

**Elena Ardines
Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ER**

9 September 2011

Dear Elena,

Re: Utility Regulator's Corporate Strategy 2009-14 Mid-term Review Discussion Paper

Power NI (the new name for NIE Energy (Supply)) welcomes the opportunity to respond to the mid term review of the Utility Regulators (UR) Corporate Strategy 2009-14. Power NI considers that in conjunction with the recent workshop, this is a useful exercise through which the UR can engage with industry at a strategic level. As the UR is no doubt aware, providing visibility of regulatory strategy and key medium term priorities can only encourage engagement, certainty and confidence in the Northern Ireland energy markets.

The five principles of best regulatory practice (proportionality, accountability, consistency, transparency and targeting) coupled with the acknowledgment of timeliness remain critical to the sustainability and development the utility sector. Power NI would encourage the UR to be mindful of these principles as strategic goals are translated into practical undertakings.

At a high level the Corporate Strategy touches upon the main regulatory topics and the review does consider the key developments since 2009. It remains important however that these strategic objectives flow into the forward work plans and workstreams through which the detail can be developed.

Power NI does agree that the UR needs to focus workstreams on developing regulatory best practice, supporting governmental sustainability targets, clarifying the framework of retail competition development and influencing energy market requirements. These areas represent critical developments particularly in the area of electricity.

Development of regulatory best practice utilising the cross utility nature of the UR is to be welcomed. Power NI has been disappointed with the timeliness and general process surrounding the recent price control process. To have a number of price controls running behind schedule and requiring retrospective implementation is to the detriment of all market participants. Power NI would encourage the UR to use this

cross utility workstream to develop a price control process which is both thorough, comprehensive, timely and consistent.

The role of the UR in supporting the achievement of governmental targets is critical. Once government has set strategic targets there is an expectation within both industry and financial markets. In many cases the UR is often given the difficult task of facilitating the achievement of such targets. Acknowledgment within the corporate plan, inclusion within the forward work plan and the creation and engagement of a workstream are all critical activities required to ensure confidence in the target is maintained. Confidence, especially in the current financial markets is critical to ensuring that private organisations can / will invest.

Power NI believes that if a market is demonstrably competitive, the prolonged application of a price control will compromise the proper operation of a competitive market and is in effect counterproductive. Unnecessarily extending price controls in competitive sectors is a policy which differs from other markets and creates undue regulatory risk. This could impact the efficient securing of capital as global financial institutions have an expectation of regulatory consistency.

Over recent years extensive competition and switching has taken place within the commercial sector. This has also recently begun to develop in the domestic market clearly illustrating the evolving nature of the electricity market in Northern Ireland.

A lingering feature of this competitive but still regulated sector is the asymmetrical character of regulation, which historically was necessarily required to favour new competitors over the incumbent, where the incumbent is dominant. However, any unnecessary extension of such a regulatory dynamic, when market influence has demonstrably shifted from the incumbent to the competitor community, introduces suboptimal competitive market conditions and thus could compromise the UR's ability to comply with its statutory duty of promoting stable and sustainable competition.

Power NI believes that the UR has been slow to develop a clear, detailed "roadmap" in relation to retail competition. While the development of such a strategic framework has been present in corporate strategies, forward work plans and terms such as "regulated competition" have been used in briefings the lack of such a strategic framework does little to aid transparency or minimise regulatory risk.

The European Union has been particularly active in developing ideas in relation to the wholesale market. Emerging requirements in relation to intra day trading and congestion management will impact the All Island Single Electricity Market (SEM). Power NI is encouraged by and supportive of the UR's desire to influence these developments at a European level. In a European context the SEM is relatively small however changes to the market within Ireland will impact Northern Ireland consumers. Developments therefore must be stringently assessed on a cost benefit basis prior to implementation.

In addition to the four areas identified Power NI would also encourage to UR to pursue greater liquidity within the wholesale electricity market. This is a particularly important area which impacts the tariffs paid by consumers.

Please do not hesitate to contact me should you wish to discuss this response further.

Yours sincerely,



William Steele
Power NI