



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Summary of Responses Received to the  
Consultation Paper on  
Distribution Licence for Natural Gas  
16<sup>th</sup> April 2003**

**A Summary Paper**

**21 August 2003**

**CER/03/203**

## **Background**

Under the Gas (Interim) (Regulation) Act 2002 (“the Act”), the Commission for Energy Regulation (“the Commission”) assumed functions in relation to the regulation of the natural gas market in Ireland. The Commission is charged with the duty to carry out its functions in a manner, which it considers protects the interests of final customers and does not discriminate unfairly between licensees.

Section 16(1) of the Act provides that the Commission may grant to any person the licences that the Act requires that person to hold in order to carry out the transmission, distribution, storage or supply (including shipping) to certain customers of natural gas. The licensing of entities wishing to engage in such activities allows the Commission to regulate those entities.

On the 16<sup>th</sup> April 2003 the CER published a document for consultation entitled “ Transmission, Distribution and Supply Licences for Natural Gas - A Consultation Paper”. The Act provides for the licensing and regulation of the separate activities of transmission, distribution, storage and supply and establishes rules for important aspects of the conduct of vertically integrated natural gas undertakings. The draft licences seek to provide a detailed set of behavioural rules, in particular recognising the need to prevent the leveraging of monopoly power from gas transmission and gas distribution activities into the competitive activity of gas supply.

This document summarises the comments received regarding the Distribution licence.

## **Respondents**

Of the respondents who commented on the licences only Bord Gáis commented on the Distribution licence.

## Responses

The responses received are detailed below in tabular format against each Condition number.

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 1</b>	<b>Interpretation and construction</b>	Bord Gáis believes that the current definition of network emergency is restricted to situations arising from a loss of pressure in the network. From an operational viewpoint, this is too restrictive and should be widened to cover any emergency endangering persons and/or property.
<b>Condition 2</b>	<b>Connection to and use of the Licensee's distribution system</b>	Bord Gáis stated that S.I. 283 of 1987 and the more recent S.I. 196 of 2003 appear to be in conflict with requirements under Condition 3 and other new safety related proposals in the Licence.
<b>Condition 3</b>	<b>Connection to gas fittings</b>	<p>With respect to 1 (a) Bord Gáis believes that this is not consistent with its current practice in this area. However if the Commission wishes to make to changes to this area, which perhaps anticipate future changes to the current legislation, Bord Gáis would be happy to discuss such an approach with the CER.</p> <p>Regarding 1 (b) Bord Gáis would like to know what is meant by “safely and properly” and does it impose any new obligations on it.</p>

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 4</b>	<b>Efficient procurement of assets and services</b>	<p>Bord Gáis wants to know what is meant by “arm’s length” and assume this reference relates to the principles of cost allocation within an integrated business, and not to any internal contractual arrangements.</p> <p>It is concerned that such restrictions do not prevent efficiency savings being achieved within Bord Gáis.</p>
<b>Condition 5</b>	<b>Relevant assets</b>	<p>Definition of relevant asset, part (c). Bord Gáis points out that the term ‘interconnector’ is normally associated with Transmission systems and assumes is a typographical error and will be removed.</p>
<b>Condition 6</b>	<b>Additional use or disposal of relevant assets</b>	<p>Bord Gáis does not understand the distinction between Conditions 5 and 6. It feels that they are very similar and in places identical. If appropriate, Bord Gáis would prefer if the two conditions were consolidated into a single condition.</p>

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 7</b>	<b>Detection and prevention of theft of natural gas</b>	Bord Gáis enquires as to what in practice will be required of it to fulfil the requirement to take “reasonable steps”. It feels that there should be a “proportionate” or similar qualification.
<b>Condition 8</b>	<b>Co-operation with the Gas Point Registration Operator</b>	Bord Gáis enquires as to what the code of practice published by the GPRO is intended to contain. Also it enquires if it will be concerned with IT file format and file transfer protocols or if it is intended to have a broader contractual role. If so, it wants to know what is the relationship to the Code of Operation as required by Condition 30.
<b>Condition 9</b>	<b>Provision of metering and data services</b>	Bord Gáis feels that the distribution responsibility for metering and data and the role of the proposed GPRO are currently unclear and appear at times to overlap. Also a review of the various distribution processes may help to clarify where the CER intends this boundary to apply in practice.
<b>Condition 10</b>	<b>Maintenance of register of gas fittings technicians</b>	As per Condition 3, Bord Gáis feels that this is not consistent with its practice in this area. However if the CER wish to make to changes to this area, which perhaps anticipate future changes to the current legislation, Bord Gáis would be happy to discuss such an approach with the CER.

