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To Mr Dermot Ahern, T.D.
Minister for Communications, Marine & Natural Resources

In accordance with paragraph 25(c) of the Schedule of the Electricity Regulation Act, 1999, I am pleased to present to you the fifth annual report of the Commission for Energy Regulation, in respect of the period from 1st January 2003 to 31st December 2003.

Tom Reeves
Commissioner for Energy Regulation
2003 has been a busy and eventful year, which has witnessed many interesting and progressive developments with regard to full market opening.

In June, two European directives, which amend and recast earlier electricity and gas directives, concerning common rules for the internal market of electricity and gas and a regulation on conditions for access to the network for cross-border exchanges in electricity were adopted by the European Parliament and Council. The directives provide for full market opening of all European electricity and natural gas markets by July 2007. The electricity and natural gas markets in Ireland will be fully open to competition in 2005, well in advance of the European deadline.

On the generation side, we announced the results of the generation capacity competition in December. Both Aughinish Alumina Ltd. and Tynagh Energy Joint Venture have now signed contracts with ESB Public Electricity Supplier (ESB PES) to provide a combined installed generating capacity of over 500MW from two new independent generating plants. This will result in a significant increase in generation capacity in Ireland and will assist in ensuring security of supply over the coming years.

In relation to the development of improved trading arrangements for electricity for the liberalised market, a lot has been achieved during 2003. In May, we published the proposed high-level principles to apply to the new market for electricity. A number of working groups have been established with relevant industry participants in order to progress and finalise the market design rules to the new market from February 19th, 2006.

In tandem with these developments, the Commission has, to date, approved a total investment of €2.68bn (in 2002 prices) to upgrade the electricity networks and place Ireland in a position to meet the growing demand for electricity and assist movement towards an All-Island and Single European Market over the coming years.

On the renewable front, there were a number of developments in 2003, driven in part by the implementation here of a number of EU directives, including the Emissions Trading, Large Combustion Plants and the National Emissions Ceiling Directives. In relation to the impact of the allocation of greenhouse gas credits on the price of electricity under the proposed emissions trading regime, I am of the opinion, that, in order for the generation market to function properly and to give the right signals for new entrants, there should be full price pass through of the costs of carbon. Any windfall gains to existing generators should be recycled in the electricity sector. I believe that, within the relevant legislative framework, the Commission should be empowered to levy generators each year to the level of any windfall gains and that the money so levied be used to reduce network tariffs. I consider such an approach preferable to taking ESB’s share of the windfall gains as dividends.

In December, ESB National Grid sought the Commission’s approval for a moratorium for additional wind connections to the transmission and
distribution network. In 2004, ESB National Grid will be working with the Commission and with the industry to resolve the issues surrounding the moratorium. The Commission considers that any restriction on the rights of wind turbine generators to connect to the transmission or distribution system must be necessary and proportionate to the threat posed to the stability of the system.

In relation to natural gas, I welcome the first commercial flows of natural gas from the new Seven Heads field to the Irish on-shore system via Inch in 2003, which will further strengthen Ireland’s security of gas supply. Furthermore, the construction of the Pipeline to the West, for which the Commission issued a Consent to Operate in 2003, will bring natural gas to towns in the midlands and the west of Ireland for the first time. In addition, the Commission issued a Consent to Operate the second interconnector, which was completed in 2002 and became operational in January 2003. The two interconnectors currently cater for an estimated 85% of annual demand and provide considerable flexibility, including swing and linepack, to the Irish market.

During the year, the Commission also completed full reviews of the revenue requirements for Bord Gáis’ transmission and distribution systems for the first full review period 2003/4 – 2006/7. The Locational Entry/Postalised Exit transmission tariff structure was reviewed and confirmed. Connection policies with respect to both transmission and distribution systems were developed for implementation by the relevant Bord Gáis transportation business unit. A significant review of gas market structures was concluded with the aim of identifying a more appropriate framework for the future operation of the market as we progress towards full market opening. The Commission also determined that a system of Entry/Exit for capacity rights definition be implemented on the Bord Gáis transmission system in 2004. Other changes which will follow Entry/Exit include the adoption of a more transparent Bid Based Balancing Mechanism and Flexible Balancing.

On the natural gas supply side, I announced, in October, that the Commission is proceeding with the competition to award the supply franchise rights for Galway (including Oranmore), Ballinasloe, Athlone, Tullamore (including Clara) and Mullingar off of the Pipeline to the West from mid 2004. Furthermore, the Commission concluded its first review of Bord Gáis’ retail tariffs for both the eligible market and the non-eligible (“franchise”) markets. This saw the introduction of the Regulated Tariff Formula which established, for the first time, a more predictable and transparent pricing mechanism for use by Bord Gáis in relation to a large proportion of the eligible market.

In parallel with developments in the energy markets in the Republic of Ireland, a new momentum was given to the development of an all-island energy market by Minister Dermot Ahern T.D. and the Minister for Enterprise, Trade and Investment, Ian Pearson, M.P. during 2003. The All-Island Joint Steering Group, which includes representatives of the two regulators (CER and its Northern Ireland counterpart, the Northern Ireland Authority for Energy Regulation) and the two Government Departments with responsibility for energy matters (the Department of Enterprise, Trade and Investment, DETI) in Northern Ireland and the Department of Communications, Marine and Natural Resources (DCMNR) in the Republic of Ireland) was established in July. The Group is currently focusing on a number of priority areas including cross border trading in electricity, electricity system interaction and integration, the development of an all-island gas network, co-ordination of regulatory activities, climate change, emissions and renewable energy and energy efficiency policies.
On 11th November 2003, the European Commission established the European Regulators Group for electricity and gas (ERGEG), to act as an advisory group of independent national regulatory authorities to assist the European Commission in consolidating the Internal Market for electricity and gas. The group, which will provide a transparent platform for co-operation between national regulatory authorities and between these authorities and the European Commission, should in particular help ensure a consistent application in all Member States of the recently adopted new electricity and gas directives as well as the new Regulation on cross-border exchanges of electricity. Through its participation in the activities of the Council of European Energy Regulators (CEER) and the European Regulators Group for Electricity and Gas (ERGEG), the Commission will continue to provide the regulatory co-operation and co-ordination that is essential for the successful development of a single European energy market.

I wish to state that the Commission continues and will continue to adopt best practice in the area of corporate governance in the carrying out its functions and duties. In this regard, it is committed to complying in 2004 and future years, with the Code of Practice for the Governance of State Bodies, which was published by the Department of Finance in October 2001.

I hereby confirm that, I am not directly engaged in, concerned in or interested in any electricity generating business or in any electricity or natural gas transmission, distribution or supply business or in any energy business, whether as participant, investor, consultant or otherwise. And in respect of the period covered by this report, there are no registrable interests, as specified in the Ethics in Public Office Acts 1995 and 2001 and the Gas (Interim) (Regulation) Act 2002, of my own, or, to my actual knowledge, of a spouse or child, which could materially influence me in, or in relation to, the performance of the functions of my position.

In conclusion, I would like to thank all the organisations, companies and individuals who have given their time to participate in our various consultative groups and to offer comments on our consultations throughout 2003. Both myself, along with all my colleagues here at the Commission, look forward to continuing this work in 2004.

Tom Reeves
Commissioner for Energy Regulation
Legislative Developments

The Commission is overseeing the liberalisation of the Irish natural gas and electricity markets, which is proceeding on a phased basis with a view to full market opening in 2005. The liberalisation timetable is being driven by a number of legislative developments at a national and European level.

FURTHER OPENING OF NATURAL GAS MARKET

On 26th June 2003, the European Parliament and the Council adopted Directive 2003/55/EC concerning common rules for the internal market in natural gas and repealing Directive 98/30/EC. While Directive 98/30/EC, the first Internal Market Directive, took the first relatively tentative steps towards the creation of the internal market for natural gas, the second directive provides the necessary structural changes in the regulatory framework to tackle remaining barriers to the completion of the internal market.

Implementation of this directive, by 1st July 2004, will impact the Irish market for natural gas in a number of beneficial ways. Specifically, the directive provides greater certainty around market opening and requires that greater system information be made available to all market participants and potential new entrants. There is also a greater emphasis on consumer protection with respect to transparency regarding general contractual arrangements, information and dispute settlement mechanisms. In addition, the directive requires that adequate safeguards are put in place specifically for vulnerable customers and customers connected to the natural gas network in remote areas.

The directive also sets out options regarding procedures governing access to storage facilities. Each member state may offer either or both negotiated and regulated access to storage services, thereby increasing liquidity within the natural gas market and enhancing security of supply. Such storage services may be made available to the Irish marketplace by Marathon upon expiration of its current gas sale arrangements in 2004/05.

EU DIRECTIVES & ENVIRONMENTAL LEGISLATION

Since last year, a number of EU Directives in the environmental area which will have a considerable impact on the Power Generation sector, including the Emissions Trading, Large Combustion Plant and National Emission Ceilings Directives, came into effect. The Commission has actively consulted with market participants with regard to the impact of these measures.

REVIEW OF NATIONAL CLIMATE CHANGE STRATEGY

Under the Kyoto Protocol, Ireland agreed to a target of limiting its greenhouse gas emissions to 13% above 1990 levels by the first commitment period 2008-2012. The National Climate Change Strategy (NCCS) (2000) provides a framework for achieving the necessary...
greenhouse gas emissions reductions to achieve our obligations under Kyoto. In July 2003, the Commission made a submission on the occasion of the first biennial review of the NCCS, initiated by the Minister for the Environment and Local Government, Mr. Martin Cullen, T.D. The purpose of the review was to examine the effectiveness of the measures identified in the strategy to date and to assess whether additional action is required to meet Ireland’s Kyoto target.

EMISSIONS TRADING DIRECTIVE

The Emissions Trading Directive establishes a Community-wide scheme for greenhouse gas emissions trading from 2005-2007 and 2008-2012. Emissions trading will initially be restricted to CO₂ emissions from certain activities. Energy activities covered under the directive are:

a) Combustion installations with a rated thermal input exceeding 20MW (excepting hazardous or municipal waste installations)

b) Mineral oil refineries

c) Coke ovens.

