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30 January 2019

Dear Briege,

Draft Corporate Strategy 2019-2024

Power NI welcomes the opportunity to respond to the recent draft Corporate Strategy 2019 - 2024 published by the Utility Regulator (UR).

The UR identifies 8 key areas which represent the drivers influencing the development of the UR's corporate strategy. Power NI recognise these areas as representing the important driving factors impacting the UR's corporate strategy and it is helpful for all stakeholders that the UR have laid out these issues in the manner presented within the consultation paper.

While it is disappointing that the Northern Ireland Executive is not sitting and there is no Strategic Energy Framework in place, it is important that the UR continues to ensure that the energy systems and markets continue to operate effectively and develop. Power NI believes that the UR's statutory duties enables this activity and is encouraged by the UR's willingness to identify the key drivers of the energy transition, focus on outcomes and develop the regulatory strategy to a more principle based approach.

Power NI believes the three strategic objectives identified by the UR; promoting effective markets, enabling 21st century networks and ensuring security of supply; are appropriate corporate goals which recognise the strategic drivers and represent the natural evolution of the traditional energy trilemma.

As an electricity supplier active in the Northern Ireland market Power NI will be directly impacted by a number of the UR's strategic objectives.

- **The Retail Electricity Market**

The UR has highlighted that it will work to ensure that it balances competition with consumer protection and promote markets that deliver effective competition, informed choice and fair outcomes. Power NI fully supports this aspiration.

- Consumer Protection

At the Consumer Protection Summit senior members of the UR Team highlighted that the energy sector in Northern Ireland has a strong record in consumer protection and high levels of customer trust. This position has been achieved through no small part, suppliers proactively engaging in consumer protection initiatives and corporate social responsibility.

Energy supply is a service and price based sector. Brand reputation is incredibly important and companies will work to protect and enhance their brand position. This can also be used as a differentiator in a competitive market. In recognising its competing obligations, the UR should act only to ensure that the appropriate minimum standards are mandated while in parallel highlighting best practice.

The UR also has an important role in facilitation and Power NI believes this is an area in which significant progress could take place. While there are many examples of good practice in the Northern Ireland market learning can always be taken from other markets and sectors. The UR is well positioned to facilitate cross jurisdiction and sector information sharing. Such facilitation can increase the energy sectors knowledge, establish vital linkages and support new initiatives.

The UR also has an important role in the implementation space. The electricity market in particular, has specific common services arrangements which mean that the network company is crucial to many deliveries. Power NI is concerned that traditional network, asset focussed, price regulation does not adequately facilitate the flexibility required to deliver supplier driven enhancements. This significantly restricts and frustrates suppliers.

While committed to work positively alongside the UR in the area of consumer protection, it is important to recognise that a supplier has limited knowledge about their customer and are already heavily regulated through Codes of Practice. Typically, unless explicitly informed, the supplier may only know the name of the individual registering, the address, consumption information and preferred payment method. This information offers limited insight into the customers' circumstances or potential vulnerability. It is often therefore only by working in partnership and having referral arrangements to and from those organisations with a broader insight into the customer, that an electricity supplier can positively affect the particular circumstance or issue.

This contextualisation is important when considering what is and is not possible for the energy industry to achieve in this area. Careful consideration and evidence based decisions are crucial to ensuring that initiatives are effective both in terms of the deliverable and the implementation costs.

Mindful of this requirement the identification of the specific harm to be addressed is crucial. A programme deliverable cannot be a general statement or high level aspiration; it must be grounded in a targeted, customer focussed and evidenced manner. It is also important to recognise that the Northern Ireland market is different to neighbouring jurisdictions when considering importing initiatives from other areas.

- Effective competition

In December 2016 the Utility Regulator (UR) concluded Phase II of its 'Review of the Effectiveness of Competition in the Northern Ireland Energy Retail Market' and in a Decision Paper entitled Regulatory Implications communicated an intention to monitor the retail electricity market and implement one of four identified options should it decide to end price regulation and in response to last year's Forward Work Plan, Power NI stated that was inherent upon the UR to continue the process undertaken under the heading of 'review of the effectiveness of competition'.