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 11</b>	<b>Infrastructure plan for licensed areas</b>	Bord Gáis state that this condition requires the licensee to produce a system development statement, having regard to and excluding so far as is practicable “any matter which relates to the affairs of a person where the publication of that matter would or might seriously and prejudicially affect his interests.” It goes on to say that the determination of whether some matter might affect a person’s interests is set out as being the responsibility of the CER. Bord Gáis does not believe it is appropriate that the CER should take decisions as to what constitutes commercially sensitive information when it is Bord Gáis that stands to be liable for publishing such information and prejudicing a user or user(s) interests. It feels that this does not align responsibility and liability. Also it believes that the scope of the Infrastructure Plan should align with Capacity Statement horizon of 7 years.

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 12</b>	<b>Distribution System Standards</b>	<p>Bord Gáis feels that the current structure of the Gas Technical Standards Committee (GTSC) of the National Standards Authority of Ireland (NSAI) should be recognised and continue to have a role in the establishment of Distribution System Standards for the industry.</p> <p>Bord Gáis is concerned about liabilities that will result if it is obliged to take on the role of effectively setting the industry Distribution System standards and as to what protections it will have in this scenario.</p> <p>Bord Gáis believes the GTSC is the appropriate body to continue developing Distribution System Standards and therefore believe that the requirements on Bord Gáis in this area should be removed. Licensees should be required to comply with standards as designated by the CER but believe the CER should designate standards developed by the NSAI rather than requiring them to be developed by Bord Gáis.</p>
<b>Condition 13</b>	<b>Emergency response service</b>	<p>With regard to the emergency response service being provided without charge by the Licensee to the user at the point of use Bord Gáis responded by saying that the 1850 number for emergency calls currently has a local call charge.</p> <p>In the context of an Emergency Response Service, Bord Gáis would not consider it appropriate on safety grounds to carry out minor repairs to gas fittings and do not believe there should be obligations on Bord Gáis to undertake this activity on behalf of other pipeline operators. Making safe an escape through the relevant section of network can be done under the direction of any qualified engineer and as such is a potentially competitive service. As a point of contact for the call centre logging reports, pipeline network owners should themselves be required to appoint an Emergency Manager who would liase with the contractor to make safe escapes on their system.</p> <p>Similarly, Bord Gáis feels that repair work and reconnection is a potentially competitive service, and there should be no requirement on Bord Gáis to undertake such activity.</p>

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 14</b>		<p>Bord Gáis feels that the term “all generally accepted practices and standards” is unclear as different practices apply in different part of the world.</p> <p>The definition of what is “best practice” is also unclear and potentially impossibly onerous. Bord Gáis would consider it sufficient to restate the requirement for the licensee to act as a “prudent natural gas undertaking”.</p> <p>Bord Gáis questions whether, with respect to Section 3, this paragraph should relate to the considerations to be made by the Licensee when drafting the Safety Framework.</p> <p>Bord Gáis also feels that the production of a compliance report every 12 months would seem to be excessive given the existing safety related reporting requirements already in place under current legislation. Bord Gáis believes a submission every 3 years would strike an appropriate balance between necessary regulatory oversight and the costs incurred.</p> <p>Also, Bord Gáis states that responsibility for the composition of natural gas is allocated to the Transmission licensee in Condition 15 of the Transmission Licence and that the clause is therefore redundant for the Distribution licence.</p>
<b>Condition 15</b>	<b>Interaction with other natural gas undertakings</b>	<p>Bord Gáis feels that provision should be made to allow the Emergency Response Service to deal with localised gas outages or emergencies without the Network Emergency Manager being required to declare a ‘network emergency’. It also feels that in these localised situations neither the Transmission network nor other parts of the Distribution network are materially affected. Bord Gáis therefore believes the CER should define Emergency Response Services within the licence to cover only the operation of the call centre and liaison with local Emergency Managers, and establish an appropriate cost recovery mechanism. The licence condition should make clear that making safe and repairs are the responsibility of the relevant pipeline operator.</p>



