

MINUTES OF A MEETING OF THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION (THE 'AUTHORITY') HELD ON THURSDAY, 10 OCTOBER 2013 IN QUEENS HOUSE, BELFAST AT 9.00 A.M.

Present:

Bill Emery (Chairman), Richard Rodgers, Bill Cargo, Teresa Perchard, David Strahan, Harry McCracken, Shane Lynch (Chief Executive)

In attendance:

Jo Aston (Director of Water), Donald Henry (Director of Corporate Affairs), Kevin Shiels (Director of Retail and Social), Brian McHugh (Director of Gas), Tanya Hedley (Director of Electricity), Greg Irwin (Board Secretary/Communications Manager), Jenny Pyper (observer)

Sarah Brady (Manager, Social and Environmental directorate, for agenda item 4), Andrew McCorrison (Analyst, Electricity directorate, for agenda item 4), Alan Craig (Manager, Water directorate, for agenda items 5, 6 and 14), Jody O'Boyle (Manager, Electricity directorate for agenda item 9), Sarah Friedel (Analyst, Electricity directorate, for agenda item 9), Roisin McLaughlin (Manager, Gas directorate, for agenda items 10-12), Graham Craig (Analyst, Gas directorate, for agenda item 10), Richard Hume (Analyst, Gas directorate, for agenda item 11), Colin Broomfield (Manager, Electricity directorate, for agenda item 13), Caspar Swales (Manager, Electricity directorate, for agenda item 15), Joe Craig (Analyst, Electricity directorate, for agenda item 16).

In his introductory remarks, the Chairman welcomed Harry McCracken to his first meeting as a member of the Authority.

1. APOLOGIES FOR ABSENCE

1.1 None.

2. FIRE DRILL

2.1 The board members were informed of the evacuation procedures which apply at Queens House in the event of a fire.

3. DECLARATIONS OF INTEREST

3.1 Harry McCracken declared a potential interest in respect of agenda item 9. It was agreed that any potential interest was not considered to be material to the agenda item in question

4. ELECTRICITY PRIORITY (DISPATCH) REGULATIONS (NORTHERN IRELAND): MODIFICATIONS TO LICENCES

- 4.1 Andrew McCorriston introduced this paper, which sought the board's approval for licence modifications to the transmission licences of both NIE and Moyle Interconnector Limited and the System Operator of Northern Ireland (SONI). The modifications are required to ensure that priority is given, in the dispatch of electricity, to certain types of generation (e.g. water energy plants).
- 4.2 The customer impact of the licence modifications was discussed. It was noted that priority dispatch is a requirement under European directives. The process for making the licence modifications was also clarified.
- 4.3 The Board approved the proposed licence modifications. It was also agreed that further consideration by the board would only be necessary if objections or representations were made during the consultation on the proposed licence modifications.

5. NI WATER LICENCE MODIFICATIONS

- 5.1 Jo Aston introduced this item, which sought the Board's approval for a series of licence modifications to NI Water's licence.
- 5.2 Board members discussed the most significant licence modification relating to unused K (under-recovery). In particular there was discussion on the treatment of the unused K during the price control period. Board members also sought further information on the historic situation regarding the unused K and the benefits or any drawbacks that would occur from the proposed licence modifications.
- 5.3 Information on engagement between the Authority and NI Water, in respect of the proposed licence modifications, was also provided.
- 5.4 The Board approved the series of licence modifications as proposed.

6 NI WATER RELEVANT ITEMS

- 6.1 Jo Aston introduced this item which sought the board's approval to delegate authority for finalising a relevant items determination to the Director of Water. Relevant items relate to requests for additional funding required by NI Water outside of a price control determination.
- 6.2 The Board noted the briefing provided and approved the delegation of authority to the Director of Water for finalising the relevant items determination.

7 EQUALITY UPDATE

- 7.1 Donald Henry presented this item which provided an update on the Authority's position on equality compliance. The board's approval was also sought for the Annual Review of Progress (ARP) for issue to the Equality Commission. It was noted that the ARP had been previously considered, and approved, by the Audit Committee.