The Directive was finalised at the European Parliament’s second reading (30 June to 3 July 2003).

The Commission inputted into the development of the National Allocation Plan to ensure that the scheme is compatible with liberalisation of the energy markets and is implemented at least cost to consumers. The Commission is concerned that there should be an equitable distribution of our Kyoto target between sectors, in line with the ‘polluter pays’ principle. The Commission is cognisant of the potential impact of emissions trading on electricity prices and thereby overall national competitiveness. The EPA was tasked with designing a National Allocation Plan in line with the Directive.

The appropriate allocation for the pilot phase of emissions trading (2005-2007) was determined by the Government.

The first National Allocation Plan (for the trading period 2005-2008) was completed within the timeline set by the Directive i.e. 31st March 2004. The Commission submitted its comments to the EPA on the Draft National Allocation Plan on the 10th March 2004, as part of its public consultation process and the Commission is further considering the appropriate treatment of these costs and expected impact on wholesale and retail energy tariffs. The second National Allocation Plan (for the period 2008-2012) shall take account of the experience gained.

NATIONAL EMISSIONS CEILING STRATEGY (NEC), 2010

In 2003, the Department of the Environment initiated a consultation process on a “National Strategy to Comply with Ireland’s National Emission Ceilings by 2010”, in line with the National Emission Ceilings Directive. The purpose of the consultation was to seek input regarding the development of a strategy on Ireland’s 2010 targets under the National Emission Ceilings (NEC) Directive (2001/81/EC) and the 1999 United Nations Economic Commission for Europe (UNECE) Gothenburg Protocol. The emissions concerned are nitrogen oxides (NOₓ), sulphur dioxide (SO₂), ammonia (NH₃) and volatile organic compounds (VOCs). Power generation and the burning of fossil fuels give rise to both SO₂ and NOₓ emissions. The target for NOₓ will be particularly challenging. The targets for SO₂ can largely be met through implementation of existing and planned measures.
LARGE COMBUSTION PLANT DIRECTIVE (2001/80/EC)
The Large Combustion Plant Directive was revised in 2001. Large Combustion Plants (LCPs) (over 50MW thermal input) must obtain an Integrated Pollution Control (IPC) licence from the EPA. The 1988 Directive set total national ceilings for emissions of controlled pollutants (SO₂ and NOₓ) from LCP. Since 1992 Irish law required adherence to mandatory emission limit values (ELVs) for SO₂ and NOₓ by all new combustion plant subject to IPC licensing. The ELVs set in 1992 did not apply to then existing plant, including most ESB plant i.e. plant constructed before October 1992.

The amended LCP Directive sets more stringent ELVs for new plant and sets ELVs for existing plant for the first time.

For plants in existence pre 1987 Member States may chose to either:

- Require compliance with individual plant limits for SO₂, NOₓ and particles.
- Allow plants to operate within a National Plan, under which there would be an aggregate mass target for each of the pollutants to be met on a national rather than a plant-by-plant basis.

Should it choose the latter approach, Ireland was required to submit a National Plan to the European Commission by October 2003.

NATIONAL CLIMATE CHANGE STRATEGY — CARBON TAX
On the 31st July 2003, the Minister of the Environment, Heritage and Local Government launched a Consultation Process on the proposal for the introduction of a carbon energy tax. The focus of the tax will be on energy related CO₂ emissions. The main fuels concerned arepeat coal, oils (including petrol and diesel) and natural gas. It is intended that the tax will be collected at the earliest point of supply of the fuels and with the minimum number of collection points. However, it is indicated in the Department’s Consultation Paper on the issue that installations subject to emissions trading (i.e. power plants) will be exempt from the tax. The Commission has made a submission on the proposal.

NEW TRADING ARRANGEMENTS FOR ELECTRICITY
On 21st July, 2003, Statutory Instrument No. 304 of 2003 Electricity Regulation Act 1999 (Market Arrangements for Electricity) Regulations 2003 came into effect. These regulations establish a new system of trading in electricity replacing the existing system of trading in electricity. The new system of trading will be a mandatory centralised pool. All generators and suppliers unless exempted will be required to buy and sell electricity through the pool. The regulations make further provision for supplemental rules to be developed by the Commission to give effect to the new system of trading in electricity.

ESTABLISHMENT OF EIRGRID
On 23rd July 2003, the Minister signed Statutory Instrument No. 328 of 2003. These Regulations give further legal effect to Directive No. 96/92/EC of the European Parliament and of the Council of 19th December 1996, concerning common rules for the internal market in electricity, by amending the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000), to provide for the first Chief Executive of EirGrid to be appointed by the Directors of the company and to facilitate EirGrid becoming operational as a Transmission System Operator. The Commission is concerned about the delay in establishing EirGrid as the TSO and would urge all parties to resolve any outstanding issues.
MOVEMENT TOWARDS AN ALL-ISLAND MARKET

One of the key goals of the Commission is to create a functioning, competitive all-island energy market. An all-island market would deliver a more efficient and effective energy market for the final customer in comparison to maintaining the current arrangement of two separate markets.

The Commission is part of an All-island Joint Steering Group (JSG), set up in July 2003, to oversee co-operation on the development of an all-island energy market on the island of Ireland. The group comprises representatives from the Commission and Ofreg, the Department of Communications, Marine and Natural Resources and the Department for Enterprise, Trade and Investment of Northern Ireland.

The key priority areas are:

- Cross border trading in electricity;
- Electricity market interaction and integration;
- All-island natural gas network;
- Co-ordination of activities;
- Climate change, emissions and renewable energy; and
- Energy efficiency policies.

The Commission will continue to work with its partners on the group in moving to create an efficient all-island energy market.

NEW LEGISLATION AND THE MOVEMENT TOWARD A SINGLE EUROPEAN ENERGY MARKET


As and from July 2004, both Directives, 2003/54/EC and 2003/55/EC, on completing the internal markets in electricity and natural gas respectively will take effect in all member states. The Commission shall continue to work liaise, where relevant, with the Department of Communications, Marine and Natural Resources as they draft the required national legislation to transpose these into Irish law by July 2004.

A European Regulation on cross border exchanges in electricity shall be directly applicable in all member states. Through its participation in the working activities of the Council of European Energy Regulators (CEER) and the European Regulators Group for Electricity and Gas (ERGEG), the Commission will continue to provide the regulatory co-operation and co-ordination that is essential for the successful development of a single European energy market.

CEER

The Commission is a member of the Council of European Energy Regulators (CEER), an association of European energy regulators that promotes co-operation and co-ordination among regulators in the interest of Single European energy markets. During 2003, the Commission also participated in the Florence and Madrid processes, which are discussion fora set up by the European Commission to bring together all relevant stakeholders on the creation of the internal electricity and gas markets respectively. Following the recent European Commission decision (11th November 2003) to establish the European Regulators Group for Electricity and Gas (ERGEG), the Commission will also work with the European Commission and other European regulators through this body. The European Commission’s medium term vision1 for the realisation of the internal electricity market is based on a regional market approach.

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Regulating the Changing Gas Market in Ireland

Over the course of 2003, the Irish natural gas market has undergone a number of important structural and regulatory developments to further encourage and facilitate competition within the marketplace.

Market Arrangements

MARKET RULES & PROCEDURES

In preparation for full market opening in 2005, the Commission has worked with industry to develop market rules and procedures, including technical and commercial arrangements.

The Gas Market Opening Working Group (GMOWG), an independent review group that makes recommendations to the Commission on the industry processes required to introduce full competition in natural gas supply in the Irish market in 2004 and 2005, was established in May 2003. The GMOWG, which is chaired by the Commission, includes representatives of the individual business units of Bord Gáis, licensed shippers/suppliers and potential market entrants.

The focus of the GMOWG is to ensure that the proposed industry processes for full market opening will support the needs of the developing competitive market in a way that is workable, practical, fair, transparent and cost-effective for all participants and potential participants.

In summary the role of the Working Group is to:

- Review Market Rules and Regulatory Framework
- Consider and recommend appropriate initiatives to protect the interests of medium and small use customers with the introduction of full market opening
- Review Processes and Procedures developed from recommendations
- Oversee and advise on the progress of the implementation of full market opening
- Review Principles of Commercial and Technical arrangements

In August 2003, the Commission published, for consultation, the proposals and recommendations received from this group. The Commission agreed and published these proposals, which then formed the basis for the development of detailed procedures and rules to underpin market opening. These procedures and rules were then further developed into business processes, which will form the framework for the development of the systems necessary to support full market opening.

GAS TRANSPORTATION ARRANGEMENTS

2003 saw significant developments in relation to natural gas transportation arrangements here. The Commission, in consultation with the Gas Market Advisory Group, an industry group representative of the complete gas supply chain, developed a number of proposals aimed at improving flexibility in the areas of capacity, balancing, nominations and transportation services. These proposals are designed to increase flexibility and efficiency in the natural gas market. Most significantly, Bord Gáis Transmission was directed by the CER to develop an entry-exit regime for capacity definition.

ENTRY-EXIT

Transmission capacity is currently defined on a point-to-point basis. This means that all contracts with Bord Gáis for the transportation of natural gas must specify the point at which natural gas will enter the transmission system and the point at which natural gas will exit the system.
Under the proposed entry-exit regime, which will come into effect at the beginning of the gas year on 1st October, 2004, the link between entry and exit is broken, thus affording shippers (the people on whose behalf Bord Gáis transports the natural gas) the flexibility to transport natural gas from a particular entry point on the transmission system to any exit point, or conversely, to a particular exit point from any entry point.

**Publication of System Information**

EU Directive 2003/55/EC requires transmission system operators in member states to provide system users with the information required for efficient access to the system. During the year, the Commission consulted with market participants with regard to the level of information required to optimise efficient access to the transportation system. During 2004, the Commission will direct the Transporter to provide market participants with more comprehensive system information from October 2004.

