



# NIE Land Bank

**Governance Procedure – 20<sup>th</sup> May 2015**



# About the Utility Regulator

The Utility Regulator is the independent non-ministerial government department responsible for regulating Northern Ireland's electricity, gas, water and sewerage industries, to promote the short and long-term interests of consumers.

We are not a policy-making department of government, but we make sure that the energy and water utility industries in Northern Ireland are regulated and developed within ministerial policy as set out in our statutory duties.

We are governed by a Board of Directors and are accountable to the Northern Ireland Assembly through financial and annual reporting obligations.

We are based at Queens House in the centre of Belfast. The Chief Executive leads a management team of Directors representing each of the key functional areas in the organisation: Corporate Affairs; Electricity; Gas; Retail and Social; and Water. The staff team includes economists, engineers, accountants, utility specialists, legal advisors and administration professionals.

## Our Mission

Value and sustainability in energy and water.

## Our Vision

We will make a difference for consumers by listening, innovating and leading.

## Our Values

Be a best practice regulator: transparent, consistent, proportional, accountable, and targeted

Be a united team

Be collaborative and co-operative

Be professional

Listen and explain

Make a difference

Act with integrity

## Abstract

This document sets out the governance procedures in relation to management of the land bank.

The land bank currently comprises sites at the following locations.

- Belfast West
- Ballylumford Power Station and Adjoining Lands
- Kilroot Power Station and Adjoining Lands
- Coolkeeragh Power Station and Adjoining Lands
- Lisahally Tank 11
- Camlough Lands

## Audience

This document has been published to provide transparency to consumers about how the land bank is managed.

## Consumer impact

The procedures laid out in this document are to ensure the land bank is maintained and managed in a way that provides value to the consumer.

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## Executive Summary

At privatisation, the Northern Ireland Electricity (NIE) land bank business was established to protect land surrounding existing power stations for future electricity generation developments. The land bank sites were vested within NIE and the NIE land bank business currently manages these sites.

The Utility Regulator (the Authority) has a primary duty, defined in law, to protect the interests of consumers. This document has been developed to define the governance procedures in place to manage the land bank assets. This document defines the circumstances whereby NIE shall consult the Authority for approval.

# 1. Introduction

## 1.1. Context

1.1.1. The electricity industry in Northern Ireland was privatised in the early 1990s; previously it had been a fully integrated state owned utility business, Northern Ireland Electricity (NIE). In the first phase of privatisation, the four main power stations were sold to private companies. At the time, there was concern that a consequence of the sale of the generators could be that the power station sites could be lost to the electricity industry at some future time. It was therefore decided that the freehold of power station sites should vest within NIE in a quasi-trustee role. For this purpose, the NIE Land Bank Business was established to manage the freehold of the power station sites.

1.1.2. The land bank currently<sup>1</sup> comprises sites at the following locations.

- Belfast West
- Ballylumford Power Station and Adjoining Lands
- Kilroot Power Station and Adjoining Lands
- Coolkeeragh Power Station and Adjoining Lands
- Lisahally Tank 11
- Camlough Lands

1.1.3. There are a number of vacant sites contained within the Land Bank which are deemed to be suitable for the purpose of building electricity generation stations. These sites are at Belfast Harbour (site of the former Belfast West Power Station) and Kilroot.

1.1.4. NIE manages the Land Bank business under direction from the Northern Ireland Authority for Utility Regulation (“the Authority”) in accordance with Condition 23 of NIE’s Distribution Licence.

1.1.5. This Condition specifies that NIE shall deal with the Land Bank and any rights which it may have in relation to the whole or any part of it in accordance with directions issued from time to time by the Authority. Any direction must be framed so as to ensure that when implementing it, NIE shall not suffer a financial loss nor obtain any financial benefit as a result of its implementation.

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<sup>1</sup> As at March 2015

## 1.2. Governance Document

- 1.2.1. Under condition 23 of NIE's Distribution Licence, NIE is to deal with land bank in accordance with the terms of this condition.
- 1.2.2. On 21 October 1993 Offer NI<sup>2</sup> issued a Direction to NIE giving certain direction in relation to land bank.
- 1.2.3. This document has been created to outline the responsibilities of the Authority and NIE on the management of land bank. In the event of any inconsistency between this and provisions contained within condition 23 of NIE's Distribution Licence or terms of 21 October 1993 Letter; condition 23 of the Licence or terms of the 1993 Direction shall prevail.

