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Utility Regulator
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1 August 2008

Dear Sarah,

SUSTAINABLE DEVELOPMENT - THE REGULATORS ROLE (MARCH 2008)

Thank you for the opportunity to comment on the above consultation, and as requested we attach a completed consultation proforma.

Please note, we have had difficulty completing questions and 4.1 and particularly 7.1. Both require a degree of subjectivity, and inevitably the scores will be prone to error. For example, Question 7.1 asks respondents to score NIAUR's proposal to improve its own practices and procedures, and then also asks respondents to rate the top three. Improving operational efficiency should be a top priority for any well managed organisation, including NIAUR. The fact we have not listed this as one of our top three, should be taken to mean we do not consider this to be of fundamental importance.

In support of our response, we would like in particular to draw to the Authority's attention the following focus for the Regulator's role:

- **SEM:** the effectiveness of SEM, and its transparent and fair operation, is critical to a well functioning electricity market. As such, it is a key contributor to a sustainable energy policy. However, there are a number of improvements that could be taken forward to improve governance (via an Appeals mechanism) and robust market investment signals. The key areas of improvement needed are a more stable capacity mechanism to deliver flexible backup power when renewable energy is not available, and more rigorous challenge and enforcement of market monitoring against the bidding code of practice to ensure that the energy price is a more accurate reflection of the real time energy costs. NIAUR should press for reform measures that drive SEM improvements.

- **CAG:** this has the potential to realise material benefit for Northern Ireland, by leveraging the security of supply objectives across a much wider gas network and to remove barriers to the use of gas as an alternative fuel to higher emission fuels such as coal and oil. This will require clear measures to address a number of cross jurisdictional issues, including gas transmission tariffs. In this regard, we would like to see greater gas transmission charging flexibility (with the introduction of within day and day ahead products), together with a more efficient gas pricing methodology via a gas capacity/commodity split that acknowledges the increasing importance of the commodity charging component.

We will also be responding separately to the CAG consultation which focuses on these important issues.

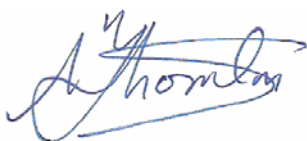
- **Retail Competition:** electricity and gas retail competition can become a real force for change in Northern Ireland. Competition responds to the wishes of customers, encouraging efficient production and investment, stimulating production differentiation and innovation. As such, effective retail competition can make a significant contribution towards NIAUR and the Government's sustainability agenda.

For gas, NIAUR should press for harmonisation with its primary duties for electricity, i.e. to include a primary duty to promote efficient retail competition and drive a step change to address the underlying market barriers and issues affecting progress for gas competition (please refer to our previous correspondence dated 15 July on 'Electricity and Gas Retail Competition in Northern Ireland').

- **Renewables:** against the backdrop of network reinforcement issues, connection delays and potential changes to the Northern Ireland planning policy framework, there is no doubt it is becoming increasingly difficult to deploy windfarms. This not only adds to costs, but delays delivery of a diverse and sustainable energy future for Northern Ireland. NIAUR should work closely with DETI and DOENI to maintain a joined up policy approach to the sustainable energy policy agenda, and more specifically, for proven technologies (such as wind) not to be conflicted by differing policy agendas that could evolve.

Please do not hesitate to contact us if we can assist further, or explain how we have arrived at our scores.