**New Code of Operations**

The Transmission Code of Operations defines the relationship between Shippers and Bord Gáis Transmission and records the rights and responsibilities of each of the parties involved in the transportation of natural gas through the Bord Gáis transmission system. An equivalent code of operations for the distribution network does not currently exist. Arrangements are in place on an interim basis to cover the transportation of natural gas through the distribution system. These interim arrangements commenced in October 2002 and will extend until September 2004.

In 2003, Bord Gáis proposed that a Unified Code of Operations be introduced which would provide the basis for Third Party Access to both the transmission and the distribution systems. During the first half of 2004, the Commission, in conjunction with Bord Gáis and industry, will develop and implement the new code of operations, for implementation by June 2004. This unified code will include the rules and processes being developed in other fora as part of new gas market arrangements.

**Gas Market Implementation Group**

In January 2003, the Commission established the Gas Market Implementation Group (GMIG), to oversee the implementation the business processes decided by the GMOWG and the change to an entry/exit regime. The objective of the GMIG’s work is to allow stakeholders (Shippers, Suppliers, Business Units within Bord Gáis) associated with the ongoing regulatory reform programmes to plan, prioritise and co-ordinate activities separately from discussions and consultations on market design issues and as an input to Commission decision-making.

**Regulating the Incumbent in a Changing Market**

**Business Separation**

Effective business separation of Bord Gáis’ supply business from its transportation business units is required in order to ensure adherence to the principles required for effective market opening, which include fair access to information, removal of market entry obstacles, transparency and a level playing field for new entrants, which will ultimately benefit consumers. The gas licensing and compliance regime, outlined later in this report, will underpin future progress on structure and business separation.

**Interim Gas Point Registration Operator (iGPRO)**

As part of the business separation work stream, the interim Gas Point Registration Operator (iGPRO) was established as a ring-fenced entity within the Distribution Business Unit of Bord Gáis. The iGPRO facilitates eligible customers who wish to change supplier. The iGPRO is
charged with providing a secure and confidential market support service to market participants in the areas of Third Party Access, metering and access to historical information.

Interim ring fencing arrangements for the iGPRO, in terms of a secure IT infrastructure and separate premises, will remain in place until the establishment of a permanent GPRO under the terms of the revised Transmission licence, which will be finalised in early 2004.

**Gas Revenues and Tariffs**

**REGULATION OF TARIFFS IN A COMPETITIVE MARKET**

Under the Gas (Interim) (Regulation) Act, 2002, the Commission is responsible for regulating charges in the Irish natural gas market. These include:

- Charges for access to and use of the Bord Gáis transmission and distribution systems by shippers/suppliers licensed to ship/supply to eligible natural gas customers, including Bord Gáis Energy Supply.
- Charges for the shipping/supply of natural gas by Bord Gáis Energy Supply to both the eligible and non-eligible market.

**TRANSMISSION AND DISTRIBUTION TARIFF REVIEW**

In 2003, the Commission reviewed the revenue requirement for the transmission and distribution systems, as well as the structure of charges for use of the transmission system. The objective of the tariff review was to develop and implement transmission use of system tariffs that will encourage efficiency in the use of and investment in the natural gas networks as well as promote competition and fairness. The transmission and distribution revenue requirements and tariffs were finalised in July and August 2003 respectively and the Commission directed Bord Gáis to implement these tariffs on 1st October 2003 for the 2003/2004 gas year.

The Commission is also currently undertaking a comprehensive review of the structure of distribution tariffs. The Commission proposes to implement a revised distribution tariff by the commencement of the new gas year of 2004/05.

**GAS SUPPLY TARIFFS**

In the first quarter of 2003, the Commission conducted a review of Bord Gáis Energy Supply’s tariffs to both the eligible and non-eligible (‘franchise’) market. In addition, the Commission analysed Bord Gáis Energy Supply’s procurement and operating costs, as well as the allocation of these costs across customer categories.

In April, the Commission published and approved a proposal from Bord Gáis for the supply of natural gas to all eligible gas customers consuming between 0.5 million standard cubic metres (“mscm”) (181,000 therms or 5.3 GWh) and 25 mscm (9,000,000 therms or 264 GWh) annually on the basis of a Regulated Tariff Formula (“RTF”). The RTF is designed to ensure that all such customers will be offered, for the first time, a single, transparent market price from Bord Gáis thereby facilitating the procurement and comparison of competing quotes from new entrant natural gas suppliers. Implementing the RTF on 1st April 2003 resulted in a range of price increases/decreases depending on the particular contract held by the relevant customer.
The Commission has recently commenced a detailed review of gas supply tariffs, including structure and application, currently available in both franchise and RTF (“eligible”) markets. This review will be completed by the end of September 2004, with the introduction of new tariffs, if appropriate, from 1st October 2004.

Other Market Developments

GAS SUPPLY COMPETITION
In November 2003, the Commission invited and received five expressions of interest in its competition for the supply rights to the franchise gas market in the areas of Galway (including Oranmore), Ballinasloe, Athlone, Tullamore (including Clara) and Mullingar, each of which is expected to be connected to the gas network during 2004/2005.

The Commission has now embarked on a formal competitive process for the award of the franchise rights by means of an Order made under Section 2(1) of the Gas (Amendment) Act, 1987 (as amended). It is anticipated that the new supplier will be in place by summer 2004 and that their franchise will endure until July 2005 at the earliest. At the request of the Commission, the Department of Communications, Marine and Natural Resources is considering making arrangements for the franchise to endure until July 2006.

GAS CAPACITY STATEMENT
In August 2003, the Commission, following detailed consultation with market participants, published its first annual Gas Capacity Statement. The 2003 Gas Capacity Statement forecasts customer demand for natural gas and related capacity requirements on the Irish natural gas system over a seven-year period. The statement provides important information to market participants, regulatory agencies and policy makers on the adequacy of capacity in the Irish gas transmission network.

The Commission will shortly commence work on its second Gas Capacity Statement. This Capacity Statement will build on the work of the 2003 Statement, incorporating updated market information obtained in the last year.

GAS SAFETY
Under the Gas (Interim) Regulation Act, 2002, the Commission is responsible for the notification of standards to Bord Gáis Eireann, in addition to its involvement in the establishment of investigations into reportable gas safety incidents and the monitoring of the implementation of recommendations arising out of such investigations. Furthermore, the Commission is imposing (through its role with respect to the consenting of gas pipeline construction and operation and its role with respect to the licensing of natural gas undertakings) an appropriate regulatory regime with respect to the construction and operation of natural gas pipelines and associated activities, including natural gas supply and shipping. The Commission has consulted on its proposals for the licensing regime to be applied to natural gas undertakings, which includes provisions for the regulation of safety in the activities of such undertakings.

The Department for Communications, Marine and Natural Resources engaged with the Commission on the required revisions to the safety regulation framework in light of present and expected changes within the Irish natural gas market. The Department is presently proposing amendments to the existing gas legislation which will address proposed revisions to the natural gas safety regulation framework. Once this legislation has been finalised (following consultation in the normal manner), the Commission will publish its proposals for the detailed implementation of the new safety regulatory framework.
GAS SAFETY INCIDENTS IN 2003

There were a number of serious incidents relating to natural gas safety in 2003. In all cases, the incidents were investigated (and, where appropriate, the Commission arranged the appointment of an independent investigator) with reports made to the Commission regarding the nature and causes of the incident together with recommendations arising out of the investigation.

The Commission has established a Gas Safety Committee, the function of which will be to review all such incident reports, make and consider recommendations arising out of such incident investigations and monitor their implementation. Its overriding responsibility will be to have a proactive, precautionary and preventative approach to ensuring the safe transmission, distribution, supply and use of natural gas.

Several natural gas incidents in 2003 arose from carbon monoxide poisoning in the home, some of which sadly resulted in serious injury and fatality. These incidents have been fully investigated and it has determined that the causes of these incidents arose from the improper installation, maintenance, modification or use of natural gas installations/appliances in the home. The Commission, through its Gas Safety Committee, is seeking to raise the awareness of the public to the need to ensure natural gas installations are installed, maintained and operated in a safe manner and to clarify that the obligation lies with the end customer to ensure that all natural gas household appliances are safe to operate.
Ireland’s continued economic growth has resulted in a marked increase in the consumption of electricity since the Commission was established in 1999. ESB National Grid, in its Generation Adequacy Report (2003-2009), identified significant generation shortfalls from 2003 to 2009 as forecasted demand for electricity continues to grow (approximately 3.5% p.a. for the period). ESB National Grid identified electricity generation shortfalls of approximately 150MW in 2003, 300MW in both 2004 and 2005, growing to 360MW in 2006 with further increases in future years.

As construction of new generation plant requires a minimum of two years, the Commission instigated a number of demand-side and generation-side initiatives to address the shortfalls projected in ESB National Grid’s report. These initiatives include demand side management measures, increased imports from Northern Ireland and the installation of additional peaking capacity.

**DEMAND SIDE MANAGEMENT**

During 2003, the Commission adopted the following measures to address the situation:

- Winter Peak Demand Reduction Scheme (WPDRS)
- Winter Demand Reduction Incentive (WDRI)
- Power Save
- Interruptible Tariffs

The Commission, in conjunction with ESB National Grid, launched the WPDRS in November, which remained in place until February 2004. During the winter months, the WPDRS incentivises customers to reduce load in a delivery period between 17.00h and 19.00h on business days.

The Commission will monitor the approved schemes and will continue to assess future requirements of demand side management schemes.

**INCREASED IMPORTS FROM NORTHERN IRELAND**


**2003/4 ADDITIONAL PEAKING CAPACITY**

During the last quarter of 2003, peaking generators were used by ESB to meet system peaks. Additional peaking capacity was procured by ESB through Supplyline, ESB’s system for procuring temporary generation plant. This additional peaking capacity will be available as required until such time as the new generation plant which secured contract(s) with the ESB through the 2005 capacity competition become operational.

**CAPACITY COMPETITION 2005**

In February 2003, the Commission announced its intention to hold a competition to facilitate the entry
of new independent generation
plant. In April 2003, guidelines to
the competition were published,
requesting potential bidders to
submit an expression of interest in the
competition. The Commission received
valid expressions of interest from
seven generators interested in bidding
into the competition with a combined
generating capacity of 2,185 MW.

