic analysis in detail. The Energy BAG had concluded that the economic analysis had been carried out appropriately and that every effort had been made to give due consideration to any concerns or issues raised by stakeholders. Finally, the Energy BAG's view was that the cancellation of two Kilroot generating agreements would be in the interest of consumers, and would be consistent with the Authority's duties and that due process had been observed in the consideration of GUA cancellation.

With the necessary information considered and all queries and clarifications addressed, the Chairman specifically asked for clarifications of fact be made to one or two of the slides as presented for future record. The Chairman then sought a Board decision on the recommendations made by the Executive (as presented in a draft resolution). The Board unanimously agreed the three specific resolutions (attached at Annex 1) subject to some minor drafting suggestions.

## **5 PC10 UPDATE**

The Chief Executive provided a briefing to the Board on recent developments regarding PC10 and the Authority's preparations for a Competition Commission referral.

The meeting concluded at 5.00 p.m.

## **Annex One –Authority resolution on GUAs**

### **Board Resolutions Relating to Agenda Item 4**

Having considered the views received from interested parties in face to face meetings and by way of written responses to Consultation Papers dated 26<sup>th</sup> November 2009 and 29<sup>th</sup> March 2010, and also given due consideration of its statutory duties and relevant requirements of public law, the Authority hereby makes the following decisions:

- 1) The Authority shall issue a direction to each of NIE Energy Limited and AES Kilroot Power Limited signalling its intent in relation to the termination of the following two Generating Unit Agreements from 1 November 2010:
  - a) the Generating Unit Agreement in respect of Kilroot Power Station Generating Unit No 1 as dated 1 April 1992 between AES Kilroot Power Limited and NIE Energy Limited; and
  - b) the Generating Unit Agreement in respect of Kilroot Power Station Generation Unit No 2 as dated 1 April 1992 between AES Kilroot Power Limited and NIE Energy Limited.
- 2) The Authority agrees to delegate the following tasks to its Director of Electricity:
  - a) to issue a notice which conveys the Authority's intention to direct the cancellation of the above Generating Unit Agreements by the earliest cancellation date, namely 1 November 2010; and
  - b) to publish a detailed decision document which records the Authority's reasons for the decisions as made at today's Board meeting.
- 3) The Authority further agrees to keep all remaining Generating Unit Agreements under a rolling review and hereby resolves to consider the cancellation, continuation or extension of each of them on a case by case basis at appropriate junctures in future.