Yours sincerely



PP Garrett Blaney
Head of regulation

Consultation Response Pro Forma

Chapter 1
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.
Chapter 3
3.1 Respondents are asked to comment on the balance between present and future climate change costs.
<p>In relation to energy we make the following observation.</p> <p>As noted by the consultation, natural gas has been the single, and arguably the most important factor to date in delivering carbon abatement in Northern Ireland. We note however that the greatest opportunity for carbon abatement going forward will stem from active support of renewable energy and onshore wind as the lowest cost form of renewable energy currently. While the UK ROC scheme provides a strong commercial incentive for developing renewable energy, this must be matched by a NIAUR strategic development of the electricity networks to ensure that they can sustain a high level of renewable energy. We also suggest that a great emphasis is needed on developing flexible generation capacity to support the grid when renewable resources (eg. wind) are not available and we would welcome a review of more flexible usage of the Moyle interconnector to also support this objective.</p> <p>The cost benefit of a low carbon energy sector in Northern Ireland is increasingly easy to justify given the world trends in increasing fossil fuel prices. The economy of Northern Ireland will be a distinct disadvantage if there is not a rapid adjustment in Northern Ireland's energy sector to lower carbon emissions. We suggest that this should be matched by an increasing emphasis by NIAUR in supporting a high level of renewable energy production in Northern Ireland.</p> <p>Given that both oil and coal are significantly more carbon intensive than gas, it is our view that, energy policy therefore be directed to where maximum gain can be attained towards achieving the NIAUR sustainability agenda, namely:</p> <ul style="list-style-type: none">▪ Increasing renewable technologies, especially where proven (e.g, wind) and ensuring sufficient backup generation capacity.▪ Increasing gas network flexibility to support more flexible generating capacity▪ Major investment in electricity networks to support a high level of renewables.▪ More flexible use of the Moyle interconnector to facilitate higher level of renewables▪ More retail competition in tandem with greater Energy Efficiency (including smart metering). <p>These should underpin NIAUR's approach and therefore its effort and resource deployment going forward.</p>

3.2 Respondents are asked to give their views on the relationship between sustainability and security and diversity of supply.

The clear definition of what is meant by these policy objectives together with the interrelationship of these three policy issues is complex (even more so on an all-island basis). In particular, we are mindful of the weight that might be attributed to one particular policy driver over another. For these reasons, each driver warrants very careful interpretation before making any specific judgements.

That said, there are clearly tensions, as well as strong dependencies between them all. For example, to what extent should security of supply be allowed to take precedent over environmental issues? Should diversity of supply be sought as a goal in its own right without regard to carbon issues, or indeed the costs involved? Is it possible to weight them?

Inevitably, some policy decisions will therefore require careful weighing in order to arrive at the right decision and in order to strike the right balance. For example, to what extent should coal be allowed to be an intrinsic part of the energy mix when further development (e.g. clean coal, carbon capture) is needed to mitigate the environmental impacts? We note the recent requirements in licences in Great Britain for generators to consider future carbon capture capability.

Some policy decisions are manifestly easy to make. Take for example onshore wind. Wind development contributes towards all three goals: it is sustainable (noting that Northern Ireland has significant available wind resources), it is a diverse supply, (e.g. an alternative to other traditional energy sources such as peat or oil), and can be a significant contributor to security of supply, especially as Northern Ireland becomes an exemplar in wind technology and deployment. It will however require backup generation when the wind does not blow, and this needs to be supported by a robust capacity mechanism.

We therefore question, what weight should be given to oil and coal as part of Northern Ireland's energy mix?

As commented for question 3.1, both oil and coal are significantly more carbon intensive than natural gas, and even more so than renewable. It would therefore make perfect sense to increase the promotion of renewable development, in preference to oil and coal. Gas will continue to have a role in the context of new flexible generation.

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.

We cannot comment directly on the sustainability issues in the NI water price review except to note that as a significant user of electricity they should be incentivised to minimise consumption and also encouraged to change their load shape to use electricity at times of low emissions from the electricity system (typically this is at night and is signalled by low prices in the SEM). We understand that the water system may have significant discretionary loads that could facilitate such an approach.

(NB: no 3.4)

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.

Yes. Business cases should consider all the input costs.