Bidders competed for contracts on the
basis of price, after having met the
minimum qualification requirements,
which included technical, financial and
regulatory criteria.

In December, the Commission
announced that both Aughnish
Alumina Ltd. and Tynagh Energy
Joint Venture were successful in
the competition. The combined
contracted capacity of these two
new independent generating plants
is over 500 MW.

The anticipated commercial operation
dates of the new generation stations
are December 2005 for Aughnish
Alumina’s 150 MW Combined Heat
and Power facility in Askeaton, Co.
Limerick and February 2006 for the
404 MW Tynagh Energy joint venture
station in Tynagh, Co. Galway. Both
generators have entered into
agreements with the Commission
(implementation agreement). The
purpose of these agreements is to
ensure proper monitoring of plant
construction and that both plants will
be operational in accordance with
agreed Commission specifications
and timelines.

**VIPP**

VIPP (‘Virtual Independent Power
Producer’) auctions, the first of
which was launched in 2001,
provide independent suppliers with
a source of power to sell to eligible
customers. The aim of such auctions is
to increase competition in supply and
to also encourage market entry
of new generators and are considered
key to successful retail competition.

The fourth VIPP auction took place on
8th October 2003. Due to the limited
take up of firm options in this auction,
the Commission is reviewing the
product with ESB Power Generation
and suppliers with a view to changes
in design to make the product more
attractive in the future.

**Interconnection**

As Ireland and Europe move
towards a single European market,
increased interconnection between the
transmission systems in Northern
Ireland, the Republic of Ireland and
United Kingdom will assist in meeting
increased customer demand for
electricity.

**NORTH-SOUTH INTERCONNECTOR**

Interconnection with Northern Ireland,
and by extension Scotland, provides
Ireland with additional electricity
supply as well as increased trading
opportunities to the benefit of the end
customer. The capacity available for
commercial flows across the
interconnector is currently 330MW in
the North to South direction. In 2003,
the Commission worked with the
Transmission System Operators
(TSOs), ESB National Grid and SONI,
and with the Northern Ireland
regulator, Ofreg, in relation to the
implementation of superpositioning on
the North-South electricity
interconnector. Superpositioning
involves offsetting contractual flows in
opposite directions along the
interconnector, with only the net
amount resulting in a physical flow.
This allows cross-border trade in
excess of the physical limits of the
interconnector. The Commission also
approved and published Agreed
Procedure 06 which deals with the
allocation of trades and allowed for
superpositioning to take place from
April 2003. At the time of writing, the
TSOs are jointly assessing the case for
investing in increased interconnection
between both systems and proposals
in this regard are anticipated shortly.
EAST-WEST INTERCONNECTION

In June, the Commission published a study on the costs and benefits of an East-West interconnector between the Irish and UK transmission systems. The study was undertaken for the Commission by DKM Economic Consultants. The study followed an earlier joint ESB National Grid and National Grid (UK) desktop feasibility study. The CER’s objective in the DKM study was to assess the overall economic merits of East-West interconnection from the perspective of the long-term interests of the Irish consumer. The authors recommended that the Commission support a feasibility study of an East-West interconnector and consider proposals for a regulated, as distinct from a merchant interconnector.

In December, the Commission concluded that it would actively promote East-West interconnection, having considered both reports as well as the general economic case from an overall energy policy perspective. The Commission believes that the interconnector will provide a long-term net benefit to the Irish consumer, particularly in terms of enhancing security of electricity supply, developing competition and helping the integration of Ireland into a wider geographic energy market. The Commission has advised the Minister for Communications, Marine and Natural Resources to that effect.

In 2004, the Commission will be working to promote the development of merchant interconnection as requested by the Minister. In the event that interconnection does not proceed on a merchant basis the Commission will move to host a tender competition for the construction, management and ownership of regulated interconnection.
Developing and Regulating the Electricity Network in Ireland

Given the natural monopoly nature of the networks business, it is necessary that the CER take an active regulatory stance in relation to the operation, maintenance and development of the networks business. A key objective for the CER in 2003, which will continue throughout 2004, was to implement policies and mechanisms on behalf of the electricity customer, which will promote efficiency and fairness in relation to third party access to the distribution and transmission networks.

Upon evaluation of the submission, the Commission was of the opinion that the sharp rise and pace of the proposed investment would not deliver the most efficient management of resources and expenditures within the current regulatory period of 2001 to 2005. As a result, the Commission rescheduled approved expenditures for the network renewal programme and its associated expenditures to ensure resources are increased at a steady and more sustainable level. A capital expenditure of €175 million was approved in May 2003, thus ensuring that the resulting benefits to network customers will be at a cost that is more reasonably and gradually incurred by them. The benefits that will be delivered by the approved renewal programme include the renewal of the entire medium voltage network by the end of 2005, the refurbishment of the 38kV network and the replacement of substations. The Commission expects that the approved expenditures will deliver a distribution network in line with European standards through improved quality of supply, public safety and increased network capacity.

BUSINESS SEPARATION

In July 2003, the Commission approved a comprehensive Business Separation Implementation Plan covering the necessary short and long-term solutions for business separation. The main issues covered in the plan are as follows:

- National Contact Centre
- Services to ESB Networks Customers in Shops
- ESB Networks Identifier
- Contact Numbers and ESB Networks Identifier on Vehicles
- Internet
- Shared Properties
- IT Access/User Access Management

ESB will undertake a communications programme to advise customers on how changes in delivery of these services will be implemented.

REGULATORY ACCOUNTS

The regulatory accounts are a requirement of Statutory Instrument 445 of 2000. The focus of the regulatory accounting arrangements is to provide information to assist the Commission in dealing with the monopoly or

NETWORK ACCELERATION PROGRAMME

In late 2002, ESB Networks sought the CER’s approval for accelerating the investment required to refurbish and upgrade the distribution network. The submission required an additional €369 million in capital expenditure and €18 million in operating expenditure over that allowed in the Distribution Price Review 2001-2005.
market power of ESB in the electricity industry. The regulatory accounts provide information that is more focused than that contained in statutory accounts to the extent that ESB is required to provide separate accounts for the transmission, distribution, generation, and Public Electricity Supply (PES) businesses as well as for its licensed independent supply arm, Independent Energy (ESBIE). ESB provides these accounts annually to the Commission by 31st March following the previous 31st December year-end.

**METER CODE**

Meters are used to measure electricity generated, transported and consumed in the Irish market. It is necessary to account for the transfer of electricity across the system.

In October, the Commission approved a Meter Code setting out minimum standards for the measurement and recording of metered quantities of electricity for the electricity industry therein specifying conditions governing meter technical design, meter operational criteria, accuracy of metered data and data management. The code applies to the Transmission System Operator (TSO), Transmission Asset Owner (TAO), Distribution System Operator (DSO), suppliers, and customers and Generators.

**BULK SUPPLY POINT METERING**

As electricity flows along the networks, technical losses will occur on the transmission and distribution systems. In January, the Commission approved a Bulk Supply Point meter installation programme. This aim of this programme is to install meters at the point of connection between the transmission system and the distribution system (or between the transmission system and a directly connected customer). These meters will facilitate the calculation of actual system losses at each of the voltage levels, which has important implications for new generation, the new Market Arrangements Electricity (MAE) wholesale market (discussed later in the report), and full retail market opening.

**CONNECTION OFFER PROCESS**

In the 2002 annual review of the transmission tariffs, the Commission included a requirement that the TSO, ESB National Grid, reduce the maximum connection processing time from ninety business days to seventy business days. The objective was to ensure more timely delivery of connection offers to new market entrants. In March, the Commission approved the revised connection offer process document, which came into effect for all applications received from July 2003. The revised document deals with, among other things, the connection pricing policy, contestable connections, interactions, complex connections and standard fees.

**THIRD PARTY DISPUTES**

Under section 34(6) of the Electricity Regulation Act 1999, the Commission determines disputes in relation to the terms for connection to transmission and distribution systems. Eligible customers and licensed generators and suppliers may refer a dispute with the network operators to the Commission for determination. Disputes may relate to issues such as cost of connection, delays and allegations of unfairness. The Commission does not publish final determinations as these often contain confidential and commercially sensitive information of one or both parties. However, there is the possibility that issues brought up in the dispute may warrant a change in existing policy concerning access to the network. In this instance, the CER may refer to non-confidential or commercially sensitive detail of the dispute when proposing a policy change.
Electricity Tariffs

**NETWORK & PES (SUPPLY) TARIFFS REVIEW**

Electricity networks & PES (supply) tariffs are reviewed by the Commission on an annual basis in order to ensure that fully cost reflective tariffs are in place for full market opening in 2005. Cost reflectivity will allow for a level playing field for new players in the market, while ensuring that customers have a sustainable and secure supply of competitively-priced electricity.

**NETWORK TARIFFS FOR 2004**

Electricity Networks tariffs for 2004 have been reviewed to reflect distribution and transmission costs faced by ESB Networks and ESB National Grid respectively. These were published in October 2003.

**PES (SUPPLY) TARIFFS FOR 2004**

Electricity supply tariffs, which are regulated by the Commission have been set to allow recovery of generation and supply, as well as network, costs incurred by ESB in supplying their customers. Following an examination of the impact on ESB tariffs the Commission approved a 5.09% increase in the average price of electricity for ESB PES customers. The Commission is mindful that tariffs should fully reflect the cost of supplying different categories of customers. This latest review of ESB tariffs furthers the process of rebalancing tariffs. The approved tariffs also assume continuing productivity improvements in the networks and public supply businesses.

**REVIEW OF TARIFF STRUCTURE**

In November 2003, the Commission commenced a review of the structure of ESB published tariffs. Specifically the scope of this project is to review the following:

- Transmission Use of System & Connection Charges;
- Distribution Use of System & Connection Charges;
- ESB PES (Supply) Tariffs

The objective of the tariff structure review is to develop and implement a tariff structure that will not only encourage efficiency in the use of and investment in the electricity networks but which will also promote competition and fairness in the various customer categories, while setting charges that are cost reflective and do not discriminate unfairly between classes of customers. The objectives of this review, as well as details of existing tariff structures, were published in December 2003.

