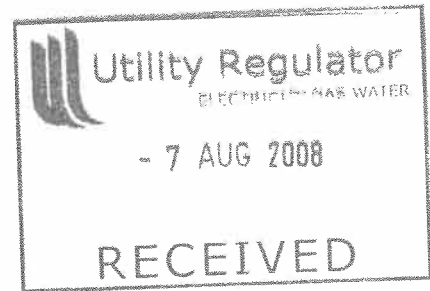


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Department of the
Environment
www.doeni.gov.uk



Sarah Bradley
Social and Environmental Branch
Utility Regulator
Queens House
Queen Street
BELFAST
BT1 6ER

Your reference:
Our reference: GM/318/2008

5 August 2008

Dear Ms Bradley

The Minister has asked me to thank you for the consultation document 'Sustainable Development The Regulator's Role' sent to his predecessor, and, to respond on his Department's behalf.

He notes the Department of the Environment published the first Northern Ireland Sustainable Development Strategy in May 2006 before lead responsibility passed to the Office of the First and deputy First Minister (OFMdfM). His department is however carrying forward a number of commitments made at that time, including on climate change which is one of the issues highlighted in your consultation.

Our response, set out in the pro-forma you have provided, is attached.

Rob Lynas
Corporate Services
Planning and Environmental Policy Group
Department of Environment
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Consultation Response Pro Forma

<i>Chapter 1</i>
1.1 Respondents to the consultation are asked to comment on whether or not they think any of the proposals in this paper would impact on equality of opportunity or good relations for any of the Section 75 Groups.
No comment
<i>Chapter 3</i>
3.1 Respondents are asked to comment on the balance between present and future climate change costs.
We would welcome the consideration of this issue in the context of sustainability and better regulation. Where there are economically justifiable opportunities to encourage energy efficiency measures and alternative energy sources whether to meet GHG emission targets or to support other environmental targets (or for social reasons such as fuel poverty) then these opportunities should be integral to the utility regulation process. Current policy is already resulting in low carbon technologies being put in place to meet national and EU commitments - more information will always be needed on the long term costs and impacts - to ensure that present generations are not unnecessarily burdened with higher fuel bills. This will be achieved most effectively by ongoing review of policies on the basis of best available evidence as it develops.
3.2 Respondents are asked to give their views on the relationship between sustainability and security and diversity of supply.
Efficiency in energy use and the consideration of alternatives to existing energy supplies is consistent with sustainable development and the positive benefits of security of supply. Specific proposals will need to be subject to economic and environmental assessment to ensure that there are not unforeseen adverse impacts.
3.3 Respondents are asked to give their views on the degree to which sustainability issues should drive the Utility Regulator's first NI water price review.
Sustainability issues should be firmly embedded in any review of public policy. Not to do so would be contrary to the rationale for EU, national and local agendas and core government strategies. The Utility Regulator should be encouraged to keep sustainability at the core of dealings with the Utilities as suggested here and consider impacts and solutions when carrying out the price review. Consideration of sustainability should balance the environmental with economic and social factors, and in particular the economic impact of the price review on customers. In relation to the Water Framework Directive, an ongoing process is identifying further work not already listed as a priority and included in the 7 year capital works

programme prepared as part of water reform. The extent of any additional work will become known when the objectives for water bodies are published in the draft River Basin Management Plans. The view of the environmental regulator is that the statutory objectives of European Directives should be achieved using the most appropriate and sustainable processes.

3.5 Respondents are asked to consider whether a monetary value of CO₂ equivalent or shadow price of carbon ought to be included within guidance on use of business cases.

I believe that the monetary value will be difficult to calculate although I am aware that the shadow price of carbon should be included in business cases in GB. However before considering this initiative in Northern Ireland I would wish to be convinced that any updated guidance (current guidance is HMT Green Book) would bring sufficient clarity to the methodology for using the shadow price of carbon in economic appraisals.

3.6 Respondents are asked to indicate their preference for inclusion of “carbon footprint” monitoring and target setting within the new regulatory contract at the first NIW price review.