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<sup>2</sup> Former name of Northern Ireland Authority for Utility Regulation - Office of Electricity Regulation NI

## **2. Governance Procedures**

### **2.1. Compliance**

- 2.1.1. NIE are required to comply with the Distribution Licence condition 23.
- 2.1.2. NIE shall maintain the Land Bank land in such a manner as will enable it to be made available for future generation purposes.
- 2.1.3. NIE shall manage the Land Bank Business in an efficient prudent and economic manner and so far as is consistent with such management and with the aims of paragraph 2.1.2, shall endeavour to maximise profits arising from the Business and to minimise losses occurring there from.
- 2.1.4. NIE shall not make any material change to the assets or liabilities of the Land Bank including any relevant lease (other than as legally required by its terms) without the prior consent of the Authority and other than in accordance with the conditions (if any) of the consent.
- 2.1.5. NIE shall not agree to any assignment or amendment of, or terminate otherwise than in accordance of its terms, any relevant lease without the prior written consent of the Authority and in accordance with the conditions (if any) of the consent.
- 2.1.6. NIE shall not appropriate any part of the land bank for its own purposes or the purposes of any affiliate or related undertaking of the licensee without the prior written consent of the Authority and in accordance with the conditions (if any) of the consent.

### **2.2. New lease applications**

- 2.2.1. NIE shall consult the Authority for direction for any applications received for unlet land.

### **2.3. Changes to lease arrangements**

- 2.3.1.** If a change to lease conditions is required, NIE shall consult the Authority for direction.



## **2.4. Maintenance**

- 2.4.1. NIE shall maintain unlet land and maintain and repair any structure thereon to the extent required to comply with any relevant safety or other legislation and in so far as is necessary to maintain its value, taking into account the purpose for which the land and any structure thereon was intended.
- 2.4.2. When NIE become aware of any encroachment on unlet land by a third party, NIE will inform the Authority and propose options to enable the Authority to provide direction.
- 2.4.3. NIE shall carry out such work as required to maintain access and security of each site in the land bank in accordance with direction from the Authority.
- 2.4.4. NIE shall notify the Authority as soon as reasonably practicable of any items of expenditure of more which exceed the annual budget or if any individual sum exceeds £10,000 which it anticipates incurring under paragraphs 2.4.1 and 2.4.3. NIE shall not incur such expenditure without the prior written consent of the Authority and other than in accordance with the conditions (if any) of the consent.

## **2.5. Finance**

- 2.5.1. NIE shall neither suffer any financial loss nor secure any financial benefit in complying with the clauses in this document.
- 2.5.2. NIE shall report to the Authority on the condition of the Land Bank on request and in line with licence condition 23 and other requirements as follows :
- 2.5.2.1            Within the first 6 months of the financial year and each subsequent financial year, NIE shall prepare a report which shall be delivered to the Authority with the separate accounts required by Licence Condition 2 Part 2 of the licence in respect of the Land Bank Business. This report shall cover applications made for unlet lands, the grant of leases, the amount of land let and unlet, sub-leases or assignments granted and any other relevant business carried out during that financial year including a statement of costs, differentiated between project and administrative costs, allocated where possible to areas of expenditure. With this report, NIE shall also submit an estimate of

income and expenditure, including an estimate of administrative expenses, for the Land Bank for the following financial year.

- 2.5.2.2 For the first 6 months of the financial year and of each subsequent financial year, NIE shall prepare an interim report which shall be delivered to the Authority with the interim profit and loss account in respect of the Land Bank business required by Condition 2 Part 2 of the licence. This report shall include the matters covered in sub-paragraph 2.5.2.1, excluding the forward estimate of income and expenditure.

## **2.6. Regulation**

- 2.6.1 The Authority shall be responsible for approving all expenditure required over £10,000.
- 2.6.2 The Authority will provide direction for any changes in lease conditions of all land bank sites.
- 2.6.3 The Authority will regulate NIE's activities to ensure they comply with licence condition 23.

## **2.7. Regulatory Meetings**

- 2.7.1 NIE shall meet with the Authority every quarter to discuss ongoing operational activities. If there are issues that require addressing immediately, additional meetings can be agreed with the Authority.