Alternative tariff structures will be consulted upon in the due course with a view to completion of the review by July 2004.
Electricity Trading Arrangements in a Changing Marketplace

CURRENT ELECTRICITY WHOLESALE TRADING ARRANGEMENTS

When the electricity market was first opened to competition in February 2000, transitional trading arrangements were put in place. In this transitional market, generators contract directly with suppliers for the sale of electricity. Any mismatches between the amounts sold and purchased can be settled in the market place. Electricity sold into the market is paid a spill price while electricity bought from the market is charged a top up price.

Each year, the Commission calculates the top up price and approves the method of setting the spill price. In 2003, the Commission held a number of meetings with interested parties to examine the causes for changes in top up and spill prices. A number of the recommendations from these meetings were implemented, including publication of the 2004 top up prices in September 2003, in contrast to the previous practice of publication of the prices at the previous year end. This earlier publication date facilitates suppliers who require more timely information for contract negotiations with their customers. In addition, the Commission reviewed the methodology for setting top up prices early in 2003 and made some revisions to the top up calculation. The Commission also approved a new methodology for setting spill prices that is more transparent and predictable.

Last year, the Commission also adjudicated on two disputes relating to the operation of the current wholesale market trading arrangements. The first dispute related to the calculation of constraint costs while the second dispute was about the operation of EPUS, the computer programme which clears the market, and the interpretation of the trading and settlement rules.

New Market Arrangements for Electricity

INTRODUCTION

As outlined above, the transitional trading arrangements for electricity were put in place in February 2000 when the market was initially opened to competition. The Commission was obliged to review these arrangements, in accordance with the 1999 Direction of the then Minister for Public Enterprise, with a view to revising them when the market opened fully in 2005.

The Commission decided to initiate this review earlier than required for a number of reasons. The transitional market was regarded as not providing the basis for efficient competition and Commission wanted to offer regulatory certainty to parties interested in investing in this market. Throughout the review, the Commission consulted extensively with all market participants and interested parties including those from Northern Ireland. The CER published its proposed decision regarding the high level principles to apply to the new market in May 2003. In July 2003, Statutory Instrument No. 304 of 2003: Electricity Regulation Act 1999 (Market Arrangements for Electricity) Regulations 2003 set out the basis for the new market, Margadh Aibhléise na hÉireann (MAE).

KEY FEATURES OF MAE

Generators must sell all output into the market and suppliers purchase all their requirements from the market. The sale and purchase price for electricity can vary from half hour to half hour. However, in a particular half hour, the price paid to the generator will vary depending on where the generator is physically located. On the other hand suppliers will normally pay a uniform price, regardless of where their customers are based. The market will be managed by the System and Market Operator.

2. CER interchanges this Irish version of the name for the market with ‘Market Arrangements for Electricity’. 
Each generator will provide the System and Market Operator with information on how much electricity they wish to sell and the associated prices. Similarly, suppliers will provide information on how much electricity they wish to purchase. The System and Market Operator will run a computer program (called the Market Clearing Engine) to find the lowest cost of providing a secure supply of electricity to customers.

**BENEFITS OF MAE**

The MAE is well suited to the size and composition of the Irish market. It is consistent with EU directives and creates incentives to reduce costs. In addition, it will provide the conditions that favour new generation entry.

Specific benefits of the new trading arrangements include:

- **Delivery of efficient prices by ensuring that the generator with the lowest cost is used**
- **Encouragement of Demand Side Participation**
- **Transparency**
- **Provides signals for the provision of additional capacity. Investors can see the best places on the system to locate new generation at least cost**
- **Contributes to Kyoto Objectives by including the cost of emissions when calculating the least cost method of meeting demand**

**TREATMENT OF MARKET DOMINANCE UNDER THE MAE**

When the Commission consulted on the most appropriate market structure to put in place, ESB’s dominance in the market was identified as one of the key shortcomings of the transitional market arrangements and one that needed to be addressed in any new market arrangement. Currently, ESB Power Generation (ESB PG) owns approximately 80% of the generation capacity whilst also having a significant interest in a number of other generation plants. On the supply side, ESB PES supplies electricity to approximately 70% of the total demand.

If market dominance is not addressed properly, the new market arrangements will not work as efficiently and effectively as they should and will prevent final customers from benefiting fully from the economic advantages of a competitive electricity market. In 2004, the Commission will finalise a comprehensive regulatory approach to manage ESB market dominance in the MAE - both on the generation and supply sides of the market. This regulatory approach will cover all aspects of ESB PG and ESB PES behaviour in the market place and will, in the absence of any structural reforms, ensure a market that works well and will achieve many, if not all, market benefits. The two primary objectives of the regulatory approach are:

1. **Non-ESB market participants in the MAE should see a market that functions as a working and competitive market; and**
2. **ESB should exhibit behaviour and performance that resembles likely behaviour and performance if they were a privatised and disaggregated company in the market.**

Through achieving these objectives, the final customer should obtain the benefits of a competitive electricity market which include more efficient and productive use of assets; better allocation of resources, better decisions about the type, size, fuel type and locations of new investments; innovation and demand-side benefits. The Commission will consult with market participants throughout 2004 to progress this regulatory approach further.

**TRADING OF ELECTRICITY IN AN ALL-ISLAND MARKET**

Another key consideration for the Commission when developing the new market
arrangements for electricity was to assess the ease with which the preferred model could readily be extended to include the Northern Ireland electricity market. The Commission believes that the MAE can easily accommodate the Northern Ireland market either as an integral part of the MAE or as an external party trading with the MAE. Ofreg and market participants in Northern Ireland are currently considering whether or not to align their own wholesale market arrangements with the MAE model. A report, on this matter commissioned by the Internal Market in Electricity (IME) group in Northern Ireland, will be published early in 2004.

In the interim, a number of issues associated with trading electricity between two different electricity market structures need to be addressed. The Commission, together with Ofreg and other market participants are currently working to resolve concerns relating to areas of mutual interest. The Commission will continue to work closely with Ofreg and the transmission system operators North and South to seek synergies and cost efficiencies via the creation of a regime that will facilitate coordinated and compatible system operation in each jurisdiction that will lead to a more efficient utilisation of assets.

**MAE PROGRAMME GOVERNANCE STRUCTURE**

The implementation phase of the MAE started in September 2003. Currently, the high-level design principles are being translated into detailed rules and system specifications that ESB National Grid will use for the purchase of the necessary IT systems. During 2004, the Commission will develop a testing regime and certification procedure to ensure that generators and suppliers will be ready for the go live date in February 2006. A variety of industry working groups have been established to progress issues specific to the different market participants. In addition, the Commission has developed a stakeholder management plan to ensure that all stakeholders are aware of progress and have the opportunity to express their views and/or concerns. The Commission will continue to consult with stakeholders on market design issues throughout 2004 to ensure that the new market arrangements remains on course to be successfully implemented by February 19th 2006.

**FACILITATING RENEWABLES UNDER THE MAE**

The MAE will accommodate renewable generators with intermittent energy sources and will facilitate non-dispatchable plant. While some of the benefits of the new trading arrangements will apply equally to all market participants, others are specifically beneficial to renewables. These include:

- A guaranteed market for generators through the spot market;
- Implicit capacity payments for generators included in the spot market price;
- No requirement for balanced supply and generation schedules;
- Simple offering strategies for offering power into the market;
- Standing offers for generation that do not have to be changed – minimising administration for smaller participants in particular;
- The potential for improved returns associated with higher LMPs for generators located in favourable areas;
- Price visibility and predictability;
- Price stability through Contracts for Differences (CfD) and Financial Transmission Rights (FTRs).

It is envisaged that support for renewable generation will continue to be delivered by government sponsored schemes based on AER.
Electricity Retail Markets and the Customer

As of February 19th 2004, 56% of the retail market is open to competition, which comprises an additional 12,000 commercial and industrial customers in the eligible sector. At this time a total of 14,000 customers can opt to leave ESB PES and choose to buy electricity from another supplier in the market. Full retail market opening will be introduced on February 19th 2005. This will allow all electricity customers to choose a new supplier of electricity if they so wish.

**ELECTRICITY MARKET OPENING INFORMATION TECHNOLOGY PROJECT**

In order for market opening to be effective, the necessary IT systems need to be put in place by all market participants. On 20th December 2002, ESB submitted a report outlining the implementation procedures and systems that need to be set in place to support and facilitate full market opening in 2005 for Commission approval. The submission also sets out interim systems that were required to be in place in 2004.

The Commission approved a total of €94.15 million for the Market Opening and Information Technology Project. Of this a total of €57.3 million was allocated to the Networks and Meter Registration System Operator businesses, €11.45m was allocated to the contact centre and €25.4 million was allocated to ESB PES. The Commission considers that the expenditure on the new IT systems will deliver efficient and equitable services not only to ESB PES and ESB Networks but to all market participants. This will further enhance competition by ensuring that all suppliers have equal access to information. Furthermore, it will ensure that ESB businesses will not have access to commercially sensitive information, which could afford them competitive advantage over other suppliers. As such, the development of these new IT systems represents a significant and vital step in the process of ESB business separation.

**ELECTRICITY MARKET OPENING PROGRAMME**

In 2001, the Commission established a working group, comprised of industry players and the CER, to perform an oversight role for the implementation of systems and processes that are required for full market opening in February 2005. The finalised market processes were published for consultation on 7th January 2002. Some further changes were required to fit with the system design and to satisfy the requirements of suppliers. In recognition of this, an intensive consultation process was carried out throughout 2003. Early in 2004, the Commission approved the market processes that will apply for full market opening, together with the related implementation plans for ESB Networks IT systems.

In addition to the ESB Networks IT work programme, suppliers will also be required to complete their own implementation plans to accommodate the agreed market processes and develop and test their IT systems in preparation for full market opening. In recognition of this, the Commission has required the appointment of an Independent Retail Market Readiness Test Coordinator in order to plan, monitor and validate the testing of suppliers in advance of market opening. The Commission has also issued a high-level work programme to members of the working group which outlines key timelines for Commission consultation.
papers, customer awareness programme and testing period of various participants’ IT systems.