This should be considered in the planning for PC12. It is consistent with NI targets for GHG emission reductions and efforts to reduce the carbon footprint would be welcome especially if they result in economic benefits through fuel efficiency or greater security of supply through renewables. Inclusion will help transparency in the impact of regulation on this sector which is a very significant energy user, driven by the energy costs of meeting environmental targets and objectives. It is important to include this type of information in order to encourage increased energy efficiency and use of alternative energy sources while continuing to meet existing environmental targets. The costs and manpower implications of carbon footprint monitoring and target setting should be balanced with the environmental and energy saving benefits of new regulatory approaches.

3.7 Respondents are asked to consider the benefits of going beyond the “Economic Level of Leakage”, possibly by the inclusion of the carbon shadow price in calculations.

See Section 3.5

There is concern that this risks diverting resources away from much needed improvements to waste water networks.

3.8 Respondents are asked to consider the degree to which NIW should be incentivised to increase its uptake of renewable energy and reduce its non-CO₂ gas emissions and mechanisms by which this might be achieved.

Treatment to meet regulatory standards set to achieve environmental objectives result in higher energy usage. Historically, energy use has not always been taken fully into account when regulating this sector. We would welcome incentivisation to use a mix of alternative energy sources and to consider lower energy “new technologies” in water and waste water treatment plants.

The following is not an exhaustive list but mechanisms available include the development and implementation of carbon management plans and activities to

mitigate impacts including energy efficiency projects (pilot or full scale), increasing the recycling of biosolids (sewage sludge) to land, using locally available renewable sources of energy such as wind power, combined heat and power (CHP) projects and biofuels. There is welcome reference to the advantages offered by Sustainable Drainage Systems (SuDs). NIW will need encouragement to adopt SuDs features in new developments. It would be worth exploring how the financial risk associated with the future maintenance of SuDs features could be mitigated. There will be long term benefit from the wider use of SuDs in terms of extending asset life.

Increased use of already available lower technology treatment methods such as wetlands could also be encouraged over systems dependant on high energy use. This approach would be consistent with the innovative approach element of the NI Sustainability Strategy.

At the same time this must be accompanied by environmental assessment to ensure no deterioration from existing treatment outcomes.

Chapter 4 No comment

4.1 Respondents are asked to rate the following existing instruments from 1-10 (1 being poor 10 being excellent) for the following characteristics:

- A Profile (do enough people know about the work)**
- B Ability to protect customers**
- C Ability to influence consumers to be more energy / water efficient or change to a lower carbon fuel**

Measure	Profile	Ability to protect customers	Ability to influence
The NIE SMART Programme Gas Industry Promotion The Energy Efficiency Levy Price Controls Key Pad Metering Energy Efficiency Advice Provision NIW Sustainability Report NIW Environment Management System			

NIW promotion of water efficiency			
<p>Chapter 5</p> <p>We strongly support initiatives such as the NIW Environmental Management System and the sustainability reporting system and their use in other sectors and also recognize the importance of some of these initiatives (such as easy access keypad metering) which help the public with energy awareness and decision making.</p>			
<p>5.1 Respondents are asked to comment on the balance of the Utility Regulator's duty to protect present and future customers.</p>			
<p>The principle of sustainable development as encompassed in the programme for government means that the Utilities Regulator must contribute to the achievement of Sustainable Development. This is rather unfortunately referred to on page 62 (paragraph 5.7) as a "secondary duty". Our view is that this duty should be fully integrated with the economic, social and environmental responsibilities of both the regulator and the regulated sectors and not seen as secondary.</p> <p>As outlined in 3.1 however, it is important to ensure that present generations are not <u>unnecessarily</u> burdened with higher utility bills. This will be achieved most effectively by ongoing review of policies on the basis of best available scientific evidence as it develops.</p>			
<p>5.2 Respondents are asked to comment on the appropriate role of and nature of statutory guidance from Ministers to the Utility Regulator.</p>			
<p>No comment</p>			
<p>5.3 Respondents are asked to highlight actions that they consider might be appropriate or necessary, but that could not be taken under the Utility Regulator's existing powers.</p>			
<p>No comment</p>			
<p>5.4 Respondents are asked to comment on whether the Utility Regulator should seek to be designated under section 25 (1) of the Northern Ireland (Miscellaneous Provisions) Act 2006.</p>			
<p>We understand that the question of additional designations is a matter for the Office of First and deputy First Minister</p>			
<p>Chapter 6</p>			
<p>6.1 Respondents are asked to comment on the three main roles for the Utility Regulator identified in chapter 6 of this paper as:</p> <ul style="list-style-type: none"> • gathering and publishing evidence, • contributing to wider energy policy, • regulating differently. 			
<p>Efforts to attain better energy consumption data would be welcome. You should be aware that the new Carbon Reduction Commitment (to be implemented in 2010) will</p>			

require large non-energy intensive users with annual energy consumption of £500k per annum using 70kVA meters to participate in a cap and trade scheme. This will include the recording of energy use data.

