

**MINUTES OF THE FIFTEENTH MEETING OF THE NORTHERN IRELAND
AUTHORITY FOR UTILITY REGULATION (THE 'AUTHORITY') HELD ON
THURSDAY, 3 JULY AT QUEENS HOUSE, BELFAST**

Present	Mr Peter Matthews Mr Clive Elphick Mr Philip Johnson Mr Chris Le Fevre Mr Jim Oatridge Mr Alan Rainey Ms Etain Doyle Mr Iain Osborne	Chairman Chief Executive
In attendance	Mr Dermot MacCann Ms Jo Aston Mr Brian McHugh Mr Chris Mellor Mr Phil Barker Mr Ronan Larkin Mr George Butler Mr Sean Lyons Ms Sarah Brady Ms Emma Magill Mr Peter Wibberly Mr Richard Hague Mr Greg Irwin Mr JP Irvine	Director of Electricity Director of Water Director of Gas Chairman/ Chief Executive NI Water (for Agenda item 9) Director of Operations, NI Water (for Agenda item 9) Director of Finance and Regulation. NI Water (for Agenda item 9) Director of Asset Management, NI Water (for Agenda item 9) Water Directorate (for Agenda item 9) Social and Environmental Manager (for Agenda items 10-13) Analyst, Social and Environmental Branch (for Agenda item 12) Consultant, Skyplex (for Agenda item 12) Consultant, Skyplex (for Agenda item12) Board Secretary and Communications Manager Head of Legal

1. APOLOGIES FOR ABSENCE

Donald Henry.

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

No declarations of interest were made.

4. MINUTES OF THE PREVIOUS MEETING

The minutes of the Board meeting on 5 June were agreed subject to two minor amendments.

5. ACTION POINTS FROM THE JUNE MEETING

The action points recorded at the last meeting had been circulated to the Board and progress against each action point was noted.

All of the five action items were either on the meeting agenda or had been completed.

6. CHIEF EXECUTIVE'S REPORT

a) The Chief Executive presented his report, focusing on several areas in particular.

Board members sought an update and clarification regarding the divestment of SONI. It was noted that the current situation was that a commercial bidding process was underway.

The only other significant matter discussed related to the decision not to establish an independent environmental regulator for Northern Ireland. Board members recorded their disappointment with this decision.

b) The Chief Executive, in the absence of the Director of Corporate Affairs, provided a report on organisational finances.

7. REPORTS FROM BOARD SUB-COMMITTEES

Audit Committee

Jim Oatridge, Chairman of the Audit Committee, provided an extensive report to the Board of the meeting of the Committee on 2 July. The Audit Committee had considered a paper on the Investigation into the provision of information relating to the 2008-09 Scheme of Charges by NI Water. This paper was also provided to Board members and the Audit Committee Chairman made his report with reference to the paper.

Board members were updated on the progress of the investigation and, in particular, were apprised of the Audit Committee's view on the question of potential breaches of licence and on the next steps in the investigation process.

Specifically the Audit Committee Chairman outlined the Committee's view on the question of a licence breach against each of the three conditions identified. Based on the information and evidence collected on this matter the Audit Committee view was that there had not been a breach of Licence Condition E, Paragraph 2, which requires tariffs to be non-discriminatory. , With regard to Licence Condition F, Paragraph 6A.1, which relates to systems of planning, governance and internal control, the Audit Committee view was that there was sufficient evidence to indicate that a prima facie breach of licence had taken place. Finally, the Audit Committee considered Licence Condition F, Paragraph 6A 5A, which requires NI Water to, among other things, conduct the business as a separate public listed company. The agreed view of the Audit Committee was that this licence condition seemed inappropriate to consider in the context of enforcement action (having regard to the corporate constitution of NI Water).

The Board concurred with the Audit Committee's view in relation to each of the three licence conditions..

