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6 September 2011

Dear Shane,

Utility Regulator Mid-Term Review of Corporate Strategy

Thank you for the opportunity to comment on your mid-term review of the Utility Regulator's Corporate Strategy 2009-14.

We note that the focus of the mid-term Review is twofold:

- To identify internal or external developments that have occurred since 2009 (e.g. strategic reviews or legislation).
- If there are new and/or significant developments since 2009, how do they impact on our (UR) strategy and how should they be reflected?

In responding to the discussion paper, we provide opinion on the focus of the review as well as making some comments on specific statements in the paper.

Focus of the review

NI Water welcomes the fact that the Utility Regulator is conducting a mid-term review of its Corporate Strategy 2009-14. Clearly since 2009, significant developments have occurred which impact directly on NI Water and should therefore be reflected in the strategy. It is not necessary here to discuss at length the developments which have taken place but it is appropriate that they be identified:

1. Deferral of the introduction of water and sewerage charges.

The framework for the economic regulation of NI Water was established on the basis that full water and sewerage charges would be introduced either at the beginning of or during the PC10 period. However, the NI Executive has deferred the introduction of full charges and re-constituted NI Water as a Non Departmental Public Body (NDPB) with the result that, while the company has agreed a fixed term regulatory price settlement, it is also subject to annual public expenditure allocations made by the Department for Regional Development (DRD).

This situation has been recognised by the Utility Regulator with the development of the Memorandum of Understanding (MoU) between DRD and the Utility Regulator which was welcomed by NI Water. This is a major shift in the relationship envisaged between NI Water, the Utility Regulator and DRD that should be reflected in the Corporate Strategy and in particular, be taken into account when consideration is

being given to the format and scope of the requirements for PC13 covering the period 2013 – 2015.

Given the current uncertainties around the future governance and introduction of domestic charging, there is a need to continue the development of an efficient, cost effective and flexible regulatory framework that enables the company, the regulator and other stakeholders to respond quickly and effectively to changing circumstances.

NI Water is encouraged by the direction being taken by the Utility Regulator as seen in the development of the MoU, the role played by the Water Stakeholder Steering Group and the current engagement with stakeholders by the Utility Regulator in discussing the requirements for PC13 covering the period 2013 – 2015, leading to the PC15 price control. The company would encourage further discussions towards evolving the regulatory framework to reflect any future changes in circumstances which might emerge within Northern Ireland.

2. An uncertain environment / governance & charging

Since the deferral of the introduction of domestic charges and the designation of NI Water as a NDPB, there has been on-going speculation about the future governance model of NI Water and the NI Assembly's position on the introduction of domestic water and sewerage charges.

NI Water appreciates the difficulties this uncertainty poses for the Utility Regulator in attempting to develop the regulatory framework. NI Water would encourage the Utility Regulator to use the remainder of the Corporate Strategy period to continue to engage with the company in the pursuit of continuing improvement in the regulatory framework to reflect the circumstances particular to Northern Ireland.

3. PC10 Lessons Learned

Both NI Water and the Utility Regulator experienced price control for water and sewerage services for the first time in PC10. NI Water welcomes the Utility Regulator's commitment to evolving the regulatory framework and would be keen to engage with the Utility Regulator to identify areas for streamlining the process for PC13 and PC15, not only to reduce costs but to seek efficiencies in the scope and format of information and submissions to ensure value is added during all stages of the process and to eliminate the need to re-work material.

4. Review of Ofwat

We are also conscious of the recent review of Ofwat and in particular note the recommendations that:

- There be closer engagement between companies and stakeholders
- The burden of regulation be reduced.

NI Water is supportive of both these recommendations and would wish to engage with the Utility Regulator and other stakeholders to discuss the potential implications for Northern Ireland.

As a multi-utility regulator, the Utility Regulator is uniquely placed to look across the utilities and develop the best aspects of regulation thereby reducing the burden of regulation for all.

Comments on specific points in the discussion paper

We have included our comments on specific points in the discussion paper in Annex A attached.