6.2 Respondents are asked to comment on data, which would be useful but, which is currently unavailable on a regular basis in Northern Ireland.

No comment

6.3 Respondents are asked to suggest innovative methods of developing and promoting the gas industry as a means of reducing Northern Ireland's carbon foot print.

In Northern Ireland this industry can be considered to be in its infancy and therefore expected to continue growing. The results of the University of Ulster study regarding price elasticity of demand are unsurprising given the relative necessity of energy. It would be interesting to know if the study investigated cross price elasticity of demand for gas in relation to oil or other fossil fuel sources.

6.4 Respondents are asked how the solid fuel and oil industries could contribute to social and environmental sustainability? In addition what approach will best achieve this aim?

No comment

6.5 Respondents are asked if the regulatory model used to develop the natural gas network could provide lessons for the promotion of efficient and coordinated heat networks? Do respondents believe that better regulation could aid the development of the community heat industry?

No comment

Chapter 7

7.1 The Utility Regulator considers that the following are important when assessing policy proposals. Respondents are asked to score each of the proposals in chapter 7 of this document from 1-10 on the basis of their potential in relation to the following measures:

- 1 Potential Certainty of Outcome**
- 2 Potential Cost effectiveness**
- 3 Certainty for investors**
- 4 Potential to provide equity for consumers**
- 5 Potential to encourage innovation**
- 6 Good fit with other NI government departments**
- 7 Good fit with competitive energy markets**

The proposals are summarised as follows:							
	1	2	3	4	5	6	7
a. Cross utility licence condition requiring licensees to have in place environmental policies.							
b. Cross utility requirement to report annually of sustainability activities and initiatives.							
c. Requirements on licence holders to provide customers with environmental information in relation to fuel mix in a uniform and easy to understand format, on all bills and promotional literature.							
d. Strategic investigation into use of “Smart Meters” as a mechanism for delivering better quality and timely information to customers.							
e. Work with energy licence holders to assess current tariff structures.							
f. Continue to work with partners and stakeholders to ensure renewable generation can be equitably accommodated on the electricity network.							
	1	2	3	4	5	6	7
g. Ensure price control processes take into consideration the effect of climate change on electricity and gas networks.							
h. Carry out a full strategic review of energy efficiency delivery mechanisms							
i. Develop a strategy in relation to gas promotion, which considers the potential benefits of common arrangements for the transmission and distribution of gas on the island of Ireland.							
j. Developing sustainability within the NIW price control							
k. Improving our own practices and procedures.							
7.2 Respondents are asked to identify what they consider to be the top three priorities from the above list of proposals and rank them in order							

of importance.

The measures which we feel are “top priority” are:

- (a) + (b), because of consistency with the wider better regulation agenda,
- (c) because of the clear contribution to customer information awareness and better decision making, and
- (h) and (j) because of the win – win opportunities provided by a strategic review and keeping a high profile awareness of sustainability principles.

We would be more neutral on (d), (e), (f), (g) (i), and (k).

7.3 Respondents are asked to list any further proposals which they think should be considered.

OTHER COMMENT:

Paragraph 2.1 is factually inaccurate. DOE published the first sustainable development strategy in May 2006. The Office of First and deputy First Minister assumed lead responsibility in July 2006.

Paragraph 2.17 page 19 – “freshwater marine” does not make sense – should it be freshwater and marine environments in which case the measure(s) would be quality of river and marine waters?

Appendix A is unbalanced as it does not mention the “opportunities” referred to in the SNIFFER report. For example a longer growing season may be an opportunity to be more productive and to grow less traditional crops. The opportunities include lower seasonal energy demands for energy listed in the SNIFFER report in the “economic infrastructure” section and which needs to be factored into future scenarios. The conclusions on “Customers Living in Rural Areas” (figure 3.1) are similarly distorted.