No timeline for the removal of price regulation was given however reference was made to the development of the market, consumer protection measures and the statutory objectives of the UR.

Since the December 2016 Decision within the Northern Ireland electricity market; the UR has removed price regulation in the non-domestic sector, implemented SME protection measures, a Billing Code of Practice, an Energy Theft Code of Practice, enhanced the SoLR mechanism, reviewed the activity of brokers, reviewed the DUoS Charging methodology, completed two Power NI Price Control extensions, built up significant market information via the REMM reporting mechanism, scheduled REMM audits and are in the midst of enhancing the UR's Consumer Protection Strategy. While in other markets such as Great Britain there has been an extensive CMA inquiry and Ofgem implementing a targeted price cap.

All of the above market protection enhancements have taken place against a backdrop of retaining the significant regulatory controls placed upon Power NI. Controls including domestic price regulation and non-discrimination licence conditions which are only applied to Power NI, despite our declining domestic market share.

Power NI urges the UR to progress the work in relation to the regulatory framework surrounding the Northern Ireland Electricity Market. Power NI understands that a process of public and stakeholder consultation would be required however the UR's target should remain to refine the regulatory framework, recognise the evolving nature of the market, provide certainty to participants and to begin the process of treating Power NI akin to its competitors.

• **Enabling 21st century networks**

Under this strategic objective there are a number of important deliverables from a supplier perspective.

- Service Standards

In relation to promoting customer focussed service standards Power NI notes with disappointment that the UR's review of Overall Service Standards (OSS) and Guaranteed Service Standards (GSS) has not concluded.

In relation to electricity, the OSS/GSS regime offers an opportunity to define how NIE Network's provide network related services to customers both in terms of general reliability and quality as well as services requested via the customers supplier. At present there is little reporting or transparency in relation to NIE Networks performance against the GSS/OSS and no opportunity for suppliers to input into or change the setting of standards. Suppliers have the most interaction with customers and any perception of poor service by NIE Networks is reflected on the supplier. It is therefore crucial that the UR implement a process which facilitates scrutiny and review

By clearly defining the requirements placed on NIE Networks the UR would provide clarity on the goals and outcomes expected from the OSS/GSS framework. Unfortunately within the UR's 2017 unfinished consultation process, the UR appears to have chosen to follow many of the aspects of Ofgem's regime and by transposing the requirements into a different market have served to intertwine network company obligations with supplier obligations. This potential approach brings additional complexity, confusion, does not recognise the benefits of the common service model and fails to fully utilise the opportunity this review affords.

Power NI strongly believes that the GSS/OSS framework should be tailored and positioned as standards expected from NIE Networks in terms of network reliability, restoration and services provided on behalf of suppliers. Supplier standards are and should be incorporated into the existing Codes of Practice.

- Network Tariff Setting

From a supplier perspective there appears to be a complete disconnect between the regulatory tariff obligations placed on suppliers via licence conditions, and those placed on the Transmission and Distribution System Operators.

Suppliers have strict notification timelines for communicating any tariff change to customers. In relation to the price controlled domestic tariff with its additional verification and communication obligations, this begins circa 6 weeks prior to implementation. Unfortunately there appears to be no reciprocal obligations placed on either Northern Ireland Electricity Networks as Distribution System Operator or SONI as Transmission System Operator. In 2018, for the second year in a row, critical network tariffs and levy information have not been published until just before their effective date e.g. the TUoS network charge and SSS and CAIRt levies were not published until Thursday 27 September 2018 with an effective date of 01 October 2018.

Such a delay shows no regard for the risk placed on suppliers. Tariffs are being set based upon assumptions and simple RPI increases when firm numbers should be known. When rates are not aligned with assumptions e.g. from 01 October 2018 SSS rates increased by 64% in real terms, this means that tariffs can be significantly unreflective of underlying drivers.

Suppliers will always accept that underlying wholesale costs can be volatile and will change due to world fuel price movements, and in most instances proactively set about minimising such risks through proactive hedging. Network costs and levies however should be known and stable. It is inequitable for monopoly providers who enjoy absolute tariff protection to publish rates a matter of days before they are effective, while those participating in a competitive market and serving end consumers are left to carry the risk such a delay creates.