<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 16</b>	<b>Overall and guaranteed standards of performance of the Distribution Business</b>	Bord Gáis encourages the development of network performance measures but is concerned about the potentially significant cost of putting in place systems to collect data necessary to monitor and provide compensation against particular metrics. It feels that requirements for performance measures should be proportionate to the expected benefits. Bord Gáis would like to discuss with the CER the detailed development of appropriate performance measures, as these will need to be based on information which is currently available or which can be made available at relatively low cost.
<b>Condition 17</b>	<b>Access to land and/or premises</b>	No comment.
<b>Condition 18</b>	<b>Customer service code, complaints handling procedure and disconnection code of practice</b>	No comment.
<b>Condition 19</b>	<b>Preparation, review of and compliance with codes of practice, etc</b>	No comment.
<b>Condition 20</b>	<b>Records and reporting</b>	No comment.
<b>Condition 21</b>	<b>Ring-fencing of the Distribution Business and restriction on use of certain information</b>	No comment.

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 22</b>	<b>Compliance Officer</b>	No comment.
<b>Condition 23 &amp; 24</b>	<b>Availability of Resources &amp; Investment Grade Rating</b>	<p>Condition 23 requires the licensee to act to ensure sufficient financial resources and Condition 24 requires the licensee to maintain an investment grade credit rating.</p> <p>However, Bord Gáis states that the licences do not set out the principles by which Bord Gáis will receive the necessary revenue to meet such requirements. It also states that it understands the intention is to address the level and structure of tariffs through a separate process. It believes that, for balance, the licence requires at least some reference to the basis on which it is financed.</p> <p>Bord Gáis believes that as a minimum, licence condition should include a provision for Bord Gáis to recover the costs of carrying out its licensed activities including a reasonable return on capital and the direct costs of carrying out the duties assigned specifically to Bord Gáis by the CER under the licence (e.g. GPRO, Network Emergency Manager etc). It believes that such a provision should also make reference to the CER's statutory obligation to ensure licence holders are capable of financing their licensed undertakings.</p>
<b>Condition 25</b>	<b>Regulatory accounts</b>	No comment.
<b>Condition 26</b>	<b>Prohibition of cross-subsidies</b>	No comment.
<b>Condition 27</b>	<b>Duty of non-discrimination</b>	No comment.

<b>Condition Number</b>	<b>Description</b>	<b>Comment</b>
<b>Condition 28</b>	<b>Payment of levy</b>	Bord Gáis believes that this condition should explicitly link the amount of this levy to the costs incurred by the CER, and should make reference to a published methodology by which the CER's costs are shared by Transmission, Distribution and Supply licensees. At present, it believes there is no transparent framework for the recovery of the CER's costs and believes this will create investor uncertainty regarding the regulatory framework.
<b>Condition 29</b>	<b>Provision of information to the Commission</b>	No comment.
<b>Condition 30</b>	<b>Codes of Operations</b>	No comment.
<b>Condition 31</b>	<b>Prohibition of anti-competitive behaviour</b>	No comment.
<b>Condition 32</b>	<b>Environment</b>	No comment.
<b>Condition 33</b>	<b>Assignment of licence and transfer of the Distribution Business</b>	No comment.
<b>Condition 34</b>	<b>Change in control of Licensee</b>	No comment.

Condition Number	Description	Comment
<b>Schedule 1</b>	<b>Pipelines which the Licensee is authorised to operate under the licence</b>	Bord Gáis states that this Schedule defines distribution networks as those identified by Section 2(1) of the Gas (Amendment) Act 1987. However, Section 2(1) does not cover all pipelines operating at a pressure below 4 bar and, combined with a definition of Transmission assets above 17 bar, fails to capture any pipelines operating between 4 and 17 bar. Definition of the Distribution network contained in the licence (and as it pertains to the Transmission licence) needs careful consideration to ensure all pipelines are properly covered and appropriately allocated.