

**MINUTES OF A MEETING OF THE NORTHERN IRELAND AUTHORITY FOR UTILITY REGULATION (THE 'AUTHORITY') HELD ON THURSDAY, 19 OCTOBER 2017 IN QUEENS HOUSE AT 10.30 A.M.**

**Present:**

Bill Emery (Chairman), Jenny Pyper (Chief Executive), Teresa Perchard, Alex Wiseman, Richard Rodgers, Jon Carlton, Bill Cargo.

**In attendance:**

SMT - Kevin Shiels, Donald Henry, Tanya Hedley, John Mills, Greg Irwin

Samantha Hopkins, Colin Magee and Michael Campbell (agenda item 3), Natalie Dowey (agenda item 4), Veronika Gallagher (agenda item 5), Philip Weir (agenda item 6), Barbara Cantley (agenda item 8), Tony Doherty and Joe Craig (agenda item 9), Paul Harland (agenda item 11).

**1. APOLOGIES FOR ABSENCE**

1.1 Jo Aston

**2. FIRE DRILL**

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

**3. DECLARATIONS OF INTEREST**

3.1 There were no declaration of interests.

**4. REVIEW OF FIRMUS ENERGY (SUPPLY) LTD PRICE CONTROL SCOPE**

4.1 Kevin Shiels introduced this item which sought the board's approval for a proposal to reduce the scope of the firmus price control to exclude those business consumers in the EUC2 customer category.

4.2 The board explored the reasons for the decline in market share by firmus in the EUC2 category. The situation with regard to market shares in other energy sectors was also discussed. Finally, board members also discussed the views of firmus energy on the proposal.

4.3 With all queries clarified the board approved the proposal as presented to be included in a paper and associated draft licence modification for consultation.

**5. SONI PENSIONS CONCLUSIONS AND CHANGE OF LAW PROVISION**

5.1 Tanya Hedley introduced this item which set out conclusions on SONI pension allowances and the modifications for the change of law provisions for the SONI licence.

5.2 Board members clarified the conclusions on pensions allowances and the change of law provisions.

5.3 The board noted the conclusions on the pension allowances and approved the change of law provisions to be reflected in the SONI licence. It was also noted that, following the board's approval, the change of law provisions would be published later after the board meeting had ended.

5.4 The board was also briefed on the Competition and Markets Authority (CMA) SONI price control appeal remedies hearings which had concluded on the day prior to the board meeting. In noting the key items of feedback the board expressed its gratitude to those members of staff that had been involved in the extensive CMA appeal process. Board members noted with concern the emerging remedies being advanced by the CMA and the potential for a differential negative impact being imposed on Northern Ireland consumers. It was agreed that a response to the proposed remedies should be developed by our legal advisors to reflect the board's concern. The potential to raise these concerns with the CMA at the highest level was also considered.

## **6. GAS TO THE WEST VFCE DRAFT DECISION**

6.1 John Mills provided an update on the Verified Controllable Capital Forecast (VFCE) relating to the Gas to the West project. He outlined the approach taken to date, the ongoing development of the draft VFCE decision and sought guidance on the principles underpinning this draft decision.

6.2 The board sought clarification on several elements of the VFCE submission by MEL/SGN. The difference between the current draft decision on design and management costs and MEL/SGN's submission was explained. Board members also explored the reasons for the proposed adjustments to the overall controllable capital expenditure compared to the submission by MEL/SGN.

6.3 There was also a discussion on the original bid submitted by SGN for the competition to construct the Gas to the West pipeline. Board members discussed this bid in the context of its more recent submission and developments since.

6.4 Several board member queries in respect of committed contract costs and the allocation of costs were also addressed.

6.5 In noting the update on the development of the draft VFCE the board broadly endorsed the work undertaken to date and noting that the consultation paper was still being finalised. It was noted that there would be further engagement with the company to assist with finalising the draft VFCE decision. The board also noted that the draft decision was currently scheduled for publication at the start of November and that SGN/MEL would have an opportunity to meet with the board on 16 November.

6.6 Finally, the board briefly discussed progress on the overall Gas to the West programme.

## **7. GAS TO THE WEST EARLY REFINANCING**

7.1 Tanya Hedley introduced this item which provided an update on the West Transmission Limited (WTL) proposal for the early financing of the Gas to the West pipeline construction.

7.2 The overall rationale for the early financing proposal was explored. Board members discussed the current favourable market conditions for debt issuance, the WTL position on how to calculate early financing which did not align with regulatory practices and the associated risks of delaying financing until after construction had been completed.

7.3 In noting that no decision was required in relation to the Gas to the West refinancing at this stage the board endorsed the commissioning of external expert advice on the WTL proposal. It

was also noted that the board would be asked to approve the issue of a consultation on related licence modifications at its December meeting. In the meantime, the board encouraged continued dialogue with WTL to ensure that there was effective engagement on the early financing proposals.