This will also benefit a company's environmental awareness of its carbon impact. This can often

<p>be limited to what it is prepared to declare (or not as the case may be) as part of its Corporate and Social Responsibility policy. Embedding carbon costs within its business case(s) will help to develop a business carbon culture that becomes 'business as usual' thinking.</p> <p>We suggest that forward values of CO2 in the EU ETS be used for prices before the end of 2012, and that after this date a higher CO2 prices may be appropriate given the projected increase in carbon constraints in the future.</p>			
<p>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.</p>			
<p>Yes.</p> <p>Any company, public body, or individual should not be free from the impact on the environment.</p> <p>We note that NIW is a 24 hr, 365 day operation. As such, it has scope to make a serious contribution towards the Government’s GHG target. Furthermore, it could help contribute to the sustainability agenda through a reduced network load.</p> <p>This should be wholly consistent with its Corporate and Social Responsibility agenda, and could be a useful to help create the right policy direction in the promotion of its environmental credentials.</p>			
<p>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.</p>			
<p>No Comment</p>			
<p>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.</p>			
<p>We note that NIW is a 24 hr, 365 day operation. As such, there is tremendous scope to make a serious contribution towards the Government’s GHG target. Furthermore, if addressed in a meaningful way, it could help the sustainability policy objective through a reduced network load. and its uptake of renewable energy will further stimulate innovation and the drive towards supply diversity.</p>			
<p>Chapter 4</p>			
<p>4.1 Respondents are asked to rate the following existing instruments from 1-10 (1 being poor 10 being excellent) for the following characteristics:</p>			
<p>A Profile (do enough people know about the work)</p>			
<p>B Ability to protect customers</p>			
<p>C Ability to influence consumers to be more energy / water efficient or change to a lower carbon fuel</p>			
Measure	Profile	Ability to protect customers	Ability to influence

The NIE SMART Programme	6	8	7
Gas Industry Promotion	5	6	6
The Energy Efficiency Levy	6	8	8
Price Controls	4	4	2
Key Pad Metering	6	7	8
Energy Efficiency Advice Provision	6	5	6
NIW Sustainability Report	5	N/K	N/K
NIW Environment Management System	1	N/K	N/K
NIW promotion of water efficiency	2	7	6

Chapter 5

5.1 Respondents are asked to comment on the balance of the Utility Regulator's duty to protect present and future customers.

Please refer to our response dated 15 July 2008 in response to NIAUR's review of electricity and gas retail competition in Northern Ireland.

With the advent of an all-island electricity & gas model, and the opportunity to improve security of supply for all customers, taking an integrated energy policy approach becomes ever more important.

We make four specific recommendations:

- (a) NIAUR needs to create a more flexible gas transmission model for Northern Ireland, including a more efficient gas transmission pricing methodology.
- (b) NIAUR's primary duty for gas needs to align with that for electricity, namely a duty to promote efficient competition, and press ahead to reduce the retail market barriers affecting competition.
- (c) NIAUR may need to take a stronger 'directional' hand to help shape cost effective renewable development for Northern Ireland.
- (d) Drive joined up policy thinking on an all-island basis.

5.2 Respondents are asked to comment on the appropriate role of and nature of statutory guidance from Ministers to the Utility Regulator.

We are not aware of any specific issues arising.

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.

As noted above for question 5.1, NIAUR must have a corresponding duty for gas to promote effective competition.

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.

We agree that at this stage it would not seem necessary to require the NIAUR to be subject to section 25, i.e. it should not be subject to the specific sustainable development duty. Its existing viries already seem adequate, but may need to be more evident in the actions it undertakes.

Chapter 6

6.1 Respondents are asked to comment on the three main roles for the Utility Regulator identified in chapter 6 of this paper as:

- gathering and publishing evidence,
- contributing to wider energy policy,
- regulating differently.

Gathering and publishing data: NIAUR could do a great deal more to improve energy market transparency.

Market data helps regulators and market participants to be better informed. It equips suppliers (particularly new entrants) with the means to accurately assess the risk of market participation (the absence of which leads to a ‘risk premium’ that discourages new entrants). Critically, it also provides a ‘health check’ on the state of competition, enabling regulatory authorities to develop targeted regulatory policy to further competition and protect consumers.

There are examples of other jurisdictions publishing market data. For example, the Commission for Ireland has recently published an electricity market report and has plans to do the same very shortly for gas. Great Britain has been publishing market data for some years and which has been very informative in helping to provide market transparency and targeted policy.

