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| **Standing item** |  | **Ref: 13-03/13** |
| **Submitted by:** | **Greg Irwin**  **Corporate Affairs directorate** |  |
| **MINUTES** |  |  |

**MINUTES OF A MEETING OF THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION (THE ‘AUTHORITY’) HELD ON THURSDAY, 14 FEBRUARY 2013 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) from item 4 onwards, Greg Irwin (Board Secretary/Communications Manager)

John Cooper (Wragge and Co), Paul Harland (Manager, Gas directorate, for agenda item 4), Alan Craig (Manager, Water directorate, for agenda items 5 and 9), Jody O’Boyle (Manager, Electricity directorate, for agenda item 5), Caspar Swales (Manager, Water directorate, for agenda item 5), Jean Pierre Miura (Manager, Electricity directorate, for agenda item 6), Sarah Friedel (Analyst, Electricity directorate, for agenda item 7), Sarah Brady (Social and Environmental Manager, for agenda item 8).

1. **APOLOGIES FOR ABSENCE** 
   1. None.

1. **FIRE DRILL**
   1. The board members were informed of the evacuation procedures which apply at Queens House in the event of a fire.

1. **DECLARATIONS OF INTEREST** 
   1. Alan Rainey declared a potential interest in respect of the pension’s element of the RP5 price control item. However, the subsequent board discussion on the RP5 (item 5) did not address the issue of pensions and he was therefore not required to absent himself from the discussion.

1. **PHOENIX NATURAL GAS LTD (PNGL) LICENCE MODIFICATIONS** 
   1. Brian McHugh introduced this item which sought the board’s decision on the next steps, following the Competition Commission’s determination on the PNGL price control. The board’s advice was also sought in relation to the proposed licence modifications to bring the Competition Commission’s decision into effect.

It was agreed that the Authority should proceed immediately to reflect the Competition Commission’s determination through licence modifications.

* 1. The discussion on the licence modifications focused on two issues. Firstly, the board discussed the format of licence modifications to amend the Total Regulatory Value (TRV). Secondly, the board discussed broader considerations relating to the Authority’s treatment of key issues in future price controls.

* 1. It was agreed that stating the Competition Commission’s determination on the TRV on the face of the licence, at £437.1 million from 1 January 2012, provided an appropriate level of detail for that purpose. It was noted that the CC determination applied to the current price control period and the board also endorsed an approach, which would be subject to public consultation, clearly signalling the Authority’s intention to review a range of key issues in future price controls.

* 1. It was also agreed that the Authority’s approach to stakeholder engagement would be discussed at a future board meeting.

1. **RP5 PRICE CONTROL** 
   1. Tanya Hedley introduced this item which sought the board’s approval to refer the RP5 price control determination, following its rejection by NIE T and D, to the Competition Commission. Subject to that decision, the board’s advice was also sought on the proposed structure of the introductory paper that will accompany the referral notice. Finally the board’s approval was also sought for the business case for consultancy support expenditure for the referral of the RP5 price control to the Competition Commission.

* 1. The board approved the reference to the Competition Commission and the referral notice as drafted. Decisions as to the timing of the reference and the approval of the final drafting of the submission was delegated to the Chief Executive.

* 1. In initiating discussion on the progress of the Authority’s reference, the Chairman emphasised that this workstream was an important priority for the organisation. Board members underlined the importance of drawing on relevant aspects of the most recent price control referral by the Authority to the Competition Commission. Advice on identifying and best utilising resources during the Competition Commission referral process was also provided. Finally there was a high level discussion on the presentation of the Authority’s arguments.

* 1. The Board also approved the business case for the RP5 referral subject to review of the adequacy of certain costs and making further provision for them accordingly.

1. **REGIONAL INTEGRATION: BUSINESS CASE** 
   1. Tanya Hedley introduced this item, which sought the board’s approval for a business case for implementation of the European Target Model. The European Target Model is a key element of the regional integration project which will deliver an internal European energy market.

* 1. Board members comments focused on ensuring that the resourcing proposed in the business case was adequate given the significance of the regional integration project. There was a discussion of the comparison between the regional integration project and the project to establish the Single Electricity Market. The importance of the regional integration project to several of the Authority’s key external stakeholders was also noted.

* 1. The board agreed that the regional integration project needs to be adequately resourced and approved the business case.

1. **MEDIUM TERM PLAN FOR RENEWABLES** 
   1. This item sought the board’s approval for an NIE request of £27.8 million of capital expenditure and £1.25 million of operational expenditure. The approval of the expenditure will increase the amount of renewable generation that can access the electricity transmission system in Northern Ireland.

* 1. This item had been previously discussed by the board at its December meeting. The board initially approved the expenditure request subject to public consultation. This public consultation had now concluded and the board discussed the consultation responses.

* 1. The board gave final approval to the NIE capital and operational expenditure request as outlined in the paper.

1. **LICENCE SEPARATION, IME3 LICENCE MODIFICATIONS AND GENERIC DISTRIBUTION LICENCES AND CLASS EXEMPTIONS** 
   1. Sarah Brady presented this item which comprised three separate sub-items: (1) NIE T and D licence separation, (2) IME3 modifications to the NIE Distribution licence, and (3) Generic distribution licence and the Class Exemptions Order. She outlined the background and key aspects relating to each sub-item. The board was also provided with the related license modifications proposals in respect of each sub-item.