REGULATION OF THE ELECTRICAL CONTRACTING SECTOR

In response to a request from the then Minister for Public Enterprise in 2001 to explore a role for the Commission in the future regulation of the Irish electrical contracting sector, the Commission proposed an approach to the future short-term and long-term regulation of the sector. Criteria for the regulation of the industry were prepared by the CER, in consultation with the industry and will be implemented using a phased approach throughout 2004.

Under the proposed approach, which builds on the strengths and well-established roles of each of the main players in the electrical contracting industry, the Distribution System Operator (DSO) will be responsible for the day-to-day regulation of the industry while the Commission will have overall responsibility for the regulation of the industry.

During 2003, the Commission met with a number of regulatory bodies, such as the Register of Electrical Contractors of Ireland (RECI) and the Electrical Contractors Safety and Standards Association (ECSSA), together with other interested parties, such as the DSO and ETCI, to progress the development of the new regime.

CER QUARTERLY BULLETIN & MARKET COMMUNICATIONS

In 2003, the Commission continued to publish the CER Quarterly Bulletin, which provides consumers, industry players and interested parties with quarterly updates on developments, and events that form or affect the developing gas and electricity markets. The CER Quarterly Bulletin can be downloaded from the CER website and is also available in hard or soft copy from the CER mailing list or on request.

In addition, a detailed feature entitled ‘Shop Around for the Best Value in the New Electricity Market’ was published in the September newsletters of Irish Small and Medium Enterprises Association (ISME), the Small Firms Association (SFA) and the Chambers of Commerce of Ireland.

During 2004, the Commission will be conducting an awareness campaign for consumers informing them of recent changes in the electricity and gas markets here and the implications and benefits for customers.

INCREASED CUSTOMER PROTECTION

The European Directive 2003/54/EC contains a number of provisions in relation to consumer protection, including vulnerable customers.

During 2004, the Commission will amend all existing supply licences, to include the requirement that all suppliers will submit a supplier code of practice, which will cover areas such as marketing practices, protection of vulnerable customers etc. All approved codes of conduct will be available to final customers on request.
Promoting Sustainable and Renewable Energy

ROLE OF THE COMMISSION IN RELATION TO RENEWABLE ENERGY

Under the Electricity Regulation Act, 1999, the Commission, in carrying out its duties and functions, shall have regard to the need to promote the use of renewable, sustainable or alternative forms of energy.

MONEYPOINT AND FUEL DIVERSITY

In accordance with the determination by the Environmental Protection Agency (EPA) on the Integrated Pollution Control (IPC) licence for Moneypoint, ESB now has three options:

1) to close Moneypoint from 2008
2) to keep the plant open but to operate on limited running hours between 2008-2015 (if granted a derogation under the Large Combustion Plant (LCP) Directive)
3) to keep the plant open through investment in abatement technology (flue gas desulphurisation) to meet LCP Directive Standards.

ESB will need to make the investment decision by mid 2004 in order to put in place the necessary measures to comply with requirements under the LCP Directive, at an estimated cost of over €200 million.

Any future policy decision on Moneypoint has potentially important consequences for both electricity consumers and market participants. In particular, there is a need to balance the cost implications for the Irish consumer and the maintenance of an appropriate level of fuel diversity for security of supply.

Early in 2004, the Commission together with the Department of Communications, Marine and Natural Resources, will be commissioning a study to examine future fuel diversity options for the Irish power system. The overall objective of the study is to examine the appropriate levels of fuel diversity of power generation in the Irish power system and to propose approaches to reach these levels of diversity that complement the evolving Market Arrangements for Electricity at least cost to customers. The risks and consequences of potential increased levels of gas dependence in the future will be considered. Options for reducing this gas dependence and the associated costs and benefits of each fuel diversity option will also be examined. In particular, the study will focus on the future operation of Moneypoint power station. This study is expected to be completed by April 2004.

AER VI & FUTURE GOVERNMENT SUPPORT MECHANISMS

At present, the Government provides support for renewable energy under the latest Alternative Energy Requirement (AER) programme, AER VI. AER awards successful green generators a 15 year Power Purchase Agreement with ESB PES. The total capacity available under AER V and VI was 578MW, with over 90% comprised wind.

The Commission is aware that the Minister has also announced that subject to EU state aids clearance he proposes to increase the onshore allocation of support from the initial 500 MW to 640 MWs.

A requirement of the AER VI competition was that applicants must have been granted or have applied to the Commission for an Authorisation to Construct and a Licence to Generate.

In 2003, the Minister also commenced a consultation process on a future renewable support mechanism post-AER. The Commission is actively participating in this review. On the 27th February 2004, the Commission made a submission to the Department's Consultation regarding “Options for Future Renewable Energy Policy, Targets and Programmes”.

The Commission's submission discussed a number of key issues regarding the design of future renewable energy policy and the need to pursue the most cost-effective support mechanism in light of any possible impact on electricity prices.

The Commission also inputted on other issues affecting the transposition of the directive.
CER/OFREG WIND STUDY
Given the increasing importance of wind generation in both the Republic of Ireland and Northern Ireland, the Commission and the Ofreg commissioned a consortium led by Garrad Hassan and including ESBI and the Sustainable Energy Research Centre, UCC to investigate the feasible level of wind generation which can be safely and securely accommodated on the combined electricity systems of the RoI and NI, for three target years – 2005, 2007, 2010. The results of this study were presented to the public on February 14th 2003.

GREEN/CHP ACCREDITATION
The Northern Ireland Interconnector to the Republic of Ireland enables licensed suppliers in the Republic’s electricity market to import electricity from Scotland, through Northern Ireland into the Republic. In February 2003, the Commission published its decision on the accreditation of renewable energy imports. The Commission considers it vital to ensure, subject to certain criteria, that green suppliers annually supply no more electricity to final customers than that which is available to them using renewable, sustainable or alternative forms of energy. In order to confirm that a licensed green supplier fully complies with this obligation (defined under Condition 20 of a Supply Licence), in February 2003, the Commission published an accreditation regime to define any electricity imported into the Republic as renewable, sustainable or alternative energy as defined under the Electricity Regulation Act, 1999. The Commission published a consultation paper on a CHP accreditation regime on the 27th March 2003.

AUTOPRODUCERS AND CHP PRODUCERS DIRECTION
It is generally accepted that Combined Heat and Power (CHP) is an efficient method of producing electricity and has environmental benefits. In July, the Commission extended the transmission and distribution charging principles underlying the Autoproducers direction to all CHP producers. This meant that CHP producers, who were not deemed to be autoproducers, would pay connection charges on either their demand or generation capacity, not on both, and similarly, that they would only pay only one ongoing capacity charge.

GREEN TAGGING
The Renewables Directive requires a system guaranteeing the origin of electricity to be put in place. How this could be implemented under the new market arrangements will be examined in 2004. During the forthcoming consultation process, the Commission will actively engage with stakeholders and industry participants. To this end the Commission has established a CHP/Renewables Expert Group.

WIND GENERATION – SYSTEM SECURITY ISSUES
In December, ESB National Grid sought Commission approval under the Electricity Regulation Act, 1999 that the TSO and Distribution System Operator (DSO) to cease issuing offers for wind connections to the transmission and distribution network until the end of 2003. The TSO expressed its serious concerns at the unexpected scale of wind connections to the transmission and distribution systems and the threat this poses to system stability. There is currently 786MW of capacity offered to wind generators.

In light of the statutory duties of the Commission regarding the continuity and security of supply of electricity and the urgency of the issues raised by ESB National Grid, the Commission agreed to the proposal on an exceptional basis. In line with CER’s commitment to engage in public consultation and with its duty to promote renewable forms of energy and to protect the interests of the final customer, it requested a
public forum to be held and comments to be submitted on ESB National Grid’s proposal.

At the end of 2003, ESB National Grid requested an extension of the connection moratorium for wind for a period of three months to the end of March 2004 to permit outstanding technical issues to be resolved. The Commission considered all submissions received and the deliberations at the industry forum. The Commission concluded that a number of issues need urgent resolution to facilitate the connection of wind generation to the system and approved an extension to the moratorium on the basis that the time will be used to address the underlying issues. Among the issues identified were the requirements of the Grid Code for Wind and a detailed programme for the modelling of wind turbine generators.

In 2004, ESB National Grid will be working with the Commission and with the industry to resolve the issues surrounding the moratorium. To this end the Commission has established a wind steering group to monitor the progress of resolving the underlying issues. The Commission considers that any restriction on the rights of wind turbine generators to connect to the transmission or distribution system must be necessary and proportionate to the possible impact on the stability of the system.

NEW GRID CODE

The grid code is a technical document outlining the rules in relation to the operation, maintenance and development of the Irish transmission system. All grid code modifications and derogations are subject to the CER’s approval. The Commission works on an on-going basis to ensure that requests for derogations and proposed modifications are reasonable and are unlikely to have adverse effects on the security and stability of the system. Wind turbine generators have encountered difficulties in complying with certain aspects of the grid code and have requested derogations where they feel compliance is not achievable.

In 2003, the Commission requested ESB National Grid to outline a process to modify the Grid Code to deal with wind turbine generators. A group, comprising ESB National Grid, CER, ESB Networks, wind industry participants and groups, to formulate a separate operation code within the grid code that would apply to wind only. This group met for the first time in October and it was agreed that proposals would be forwarded to the Commission by October 2004. In light of the moratorium introduced on wind turbine generator connections in December, the Commission directed that the work of this group be accelerated. A new operating code for wind will be submitted for the CER’s approval in April 2004.