## **8. UPDATE ON RETAIL INVESTIGATIONS, COMPLIANCE AND ENFORCEMENT**

- 8.1 Kevin Shiels introduced this item which apprised the board of investigations, compliance and enforcement issues for the Retail directorate. In noting the relative increase in compliance issues, he outlined the key factors explaining this growth.
- 8.2 The board discussed the increase in compliance activity and drew out comparisons with the situation in the GB energy market. There was also a discussion on the overall compliance approach employed and the opportunity to draw on learning to date. The issue of publicising and placing information in the public domain on compliance activity was also explored and some examples of good practice were identified.
- 8.3 A discussion also took place on the evolving retail energy market monitoring (REMM) regime and progress on the delivery of this. Board member comments, in respect of the scope of this regime and the approach to non-compliance, were addressed. The issue of resourcing compliance work was discussed.
- 8.4 The board noted the overall update on compliance activity.

## **9. SONI/EIRGRID REQUEST FOR CONTINGENT CAPITAL FOR I-SEM**

- 9.1 Tony Doherty briefed the board on a request by SONI/EirGrid for an additional financing facility to address perceived increased working capital requirements arising from the new I-SEM. It was noted at the outset that the decision in respect of the approval for the additional financing facility lay with the SEM Committee.
- 9.2 Board member queries in respect of the need for a letter of support to banks, the quantum of the contingent capital required and existing financial reserves held were addressed. The context for the request, given the recent Competitions and Market Authority determination on the SONI price control appeal, was noted.
- 9.3 A broader discussion ensued on the rationale for the request and the need to provide such a facility. In the regard, the need to ensure that any contingent capital approved was based on an efficient level of funding was emphasised.
- 9.4 The board noted the request and the intention to seek legal advice on the provision of a letter of support.

## **10. NI WATER MID-TERM REVIEW UPDATE**

- 10.1 John Mills introduced this item and provided the board with an overview of NI Water's mid-term review submission.
- 10.2 Board members reviewed and commented on the content and key messages of NI Water's mid-term review submission. NI Water's plans for the rest of the price control period were discussed.

10.3 The extent to which the company's programme of work would impact significantly on consumer outcomes was explored. Board members queried the extent to which the company's submission was sufficient given the guidance provided in advance.

10.4 The board agreed that high-level engagement with NI Water and other stakeholders was required to ensure that there was a focus on developing a longer-term programme of work which would benefit consumers.

## **11. REMEDIES PURSUANT TO THE COMPETITION AND MARKETS AUTHORITY (CMA) DECISION ON FIRMUS ENERGY FOR GD17**

11.1 John Mills introduced this paper which outlined the approach being taken to addressing two remitted items from the CMA following its determination on the firmus energy GD17 price control appeal.

11.2 Board members sought further information on the calculation of the amended connections target and several queries were clarified.

11.3 The board explored the approach being taken to calculate a revised non-additionality rate. The board, while recognising the challenges associated with determining the non-additionality rate, discussed the quantum of revenue at issue and any comparative information available to inform the calculation.

11.4 In noting that a further paper on both issues would be received for decision, the board was apprised of plans to engage with firmus energy on both remitted items.

## **12. NORTH-SOUTH INTERCONNECTOR EASEMENTS**

12.1 Tanya Hedley introduced this information item relating to securing access for the North South interconnector through the use of easements.

12.2 Board members clarified the purpose of easements. The board also emphasised the importance of applying regulatory scrutiny to the cost recovery expenditure by SONI including consideration of DIWE.

12.3 The board endorsed the overall approach outlined in the paper.

## **13. MINUTES**

13.1 The minutes of the board meeting on 14 September were agreed for publication.

## **14. ACTION POINTS**

14.1 The action points were reviewed by the board.

## **15. EXECUTIVE TEAM REPORT**

15.1 Jenny Pyper provided an overview of the Executive team report.

15.2 The board's attention was drawn to the continuing progress on I-SEM and the preliminary audit work being undertaken on the NI Renewables Obligation. The board welcomed the launch of the Gas Market Operator for Northern Ireland which went live on 1 October.

15.3 The board approved the annual equality report for submission to the Equality Commission for Northern Ireland.

- 15.4 There was also endorsement of the arrangements for handling of the leniency applications in the regulated sectors as outlined in the Executive team report.
- 15.5 The Finance and Performance report was presented and approved. Board members also discussed the outcome of the mid-year review of the budget and received additional clarification in respect of the revised budget position. It was also noted that the Audit Committee had, prior to the board meeting, scrutinised the mid-year review of the budget. The board was content to approve the revised budget position. The risk register was also reviewed and it was agreed that this would be an agenda item at the December board meeting.
- 15.6 The board was provided with an update on the board effectiveness assessment action plan.
- 15.7 Board members were also advised of plans to hold a joint board-SMT workshop in November and it was agreed that board members would be circulated with an outline itinerary as soon as it was available.

There being no other business, the meeting concluded at 2.30 p.m.