* 1. The board noted the responses to the statutory consultation on the NIE T and D licence separation. The inclusion of a licence condition in respect of the licensee securing sufficient resources was discussed. The board approved proposals to modify the successor transmission and successor distribution licences.

* 1. Queries relating to the IME3 modifications to the NIE distribution licence (the successor licence) and dispatching issues were addressed. With the issues clarified, the board also approved proposals to modify the NIE Distribution licence.

* 1. The board discussed the nature of the Authority’s involvement regarding exempt distributors. A discussion took place on the potential for extra work required by the Authority in implementing the new provisions.. It was also noted that similar legislation had been in place in Great Britain for some time and experience was there was discussed. The discussion concluded and the board approved proposals for a generic distribution licence as presented.
  2. It was also agreed that the executive would finalise the drafting as required in respect of the proposals discussed at 8.2 - 8.5.

1. **PC13 – CONSEQUENT WRITTEN AGREEMENT** 
   1. Jo Aston introduced this item which sought the board’s approval for modifications for Consequent Written Agreement (CWA) between the Authority and the Department for Regional Development. The CWA sets out procedures for dealing with alterations to NI Water’s funding, as a non-departmental public body, during a price control.

* 1. Board members asked about the operation of the CWA and engagement with the various stakeholders. A query about the CWA modifications, in the context of a letter received from NI Water accepting the PC13 price control determination, was addressed.

* 1. The board approved the modifications to the CWA as presented. The board also noted NI Water’s acceptance of the Authority’s PC13 price control determination.

1. **FORWARD WORK PLAN 2013-14**
   1. Donald Henry presented a draft of the final FWP, which sought the board’s approval for projects for inclusion in the Forward Work Plan (FWP) 2013-14. He outlined the development of the FWP and the outcome of the associated consultation.
   2. The board discussion focused on volume of projects and their in the context of the constrained resource position.
   3. The board approved the priority 1 projects subject to further review by SMT. It was also agreed that any non essential workstreams would be identified and deferred prior to publication of the FWP.
2. **CONNECTING GROUPS OF GENERATORS**
   1. Tanya Hedley sought the board’s endorsement of a proposed way forward on the connection of groups of generators to the distribution system.
   2. The board endorsed the proposed approach.

**12. CORPORATE STRATEGY REVIEW**

* 1. Greg Irwin introduced this item which provided an outline of the approach and timetable for a review of the Authority’s corporate strategy.

* 1. The board commented on the outline and provided advice on the involvement of board members and the conduct of the review.

1. **MINUTES** 
   1. The board agreed the minutes of the board meeting on 13 December subject to a minor amendment.

1. **ACTION POINTS** 
   1. The board noted that the action points from previous meetings were complete. There was a discussion on the implementation of the stakeholder engagement approach. It was agreed that progress on the implementation of the approach would be included on the board agenda at a future date.

1. **CEO REPORT AND CORPORATE DASHBOARD** 
   1. Shane Lynch presented his report and focused on several issues.

* 1. He noted that NI Water had accepted the Authority’s PC13 price control determination.

* 1. The board was briefed on the forthcoming publication of data on comparative pricing for industrial and commercial electricity consumers. The board discussed and provided advice on the presentation and interpretation of the data.
  2. He noted the publication of the All-island Generator Adequacy Report. Board members discussed the Authority’s role in the broader security of supply issue and the ongoing engagement with key stakeholders.

* 1. The board was also briefed on the progress of the Energy Bill and the latest proposals in that regard.
  2. Several other items were drawn to the board’s attention: complaints relating to an electricity supplier, additional allowance requests under the current NIE T and D price control, media speculation regarding the sale of gas companies, the regulated gas tariff review and stakeholder engagement activity with business and industry. Finally, the board was briefed on the Authority’s work with DETI regarding compliance with EU IME3 directives.

* 1. Donald Henry then briefed the board on the finance and performance report. He drew the board’s attention to the provision that would likely be required in the current year. The latest position regarding the Carbon Levy Judicial Review was discussed and the option of seeking counsel opinion to clarify the position regarding the costs was endorsed . Performance against FWP targets and the latest risk registers were discussed and the board approved the finance and performance report.

1. **REPORTS FROM BOARD SUB-COMMITTEES/ADVISORY GROUPS** 
   * **AUDIT COMMITTEE**

Richard Rodgers reported on the most recent Audit Committee meeting which had taken place the previous day. The Committee reviewed the draft 2013-14 budget. He also provided an update on progress to address Northern Ireland Audit Office recommendations.

* + **BAG**

It was noted that a further meeting of the BAG had taken place with most of the issues on the board agenda.

* + **SEM COMMITTEE**

Tanya Hedley presented this report and focused her comments on regional integration (and the publication of a paper today), the certification application from Moyle Interconnector Limited, dispatch and scheduling and gas transportation capacity.

1. **ANY OTHER BUSINESS**

17.1 The board approved the delegation of authority to issue Article 51 Notices (requests for information) to the Director of Gas in relation to any possible contravention by a gas licence holder of a relevant condition or requirement.

17.2 The board also conducted a brief meeting review.

There being no other business, the meeting concluded at 2.25 p.m.