GRID UPGRADE DEVELOPMENT PROGRAMME (GUDP) FOR RENEWABLES

The Government’s Green Paper on Sustainable Energy of 1999 established a target to add an additional 500MW of renewable energy generation to the network by 2005. A grid upgrade programme was subsequently recommended to alleviate both the financial and constraint limitations faced by renewable generators that could frustrate the attainment of this target. A number of areas, known as clusters, in which potential wind turbine generators had planning permission, were identified and ranked according to capacity. There are currently five prioritised clusters in the programme. The CER, in line with its duty to promote the use of renewable forms of energy, decided to support the funding of the programme through Transmission Use of System (TUoS) revenue up to the value of €30 million. The CER’s future work with regard to the scheme will involve monitoring expenditure and observing progress on the implementation of the selected clusters.
Licensing and compliance are key regulatory tools in the energy market underpinning many aspects of market structure and operation including safety, consumer protection and ring-fencing and business separation. Under the Electricity Regulation Act 1999 and the Gas (Interim) Regulation Act 2002, the Commission is responsible for the authorisation and licensing of new players who wish to enter the natural gas and electricity markets. The assessment of licence applications, namely Authorisations to Construct or Reconstruct Generating Stations, Licences to Generate Electricity, Licences to Supply Electricity, Natural Gas Shipper/Storage licences and the issuing of consents for the construction and operation of new natural gas pipelines is one of the key functions of the Commission in the electricity and gas markets.

**GAS LICENSING**

In 2003, the Commission made significant progress towards developing and finalising full-term licences for the activities of natural gas supply/shipping, distribution and transmission as provided for under Section 16 of the Gas (Interim) (Regulation) Act, 2002. On 16th April 2003, the Commission published draft licences for each of these activities for public consultation.

The finalised transmission, distribution and supply licences will provide a detailed set of behavioural rules, in particular recognising the need to prevent the leveraging of monopoly power from natural gas transmission and distribution activities into the competitive activity of natural gas supply. In addition, the licences will contain conditions to provide for greater efficiency, safety and the protection of the interests of final customers in the conduct of a licensed activity.

The transmission and distribution licences contain a number of significant regulatory provisions:

- The prohibition of anti-competitive behaviour and cross-subsidies via strict ring-fencing and regulatory accounts requirements.
- The efficient procurement and use of assets and services obligations.
- The protection of Vulnerable Customers (Customer Service Code & Complaints handling procedure).
- The establishment of Default Supplier and Supplier of Last Resort functions and responsibilities.
- The provision of gas point registration information (GPRO) to all suppliers.
- The establishment of a Regulatory Compliance Officer function.

On 6th February 2004, the Commission published two papers addressing comments received from interested parties on the draft transmission and distribution licences as well as the final proposed licences. Substantive comment on both of these licences is due in early 2004.

The draft licence for natural gas supply/shipping received a considerable number of responses in this consultation and the proposed licence, amended as appropriate further to consideration by the Commission of those comments received, was published as a draft decision in March 2004 for final consultation with industry. Following this final consultation period, the Commission will finalise all
three licences and implement the proposed licensing regime.

AWARD OF INTERIM NATURAL GAS LICENCES

In 2003, both Vayu Limited and Innogy [Ireland] Ltd. [now RWE Trading [Ireland] Ltd.] were awarded Interim Supply Licences. These licences will apply until full-term generic licences are finalised in 2004.

COMPLIANCE PROGRAMME

Upon issuing the final licences to market participants active in each of the market sectors of transmission, distribution and supply/shipping, the Commission will oversee the development of a compliance programme relevant to each licensee’s business(es).

The licences provide an important regulatory tool and through the implementation of the compliance programme, it is intended that the Commission will effectively monitor and ensure each licensee acts in a fair, non-discriminatory and appropriate manner.

ELECTRICITY LICENSING

Under the Electricity Regulation Act 1999, the Commission is responsible for the assessment of electricity licence applications, namely Authorisations to Construct or Reconstruct Generating Stations, Licences to Generate Electricity, Licences to Supply Electricity of new players, who wish to enter electricity market.

AUTHORISATION TO CONSTRUCT, GENERATION & SUPPLY LICENCES

During 2003, the Commission issued Authorisations to Construct for nine additional plants. In view of its commitment to encourage renewable forms of electricity generation, the Commission is pleased to have authorised the construction of seven additional wind farms in 2003.

Following deregulation, the ESB is now split into several units. ESB PES, whose prices are currently regulated by the CER, supplies domestic customers and will continue to do so after 2005. ESB Independent Energy (ESBIE) services the eligible sector as a licensed independent supplier.

Under restrictions imposed by the Commission of Energy Regulation in 2003, ESBIE will have to change its name if it wishes to approach domestic customers when the electricity market opens in 2005. The Commission believes the use of the ESB name would confer an unfair advantage on ESB Independent Energy (ESBIE). ESBIE is restricted to selling energy services to large companies only.

In March 2003, the Commission issued a generation licence to the ESB renewable affiliate, Hibernian Wind Power Ltd, a 11.9MW windfarm in Camssore, Co Wexford, which is part of the Power Generation, Renewable and CHP Business of ESB. The Power Generation, Renewable and CHP Business is a separate business of ESB and does not form part of the main portfolio of Power Generation’s existing plant. This separation from Power Generation’s main portfolio was facilitated through special licence conditions, including ringfencing arrangements to prevent cross-subsidisation between ESB regulated businesses and the Renewable and CHP business. Appropriate ringfencing arrangements will apply to the directors and staff of the PG Renewable and CHP business, the provision of internal and information technology services, office accommodation, sales of output, financial arrangements and compliance monitoring.
Licensing

The Commission issues Authorisations to Construct, licences to generate and supply licences and monitors compliance with these licence conditions.

In relation to generation licences, the Commission assesses and approves the operator of licensed generating plants, as required under Condition 9 of the Generation Licence. Condition 15 of a Generation Licence requires that a licensee report annually to the Commission on its environmental performance in an effective and practicable manner.

The Commission requires that licensed suppliers keep their customers informed of their electricity consumption and provide contact details on an enquiry service should they require urgent attention. The licensee is also required to furnish customers with the CER’s contact details so that the Commission can assist in resolution of unresolved complaints between the supplier and customer.

NEW PROCEDURES FOR APPLICATIONS FOR SMALL-SCALE GENERATION LICENCES

In 2003, the Commission introduced a less onerous process for the assessment of authorisation and licence applications by small-scale generators in order to minimise the regulatory burdens on smaller market participants. It was determined that generators with a capacity less than or equal to 5MW should be assessed in a less onerous manner for all authorisation and generation licence applications.
**Appendix 1**  
**CER Work Programme 2004**

### GAS

<table>
<thead>
<tr>
<th>Activity</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of Gas Tariff Review including Bord Gáis Allowable Supply Revenues, Distribution Tariff Structure and Retail Tariff Structures</td>
<td>Q3/4</td>
</tr>
<tr>
<td>Implementation of new Entry/Exit capacity definition arrangements under a Unified Code of Operations</td>
<td>Q4</td>
</tr>
<tr>
<td>Implementation of arrangements to support further market opening to all non-residential customers</td>
<td>Q4</td>
</tr>
<tr>
<td>Publication of Storage Regulation Proposals</td>
<td>Q3</td>
</tr>
<tr>
<td>Publication of 2nd edition of the Gas Capacity Statement</td>
<td>Q3</td>
</tr>
<tr>
<td>Finalisation of Supply, Transmission and Distribution Licences</td>
<td>Q2</td>
</tr>
<tr>
<td>Agreement on Licence Compliance Programme with Bord Gáis</td>
<td>Q3</td>
</tr>
<tr>
<td>Completion of Study on the Harmonisation of Transmission Tariffs</td>
<td>Q2</td>
</tr>
<tr>
<td>Completion of Market Information Publication Programme</td>
<td>Q4</td>
</tr>
</tbody>
</table>

### ELECTRICITY MARKETS

<table>
<thead>
<tr>
<th>Activity</th>
<th>Timeframe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication of CER’s Strategic Plan</td>
<td>Q3</td>
</tr>
<tr>
<td>Review ESB National Grid Generation Adequacy Report</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Input to DCMNR on preparing the national legislation necessary to transpose European Directives into Irish Law</td>
<td>Q1/Q2</td>
</tr>
<tr>
<td>Publish detailed business process documents for the Retail Market Opening</td>
<td>Q1</td>
</tr>
<tr>
<td>Monitoring of participant implementation plans for Retail Market Opening</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Input into All-Island Joint Steering Group Initiatives</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Industry Forum on MAE Detailed Design Issues, Customer Forum on Participation in MAE</td>
<td>Q2</td>
</tr>
<tr>
<td>Complete of MAE Detailed Rules</td>
<td>Q3</td>
</tr>
<tr>
<td>Develop comprehensive Regulatory Strategy for the treatment of dominance in the MAE</td>
<td>Q4</td>
</tr>
<tr>
<td>Develop strategy for Retail Market Participant testing</td>
<td>Q4</td>
</tr>
<tr>
<td>Review DSM Requirements and Strategy</td>
<td>Q3</td>
</tr>
</tbody>
</table>
### Electricity Networks and Tariffs

<table>
<thead>
<tr>
<th>Task</th>
<th>Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of ESB PES and Network Tariff Review</td>
<td>Q3</td>
</tr>
<tr>
<td>Completion of ESB PES and Network Tariff Structure Review</td>
<td>Q3</td>
</tr>
<tr>
<td>Develop MAE Retail Programme</td>
<td>Q3</td>
</tr>
<tr>
<td>Completion of 110kV Distribution Network Investment Review</td>
<td>Q2</td>
</tr>
<tr>
<td>Decision on Amendments to Distribution and Grid Code</td>
<td>Q2</td>
</tr>
<tr>
<td>Arbitration of Network Connection Disputes</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Commencement of Price Control of Networks Businesses</td>
<td>Q4</td>
</tr>
<tr>
<td>Implement changes required to ESB Networks codes of Practice and Agreements</td>
<td>Q2</td>
</tr>
</tbody>
</table>

### Generation & Environmental Affairs

<table>
<thead>
<tr>
<th>Task</th>
<th>Quarter</th>
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</thead>
<tbody>
<tr>
<td>Relaunch of VIPP4</td>
<td>Q2</td>
</tr>
<tr>
<td>Launch of VIPP5</td>
<td>Q3</td>
</tr>
<tr>
<td>ESB PowerGen Revenue Review 2005</td>
<td>Q3</td>
</tr>
<tr>
<td>Review of PSO Costs 2005</td>
<td>Q2</td>
</tr>
<tr>
<td>Publish Fuel Diversity Study</td>
<td>Q3</td>
</tr>
<tr>
<td>Decision on Emissions Trading Costs</td>
<td>Q3</td>
</tr>
<tr>
<td>Monitoring Generation Performance</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Monitor Construction of Generation Plant by Winners of the Capacity 2005</td>
<td>Ongoing</td>
</tr>
</tbody>
</table>

### Licensing & Consumer Affairs

<table>
<thead>
<tr>
<th>Task</th>
<th>Quarter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Finalisation of Gas Supply Licence &amp; Compliance Requirements</td>
<td>Q2</td>
</tr>
<tr>
<td>Award of Gas Supply Competition Franchise</td>
<td>Q3</td>
</tr>
<tr>
<td>Market &amp; Customer Communications</td>
<td>Ongoing</td>
</tr>
<tr>
<td>Develop Consumers’ Awareness Strategy for Full Market Opening</td>
<td>Q2</td>
</tr>
</tbody>
</table>
Appendix 2
Electricity Legislation


This EU Directive concerning the internal market in electricity came into force on the 19 February 1997 and was implemented in Ireland on 19 February 2000. The Directive required that approximately 28% of the Irish electricity market be opened up to competition at that time, increasing to about 32% by February 2003. This will allow independent electricity generators and/or suppliers to contract directly with designated eligible customers for the supply of electricity.