Power NI would welcome the Utility Regulator reviewing the network tariff and levy setting process with the goal of ensuring that such rates are published in July ahead of an October effective date. Such a timetable would be to the benefit of both retail market participants and would increase transparency of end tariffs as assumptions would be reduced.

- Distribution Use of System (DUoS) Charging Methodology

In 2017 the UR undertook a consultation exercise in relation the application of DUoS standing charge in domestic billing. Within the paper the UR suggested that the disconnect between DUoS billing and generally accepted retail billing in terms of standing charge would inevitably result in the reintroduction of domestic standing charge. Power NI agreed with the UR in this assessment and also agreed that the reintroduction of domestic standing charge would have an adverse impact on low volume customers, vulnerable customers, transparency, easy of tariff comparison and create confusion. It was and remains Power NI's view that these disadvantages should be avoided and that it is inherent upon the UR to stake steps to avoid the re-introduction of a domestic standing charge.

The removal of the standing charge from the DUoS charging methodology is a comprehensive solution to this issue. It means that there is no basis for the reintroduction of a domestic standing charge and therefore ensures the protection of low consuming and vulnerable customers while also incentivising energy efficiency, supports transparency and enables easy price comparison.

The UR concluded that it could not take that step due to European regulations and the direction of travel in other jurisdictions in relation to self-generation and prosumers. Power NI recognises the issue in relation to prosumers however does not agree that this should uniformly prevent a DUoS standing charge change. Tailored solutions can be found.

In the short term, customers who have installed (usually renewable technologies) to self-supply will fall into the low consuming customer bracket while potentially not being vulnerable and therefore could theoretically not cover the fixed cost element of their supply. While acknowledging this, Power NI does not, at this point, consider that to be particularly disadvantageous. The UR's analysis presented in the consultation suggests that self-generating customers are still in the higher category of consumption therefore do cover their fixed cost obligations however should that change it could still be argued that such a regime will support the uptake of renewables as an energy efficiency measure (in line with governmental objectives) and should the quantum increase significantly (which is unlikely given the reduction in the explicit and financially more significant support mechanisms) the UR has discretion to introduce a specific DUoS tariff for such installations which akin to Economy 7 could retain an explicit standing charge.

Power NI would welcome the UR revisiting this issue.

- Price Control Reviews

Network price control reviews are a core UR activity which tends to be delivered using a prescriptive traditional price control formula which includes a regulated return on assets and operating cost allowances. In relation to core activities which are known and understood, traditional incentive based regulation i.e. a cost allowance and efficiency sharing if delivered for less than allowances, remains appropriate. For the activities which are more difficult to define e.g. influence and innovation this is clearly much more difficult to incentivise and discretion will form an important part of any solution. Discretion however does need a transparent and constructive relationship to exist between the UR and regulated company. Such a relationship should ensure that the regulated business is incentivised appropriately with the knowledge that reasonably incurred costs will be allowed. Equally important, the UR needs to ensure that it has sufficient transparency of delivery and costs.

Power NI would therefore encourage the UR to consider issues such as innovation more broadly and provide controlled latitude for regulated companies to work to deliver market led enhancements in the interests of the end consumer. A price control determination should deliver a balanced, proportionate and reasonable outcome which both recognises the burden and risk placed on the business while ensuring that costs are reasonably and efficiently incurred. Power NI would caution being overly prescriptive in these areas. Such prescription only serves to restrict the regulated companies willingness and ability to respond to developments and particularly over such a long timeframe which price controls cover, has the potential to deliver the unintended consequence of a lack of flexibility and is counterproductive in terms of delivering market led innovation. The UR should be mindful of this and explicitly allow for some discretion within the assessment and allowances.

Conclusion

Power NI is committed to working constructively with the UR across the range of projects references in the Corporate Strategy and hopes that the UR will address those issues highlighted above. Should you wish to discuss the content of this response please do not hesitate to contact me.

Yours sincerely



William Steele
Power NI