7.2 Clarification was provided on the purpose and scope of the ARP. There was also discussion on the presentation of the activities listed in the ARP. A drafting suggestion in respect of the Authority's Social Action Plan was noted.

7.3 The Board noted the position on equality compliance and approved the ARP for issue to the Equality Commission.

8 UNITED KINGDOM COMPETITION NETWORK: STATEMENT OF INTENT

8.1 Shane Lynch introduced this item which presented a statement of intent developed by the United Kingdom Competition Network (UKCN).

8.2 A discussion on the broader changes to the competition regime ensued. Board members discussed the implications of the changes for the Authority and how it regulates in Northern Ireland. The nature of utility markets in Northern Ireland and the resources available to the Authority to engage with new competition regime were also discussed.

8.3 Clarification was also provided on arrangements for working with the Competition and Markets Authority (CMA) and there was support for formalising co-operation arrangements with the CMA.

8.4 The Board noted and approved, in principle, the UKCN's statement of intent.

9. STRENGTHENING THE NORTHERN IRELAND ELECTRICITY GRID

9.1 Tanya Hedley introduced this item relating to electricity grid strengthening proposals which may be eligible for funding under the European Regional Development Fund (ERDF) 2014-20.

9.2 Most of the board member comments related to clarifying the projects that may be eligible under the ERDF funding and how this related to the investment proposed as part of the NIE price control (RP5). A general discussion also took place on project risks.

9.3 The Board concluded its discussion by welcoming the opportunity to access funding for strengthening the grid. The Board specifically confirmed its support for DETI's proposal to seek EU funding for projects that would facilitate grid development for the purposes of accommodating renewables. The potential relative contribution of ERDF funding to projects and the approvals process for projects were also noted.

10. GAS TO THE WEST - UPDATE

10.1 Graham Craig introduced a paper setting out several issues in relation to the gas to the west licence application process for board discussion.

10.2 An initial discussion took place on the form of the regulatory model underpinning the licence competition award. Board members clarified arrangements for ensuring that

objective comparison could be made between licence applicants while at the same time ensuring the protection of consumers.

- 10.3 The Board also discussed the provision of incentive arrangements to deliver the transmission network.
- 10.4 Risks associated with the process for the award of the licence, the effectiveness of the competition and broader reputational issues were also discussed.
- 10.5 Specific board member queries in respect of the duration of the licence and the likely interest from applicants were addressed.
- 10.6 The Board agreed to proceed once the necessary legislative framework had been put in place by DETI. This was also subject to DETI clarifying the position with regard to the ability of the Authority to issue an exclusive gas conveyance licence.
- 10.7 The Board agreed that it would delegate the decision on the award of licence to a sub-committee to be established by the chief executive.

11. GORMANSTON EXIT TARIFF

- 11.1 Brian McHugh introduced this item on the transmission tariff CER have applied to NI shippers wishing to use the Irish interconnector system to flow gas into the South-North pipeline. The paper updated the Board on discussions with the Commission for Energy Regulation (CER) and presented options for consideration.
- 11.2 Board member queries associated with the background to the funding arrangements for the South-North pipeline and the CER's transmission tariff were addressed.
- 11.3 There was a substantive discussion on the options identified in respect of the CER's transmission tariff and associated risks. The Board agreed that the option of doing nothing was unacceptable and the focus of discussions was on the best third party approach to resolving the issue.
- 11.4 At the conclusion of the discussion the Board agreed that the option of independent legal review of the CER's transmission tariff should be pursued. In advance of this it was agreed that informal engagement with CER and the European Commission should be undertaken.

12. CAG UPDATE

- 12.1 An update was provided on the status of the Common Arrangements for Gas (CAG) project.
- 12.2 Board members noted the outcome of a report jointly commissioned by the Authority and CER on the single balancing zone. It was also noted that the focus of the gas transmission team has shifted from CAG to work to implement the wider EU network codes required by the IME3 directives. The intention to issue a public statement on CAG, and the presentation of key messages, was briefly discussed.