This EU Directive concerning common rules for the internal market of electricity and a Regulation on conditions for access to the network for cross-border exchanges in electricity were adopted by the European Parliament and Council in June 2003. The Directive, which amends and recasts earlier electricity directives, include provisions for legal unbundling of the transmission and distribution system operators, consumer protection and the establishment of independent national regulatory authorities. The directive also provides for market opening for the industrial/commercial sector by July 2004 and full market opening of all European markets by July 2007.

**Electricity Regulation Act, 1999**

The Electricity Regulation Act, 1999 provides the regulatory framework for the introduction of competition in the generation and supply of electricity in Ireland. The Act provided for the establishment of the Commission for Electricity Regulation and gives it the necessary powers to license and regulate the generation, distribution, transmission and supply of electricity. Policy Direction - Trading in Electricity One of the functions of the Commission for Electricity Regulation under Section 9(1)(a) of the Electricity Regulation Act, 1999, is to publish, pursuant to a policy direction or directions of the Minister, which shall be made publicly available when given to the CER, proposals for a system of contracts and other arrangements, including appropriate rights and obligations, for trading in electricity. This policy direction was received from the Department of Public Enterprise by the Commission on 27 July 1999.

**S.I. No. 213 of 1999: Electricity Regulation Act, 1999 (Commencement) Order, 1999**

This Order brings into operation on 14 July, 1999, the provisions of the Electricity Regulation Act, 1999. S.I. No. 214 of 1999: Electricity Regulation Act, 1999 (Establishment Day) Order, 1999 This Order appoints 14 July, 1999, to be the establishment day for the purposes of section 8 of the Electricity Regulation Act, 1999. On that day the Commission for Electricity Regulation was established to perform the functions conferred on it by the Electricity Regulation Act, 1999.


This order sets out the criteria in accordance with which the Commission may determine an application for an authorisation to construct or reconstruct a generating station for Electricity Regulation.
This regulation, made with the consent of the Minister for Public Enterprise, establishes a system of trading in electricity, having taken into account the matters raised in the public consultation process carried out under section 9(1)(b) of the Act.


This order imposes a levy on certain specified classes of electricity undertakings in 2002, for the purpose of meeting expenses properly incurred by the Commission for Electricity Regulation in the discharge of its functions under the Act.

This Order reduces the eligible customer threshold from 4GWh per annum to 1GWh per annum with effect from 19 February 2002.

The Public Sector Obligations (PSO) Order directs the Commission for Energy Regulation to impose public service obligations on ESB which will require ESB to purchase, up until 31 December 2019, the output of certain peat and renewable/alternative electricity generating stations in the interests of security of supply and environmental protection respectively. The PSO Order provides for the introduction of a PSO levy on final electricity customers, from 1 January 2003, to compensate ESB for the additional costs incurred in complying with these public service obligations.

This order imposes a levy on certain specified classes of natural gas undertakings, for the purpose of meeting expenses properly incurred by the Commission for Energy Regulation in the discharge of its functions under the Gas Acts 1976 to 2002.

This order imposes a levy on certain specified classes of natural gas undertakings, for the purpose of meeting expenses properly incurred by the Commission for Energy Regulation in the discharge of its functions under the Gas Acts 1976 to 2002.
S.I. 607 OF 2002: ELECTRICITY REGULATION ACT, 1999 (ELECTRICITY) LEVY ORDER, 2002

This order imposes a levy on certain specified classes of electricity undertakings, for the purpose of meeting expenses properly incurred by the Commission for Energy Regulation in the discharge of its functions under the Act.

EUROPEAN COMMUNITIES (INTERNAL MARKET IN ELECTRICITY) (AMENDMENT) REGULATIONS 2003 (S.I. NO. 145 OF 2002)

These Regulations give further legal effect to Directive No. 96/92/EC of the European Parliament and of the Council of 19th December 1996, concerning common rules for the internal market in electricity, by amending the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000), to provide that ESB shall make resources available to ESB National Grid Business Unit and to EirGrid until such time as the transfer scheme provided for by Regulation 13 of S.I. No. 445 of 2000 and the infrastructure agreement provided for by Regulation 18 of S.I. No. 445 of 2000 have been made.

S.I. NO. 304 OF 2003: ELECTRICITY REGULATION ACT 1999 (MARKET ARRANGEMENTS FOR ELECTRICITY) REGULATIONS 2003

These regulations establish a new system of trading in electricity replacing the existing system of trading in electricity. The new system of trading will be a mandatory centralised pool. All generators and suppliers unless exempted will be required to buy and sell electricity through the pool. The regulations make further provision for supplemental rules to be developed by the Commission to give effect to the new system of trading in electricity.

EUROPEAN COMMUNITIES (INTERNAL MARKET IN ELECTRICITY) (AMENDMENT) REGULATIONS 2003 (S.I. NO. 328 OF 2003)

This S.I. was signed by the Minister on 23 July 2003. These Regulations give further legal effect to Directive No. 96/92/EC of the European Parliament and of the Council of 19th December 1996, concerning common rules for the internal market in electricity, by amending the European Communities (Internal Market in Electricity) Regulations 2000 (S.I. No. 445 of 2000), to provide for the first Chief Executive of EirGrid to be appointed by the Directors of the company and to facilitate EirGrid becoming operational as Transmission System Operator.


Ireland approving the public service obligation arrangements on ESB Public Electricity Supplier, in respect of the new generation contracts on foot of the CER’s Capacity 2005 competition, in the interests of security of supply.


This S.I. was signed by the Minister on 21 November 2003. This Order varies the consumption threshold for eligible electricity customers in Section 27(2) of the Electricity Regulation Act 1999 (as varied by the Electricity Regulation Act 1999 (Eligible Customer) Order 2002). By varying the eligibility threshold from 1 Giga Watt hour to 0.1 Giga Watt hour, it provides for an increase in the level of electricity market opening to approximately 56% with effect from 19 February 2004. By further varying the eligibility threshold from 0.1 Giga Watt hour to 0.1 kilowatt hour with effect from 19 February 2005 it provides, to all intents and purposes, for 100% electricity market opening.
Appendix 3
Gas Legislation


On 22 June 1998, European Council and European Parliament adopted Directive 98/30/EC establishing a legal framework for commencement of the liberalisation process of the natural gas sector across all member states. This Directive establishes common rules for the transmission, distribution, supply and storage of natural gas. It lays down the rules relating to the organisation and functioning of the natural gas sector, access to the market, the operation of systems, and the criteria and procedures applicable to the granting of authorisations for transmission, distribution, supply and storage of natural gas.

**GAS (INTERIM) (REGULATION) ACT, 2002**

The Gas (Interim) (Regulation) Act, 2002, established the Commission for Electricity Regulation as the Irish natural gas regulator under the name of the Commission for Energy Regulation. It gave the Commission the necessary powers to license and regulate the transmission, distribution, storage and supply of natural gas and issue Orders in relation to the supply, transmission, distribution and sale of natural gas. The Act also gave the Commission powers to licence a distribution or transmission pipeline.

This Act also marked the second phase of the opening of the Irish gas market so that customers whose annual consumption exceeds 2 mscm of natural gas are now eligible to obtain a natural gas supply from a licensed Shipper/Supplier other than Bord Gáis. The Gas (Interim) (Regulation) Act, 2002, amends two previous Gas Acts, the 1976 Gas Act and the Gas (amendment) Act, 1987.


This Order appoints 30 April 2002 as the appointed day for the purposes of the Gas (Interim) (Regulation) Act, 2002.


These regulations set out the criteria for the determination of consents in accordance with the application for consent to construct or upgrade a pipeline, which may be determined by the Commission for Energy Regulation.

**S.I. No. 545 of 2002 Gas Act 1976 (Section 10A(1)(e) (Annual Rate of Consumption) Regulations 2002**

This SI reduces the consumption threshold at which customers are entitled to access the natural gas network to 500,000 scm per annum. The effective date is 1 January 2003.


**S.I. No. 196 of 2003 Gas (Amendment) Act 1987 (Section 2) (Distribution) Order 2003**

This Order confers, upon Bord Gáis Éireann, the functions to build and operate natural gas pipelines in certain areas by means of a Section 2(1) Order. This will allow for the distribution of natural gas in the towns of Galway, Oranmore, Ballinasloe, Tullamore, Clara, Mullingar and Athlone.

**S.I. No. 428 of 2003 Gas (Interim) (Regulation) Act 2002 (Section 16) Regulations 2003**

This regulation disapplies Sections 16(2) and 16(10) of the Gas (Interim) (Regulation) Act 2002 and has the effect of exempting natural gas producers from the requirements to hold a supply licence for the activity of supply of natural gas to licensed suppliers at a point of entry to the transmission system.