

Proposed company structure of Northern Ireland Energy Holdings

Consultation paper

1. Thank you for the opportunity to comment on the paper that concludes that the NIAER is content with the proposed structure of NIEH.
2. With regret I must ask the NIAER to re-consider its response and, if necessary, seek independent confirmation on the judgement reached.
3. The emergence in Northern Ireland of new specialist companies, now possibly to be merged in a holding company, is partly a result of the actions of the Regulator in reassessing contracts with NIE, Premier Transmission and Phoenix Natural Gas. As a result the financing of the interconnector (MIL) the gas pipeline (SNIP) and now the transmission pipes for natural gas (PTL) has been determined in a significant part as an outcome of regulatory agreements.
4. Whilst the integrity of the regulatory process has not been vitiated, the process does suggest that NIAER is an interested party in the outcome and therefore would be expected to support the proposed structure.
5. The decisions made on these special companies are themselves worthy of justification and examination.
6. Why has NIAER agreed to arrangements to place each of these infrastructure projects into a small finance led mutual company? Would the risks to customers be greater or less if each infrastructure unit was operated, maintained and refurbished as part of the energy sector of which it is a part? Arguably, the former! The latter depends on outsourced contracts and insurance: is that as reliable as direct ownership of an adequate technical resource?
7. Why did these energy companies agree to dispose of these assets? Was there a transparent market determined process? If not, why has NIAER supported a transfer of ownership without an opportunity for valuation and value to be assessed independently?
8. Was the sale of these assets agreed without involvement of NIAER? Alternatively, did the Regulator have a role in taking account of a determined capital value which may have influenced the ability of the new owners to finance the capital cost and the cost of the institutional arrangements?
9. Would Northern Ireland consumers have been advantaged if the former owners had retained the assets but with a regulated income (going forward) at 6 percent

real? If so, is there any reason why the former owners could not have accepted that deal?

10. In conclusion, could Northern Ireland customers have had a better deal, with less risk to the long-term supply, the enhancement of supply and the maintenance of supply, if the Regulator had used his influence to renegotiate with the former owners?
11. Why has NIAER been prepared to give unique treatment to a series of transactions that might not spontaneously have been considered by the vendors? Since NIAER has been a party to the negotiations and conclusions, have these transactions been consistent with EU regulatory requirements or has clearance been sought from the European Commission?
12. Only with convincing answers to these questions would it make sense to approve any strengthening of the role of NIEH in becoming a dominant provider of key parts of the local energy infrastructure. In addition, the transfer of PTL might be deferred for further consideration.

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