Broadly we agree with the work streams which the Utility Regulator has identified for itself. The Utility Regulator will appreciate that NI Water continues to operate against a background of continuing political uncertainty about its future governance. The regulatory framework must therefore continue to reflect this and to take account of the workload on the company to comply both as a GoCo and as a NDPB. We look forward to continued engagement with you on these matters.

If you have any queries in relation to any of the points that we raise, please do not hesitate to contact me.

Yours sincerely,



Ronan Larkin

Director of Finance and Regulation

cc: Trevor Haslett
Caroline McGale
Jo Aston (NIAUR)

ANNEX A - Comments on specific points in the discussion paper

Specific UR points that we provide comment on are shown in italics. NI Water comments are identified by bullet point

1. *The Discussion Paper [page 4] notes that, following consultation with the UR and other stakeholders, DRD produced Social & Environmental Guidance (S&EG) to inform investment decisions for NI Water for PC10.*

- NI Water would emphasise the importance of early guidance. The draft S&EG was issued in February 2009 with final guidance issued in April 2010.

Similarly, final guidance on PC10 Business plan requirements was issued by the Utility Regulator in April 2009, a matter of weeks before the required submission date of the Business Plan in June 2009. Much earlier final guidance would have avoided unnecessary re-working and adjustment of the Business Plan.

2. *[page 5] We (UR) developed a MoU with DRD to support the operation of NI Water within a regulatory framework and being largely publicly funded.*

- NI Water welcomes and supports the MoU and the appreciation that this is a unique regulatory situation. However, we note that the Change Control process still needs to be finalised.

3. *UR notes [page 5] that reviews of Ofgem and Ofwat were due to report in Spring 2011.*

- NI Water would welcome early discussions with UR to be appraised of UR thoughts on possible future changes to the regulatory requirements.

4. *UR note [page 6] an internal project was established...to drive forward best practice in our (UR) approach to regulating across the different utility sectors. Also, a cross-utility work-stream will inform a consistent approach, where appropriate, to price controls and focus on opportunities to reduce cost, while incentivising companies to provide efficient and effective services to consumers.*

- NI Water welcomes these moves and looks forward to receiving an update on the progress made to date by the internal UR project. We would also welcome an opportunity to engage with the UR in future stages of the project. As a company that is striving to deliver efficiencies, we would want to be assured that all of the regulatory deliverables, and the associated reporting, adds cost effective value to the regulatory process.

5. *Consideration will be given [page 7] to the many water industry reviews which have been published and are aimed at addressing sustainability, affordability and regulatory issues. Also, we (UR) will support and assist DRD in the preparation of a Water Strategy for N. Ireland.*

- These many reviews, and the current lack of a Water Strategy, are adding to the uncertainty and lack of clear direction for NI Water. Given this situation, NI Water is of the opinion that the 2-year window for PC13 between the post PC10 period and PC15 provides an opportunity to set a clear long term strategy for the water and sewerage industry. Efforts between now and

commencement of work on PC15 should be focused on agreeing these long term strategies and the regulatory framework to support them.

6. *We (UR) [page 8] will continue to work with DRD, NI Water and other stakeholders to develop and apply our regulatory framework for PC13 which delivers benefit to water consumers.*

- NI Water is encouraged by the current engagement with stakeholders by the Utility Regulator in discussing the requirements for PC13 covering the period 2013 – 2015, leading to the PC15 price control. This will enable all stakeholders to discuss and reach early agreement on the requirements for PC15, which will be shaped by the results of the 'best practice' review UR is undertaking, and include a 25-year NI Water Strategic Direction Statement, which has been informed by the DRD Water Strategy.

7. *We (UR) [page 7] will continue to encourage retail competition and we will set out our view.....through a policy position paper, which we will consult on during 2011. This policy position paper will also address the high level question of how regulation protects consumers where competition is not effective.*

- NI Water understands that the Utility Regulator is not intending to introduce retail competition in water and sewerage services to Northern Ireland for the foreseeable future.