It need not be overly cumbersome (companies collect much of this data to assist them in their commercial operations). We submit the following as a minimum:

- energy consumption by energy sector source and sector
- energy consumption by customer type/category
- energy prices
- market shares
- comparisons with other regions
- payment methods, numbers, types, geographical locations

Contributing to wider energy policy: it is important for NIAUR to be fully cognisant of energy policy in all its forms across all government departments, jurisdictions, Europe and within the broader global context. For example, closer to home, difficulties have arisen in the development of Northern Ireland’s planning policy – namely drafting of the new Supplementary Planning Guidelines (SPG). Unless this is resolved, it will frustrate the development of onshore wind (a

<p>significant contributor to all three policy drivers: sustainability, security and diversity of supply) - NIAUR needs to make sure that its own policy objectives are communicated and understood by all other government departments, and we would like to see this have a positive influence for the future wind development prospects for Northern Ireland.</p> <p>Regulating Differently: we are concerned that NIAUR is placing too little store in the development of retail gas competition for Northern Ireland. Whilst we agree on the importance of increasing gas connections, this must not be at the expense of future retail competition, i.e. through the award of further franchises that effectively lock in customers to a single supplier for years to come.</p>
<p>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.</p>
<p>Please see response to question 6.1, we believe much of this data is available; it just needs collating and publication.</p>
<p>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.</p>
<p>Development of storage facilities e.g. adding additional compression via SNIP to act as linepack, and the development of competition will both help Competition. The provision of flexible gas capacity will facilitate more flexible gas fired power plants which will in turn enable greater levels of renewable penetration.</p>
<p>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?</p>
<p>No Comment</p>
<p>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?</p>
<p>No comment</p>
<p>Chapter 7</p>
<p>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:</p> <ol style="list-style-type: none"> 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 departments¹

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. (20)	3	3	5	5	2	N/K	2
b. Cross utility requirement to report annually of sustainability activities and initiatives. (38)	5	8	8	2	7	N/K	8
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. (20)	5	4	2	2	2	N/K	5
d. Strategic investigation into use of “Smart Meters” as a mechanism for delivering better quality and timely information to customers. (44)	7	10	10	2	5	N/K	10
e. Work with energy licence holders to assess current tariff structures. (28)	6	4	1	7	5	N/K	5
f. Continue to work with partners and stakeholders to ensure renewable generation can be equitably accommodated on the electricity network. (51)	9	8	9	8	7	N/K	10
g. Ensure price control processes take into consideration the effect of climate change on electricity and gas networks. (57)	10	10	10	10	7	N/K	10
h. Carry out a full strategic review of energy efficiency delivery mechanisms (49)	7	7	7	9	9	N/K	10
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. (60)	10	10	10	10	10	N/K	10
j. Developing sustainability within the NIW price control	N/K	N/K	N/K	N/K	N/K	N/K	N/K
k. Improving our own practices and procedures. (60)	10	10	10	10	10	N/K	10

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.

Our top three are as follows:

1. All island gas transmission review, and particularly moves to assist competition and development of greater flexibility within gas transmission tariffs (e.g. greater emphasis on the commodity component), and implementation of within day and day ahead products.
2. Renewable connections, particularly the existing infrastructure which needs urgently upgrading and improvements to planning timescales, and access to wind development sites

¹ Please note, we are unable to score the fit with other NI Government Departments.

3. Smart Metering (including 'smart' information to enable Energy Efficiency), particularly greater focus on a retail based solution.

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

We are concerned the planning arrangements for Northern Ireland's wind development (currently under consultation – see PPS 18) will frustrate the achievement of the NIAUR and Government sustainability agenda. We have responded to DOENI and are hopeful that amendments will be made to strike a better balance.

NIAUR should keep close to developing policy across its own agenda, and ensure that its objectives are not being frustrated by Government departments that directly or indirectly touch on energy policy.