12.2 Board members noted the outcome of a report jointly commissioned by the Authority and CER on the single balancing zone. It was also noted that CAG has been overtaken by work to implement the wider EU network codes required by the IME3 directives. The intention to issue a public statement on CAG, and the presentation of key messages, was briefly discussed.

13. SECURITY OF SUPPLY

13.1 Jo Aston introduced this item which updated the board on progress made and actions taken to address security of supply concerns in Northern Ireland from 2016 onwards.

13.2 Board members clarified the extent of the risk in relation to generation capacity. The options for securing additional generation capacity were also discussed and queries relating to the detail of certain options were addressed.

13.3 In noting the update, the Board supported the actions being taken to mitigate security of supply risks as soon as possible.

14. PC15 – PRICE CAP OR REVENUE CAP

14.1 Alan Craig provided a briefing on the price cap approach to the price control for NI Water from 2015 (PC15).

14.2 The Board noted the engagement that had taken place with stakeholders. A brief discussion took place on the rationale for retaining the price cap approach for NI Water.

14.3 The Board noted the intention to continue to apply a price cap approach for PC15.

15. PC15 – CONSUMER ENGAGEMENT

15.1 Caspar Swales presented a briefing on consumer engagement research as part of the process leading to the development of the PC15 price control determination.

15.2 Board members commented on the segmentation of households and the presentation of service improvement data in the research report. The timing of further consumer engagement research was also clarified.

16. DEFINITION OF SEVERE WEATHER EVENT

16.1 Joe Craig introduced this item which set out a proposed definition of a severe weather event and its introduction through changes to the Standards of Performance and modifications to the NIE licence.

16.2 The Board welcomed the proposal to introduce a definition of a severe weather event. Board members did however emphasise the importance of clarity of the definition and made some comments and suggestions in this regard. It was agreed that standards of performance and severe weather banding information published by another regulator should be circulated to board members.

17. CORPORATE STRATEGY AND FWP

- 17.1 Jenny Pyper provided a verbal update on progress on the development of the corporate strategy and the forward work programme (FWP). It was agreed that sufficient time should be provided at the November Board Advisory Forum for a further discussion on the strategy and the FWP.

18. MINUTES

- 18.1 The minutes of the meeting on 13 September 2013 were approved subject to a minor amendment.

19. ACTION POINTS

- 19.1 The Board reviewed the action points from previous meetings. All of the action points were complete.

20. REPORT FROM THE EXECUTIVE TEAM

- 20.1 Shane Lynch introduced this item and provided an overview of key issues.
- 20.2 The Board was briefed on the current position regarding the Competition Commission's (CC) inquiry on the NIE T&D price control. It was agreed that the Authority's public statements on the CC's provisional determination will be factual and brief. Clarification was also provided on the inquiry timetable and it was agreed that the Authority's proposed response would be circulated to board members for comment.
- 20.3 A wider discussion ensued on the Authority's two references to the CC during 2012-13. The Board asked the executive to undertake a review of learning from both references to the CC, to be complete by early in 2014.
- 20.4 The Board also briefly discussed updates on the following issues: disputes, the definition of a severe weather event, the North-South Interconnector, the sale of BGE Energy and consumer complaints and debt recovery procedures.
- 20.5 A further update was also provided on the liability for SEM Committee (Carbon Levy) judicial review fees.
- 20.6 There was a discussion also on the presentation and handling arrangements in respect of the Authority's comparative electricity prices paper and plans for a follow-up paper. It was agreed that the Board would be provided with a copy of the follow-up paper.

21. ANY OTHER BUSINESS

- 21.1 The Board conducted a short meeting review which briefly discussed the presentation of information in board papers.
- 21.2 There being no other business, the meeting concluded at 2.25 pm.