A discussion then took place on the next steps for the investigation. The Audit Committee view was that the investigation was substantially complete. On the basis of the information presented, the Audit Committee was minded to recommend to the Board that a breach of Licence Condition F, Section 6A

had occurred. This recommendation might result in a Board resolution on the licence breach at the next full meeting of the board. It was agreed that once the Audit Committee had signed off the report that the Board would formally indicate its approval – subject to the Head of Legal being content with the legal content of the report. There was agreement to the proposal from the Audit Committee that the Committee chairman (Jim Oatridge), the Chairman of the Board (Peter Matthews) and the Water Board Advisory Group (BAG) Chairman (Clive Elphick) would be delegated by the Board to act its behalf on all matters pertaining to the investigation report in the period up to the next Board meeting.

Energy BAG

Chris Le Fevre, Chairman of the Energy BAG, provided an update on its July meeting. A specific discussion on ownership issues associated with the potential unbundling of the system operator arising from the Common Arrangements for Gas took place. The BAG also discussed the principles of network gas extensions. Finally, BAG members discussed issues around the Energy Efficiency Levy paper that was subsequently to be presented to the Board.

Water BAG

Issues discussed at the Water BAG were covered on the Board agenda and a report was not felt necessary.

Remuneration Committee

Etain Doyle, Chairman of the Remuneration Committee, provided a report on the June and July meetings of the Remuneration Committee. The key issues discussed by the Committee related to the development of organisational pay and reward frameworks, and specifically the review of the Chief Executive and Directors remuneration. An update on the HR delegation was received and the Committee noted correspondence from Trade Unions on the matter. It was agreed that bonuses to direct employees should be processed in July if possible and that an annual salary review would take place in relation to the Chief Executive.

SEM Committee

The Director of Electricity updated Board members on the recent meeting of the SEM Committee, which took place on 24 June. Key issues covered by the SEM Committee were the MMU Inquiry

outcome and feedback from the companies concerned, the outcome of the non-directed contracts auctions and the planning of a SEM Committee away day to address short term items and longer term strategic issues.

8. BRIGHT IDEAS

No specific items were tabled on this occasion.

9. NIAUR BOARD AND NI WATER BOARD DISCUSSION – INVESTIGATION AND PRICE CONTROL 2010

The Board had previously agreed that the Board of NI Water should be invited to attend the July Board meeting in order to discuss matters relating to the costs mis-apportionment investigation and to convey the Authority's expectations on Price Control 2010. The Chairman welcomed NI Water board members and officials, facilitated introductions and outlined the purpose of the meeting.

The discussion initially focused on the costs mis-apportionment investigation, Jim Oatridge – as Chairman of the Audit Committee - outlined progress of the investigation. He stated that the Audit Committee reported to the Board of the Authority that it had concerns that a prima facie breach of Licence Condition F, Section 6A.1 could be substantiated. In concluding, he said that NI Water needed to take steps immediately to provide assurances that it will meet the commitments outlined by the Authority as being necessary – and to follow these up with legally binding commitments in lieu of enforcement action.

In replying, the Chairman/ Chief Executive of NI Water recognised that change was required by the water company and pointed to efforts to address control environment and data integrity deficiencies and the appointment of new internal and external auditors to provide a fresh perspective on areas for improvement. In stating that he had no problem with any of the commitments being sought by the Authority in principle, he suggested that the action plans (for example on NI Water's control environment) being developed by NI Water - in relation to the identified deficiencies - be also included in the list of commitments.

The Chairman outlined the timetable leading up to the publication of the investigation report and the need for NI Water to provide an initial written assurance on commitments required by the Authority was stated. In response to a question from the Chairman, relating to other significant issues which NI Water should communicate to the Authority, water company representatives did allude to water balance estimation difficulties, aligning the data around tariffs with leakage information and the higher costs of the company's voluntary severance scheme than anticipated.

Turning to the discussion on PC10, the Water BAG Chairman made clear that the Authority was seeking to be as pragmatic as possible in its information requirements from the water company, but still needed enough detail to enable it to have clarity on the outputs to be delivered by NI Water.

A discussion took place on the Price Control 2010 timetable as outlined in the paper accompanying this agenda item. It was recognised that the timetable was challenging. Clarification was sought from NI Water representatives on the Price Control 2010 timetable as presented and whether this was the final timetable. It was clear that although it is possible that there may be some changes to the timetable, the document is unlikely to change substantially and the Authority stated that NI Water should be making planning assumptions for Price Control 2010 based on the timetable as presented.

A brief discussion on the mechanics and process of consultation also took place. There was a recognition that a thorough and inclusive consultation process was needed to provide the necessary confidence on the Price Control 2010 outcomes.

10. REFORM OF THE RENEWABLES OBLIGATION

The Social and Environmental Manager introduced this item which outlined a proposed Authority response, for approval by the Board, to the Department of Enterprise, Trade and Investment consultation on the reform of the Northern Ireland Renewables Obligation (NIRO).

Board members were conscious that wholesale electricity prices are significantly higher now than when the Renewable Obligation Certificates were first introduced and this raised value for money issues. Discussion also took place on the proposed banding arrangements in relation to supporting emergent technologies and the extent to which having separate targets in Northern Ireland and the Republic of Ireland for renewables would impact on the Single Electricity Market.

In endorsing the Authority's response it was clear that there were some concerns about the banding proposals. At one level, these concerns related to the increased complexity of the proposals. Whilst recognising the need to target support towards emerging technologies, Board members felt that it was important that the NIRO should specifically attempt to support dispatchable renewable technologies. Finally, the Board was clear that – in the context of the Single Electricity Market – banding proposals for Northern Ireland should seek to minimize distortions by synchronising the level of support offered to different technologies between Northern Ireland and the Republic of Ireland. It was suggested that the Authority's response should seek draw out this last point.

11. CLIMATE CHANGE DOCUMENTARY AND DIRECT CONSUMER COMMUNICATIONS

The Chief Executive provided an update on the consumer communications initiative, previously advised to the Board at its December meeting. The Board was invited to provide a view on the options being considered. The clear preference of the Board was that work on option b should be advanced.

12. REVIEW OF THE ENERGY EFFICIENCY LEVY

The Social and Environmental Manager introduced this item and the background to the Energy Efficiency Levy Programme (EELP) review. Representatives from Skyplex Consulting, who were commissioned to produce a report on the EELP, provided a commentary which drew on a draft report. Comments were sought from the Board on a draft report in advance of the issue of the report for consultation in early July.

Board members discussed issues around: the perception of ownership of the EELP, the timing of the review, the priorities and criteria outlined by the EELP, access to the EELP and the range of projects being supported, and the extent to which the EELP could be used to make a contribution to addressing fuel poverty.

Drawing the discussion to a close, the Chairman welcomed the review of the EELP. He stated that the key issues were ensuring that the EELP should be operated more effectively, should reflect a closer association with the Authority and its objectives, and should take a fresh look at the EELP.

13. SOCIAL ACTION

The Chief Executive introduced this item, which provided an update on the Fuel Poverty Task Force, social tariffs and the review of the Authority's Social Action Plan.

Board members discussed the definitional aspects of fuel poverty, the extent of the fuel poverty issue and its impact on vulnerable consumers in particular. It was clear from the discussion that the costs of addressing fuel poverty would require concerted action across Government.

A specific discussion on social tariffs took place. It was recognised that, practically, robust information needed to be made available to help target resources to the most vulnerable consumers.

The Board's view was that it was appropriate that the Authority actively progress work to develop mechanisms to support social tariffs.

14. JUDICIAL REVIEW AND JUDGMENT – FOLLOW UP ACTIONS

The Board recorded its congratulations to the Head of Legal and those staff involved in securing a favourable judicial review outcome.

The Head of Legal stated that it was not clear at this stage whether the other party to the judicial review would be launching an appeal. More would become clear over the course of the summer months. It was agreed that the final text of the judgment would be e-mailed to Board members.

15. FORWARD VIEW – ELECTRICITY TARIFFS FROM 1ST OCTOBER

Board members noted this information and the implications for consumers and endorsed the approach outlined.

16. PROPOSED BOARD AND BOARD SUB-COMMITTEE DATES FOR 2009

Board members made some initial comments on the scheduled meeting dates for 2009, and it was agreed that the final schedule would be agreed by correspondence by the end of July.

All items of business having been discussed the Chairman brought the meeting to a close at 2.57 p.m.