



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Consumer Protection in the Liberalised Electricity Market

Customers with Special Needs

Response Paper

CER/04/251

July 2004

Introduction

On the 16th April 2004 the Commission published a consultation paper entitled “Consumer Protection in the Liberalised Electricity Market – Customers with Special Needs” (Commission/04/140). The paper details the criteria the Commission proposes to use to assess a supplier’s code of practice and invited comments from interested parties. This paper details the comments received and the Commission’s response.

The Commission received responses from the following parties:

Airtricity
Bord Gáis Energy Supply
ESB Customer Supply

Customers with Special Needs – Code of Practice

General

The criteria specified by the Commission in the paper is designed to ensure that customers with special needs are not discriminated against in the liberalised market and in certain instances are provided with additional services. Electricity is an essential service to all. It is important that all suppliers who are active in, or are preparing to enter, the domestic market are capable of catering for customers with special needs.

The Commission has tried to be specific without being prescriptive. One of the advantages of the liberalised market is that it promotes innovation in the delivery of service. The Commission does not propose to prescribe how suppliers meet the requirements.

The Commission has reviewed the definition of the categories of customers and revised the home medical equipment category to include other customers which are also vulnerable to supply interruptions (e.g. people with chair lifts etc.). The Commission proposes to consult further on this issue.

There will be a requirement for suppliers to maintain a register of customers with special needs. It will be mandatory for suppliers to provide these services but customers participate on a voluntary basis.

The information collected by suppliers relating to those customers who are particularly vulnerable to supply interruptions and customers with special identification requirements such as a password scheme or special communications needs will be forwarded to the Distribution System Operator. With respect to the information collected by suppliers relating to elderly and disabled customers it will be used by suppliers to tailor their service to ensure that this category of customers receives a high standard of service.

The Commission has considered the responses received and has amended the criteria where required and provided clarification.

Some suppliers have customers which they supply electricity to both their business premises and incidentally to their home but are not otherwise active in the domestic market. The Commission would not expect these suppliers to prepare a code of practise for customers with special needs.

The following is a response to specific comments received in response to the consultation paper. The comment received is given followed by the Commission's response.

Services to Customers with Special Needs

- The Code of Practise should be couched in terms of delivering equality of treatment to all customers, whilst specifying the need for appropriate processes to be put in place to ensure that there is equality at the point of delivery – for example, all customers should be able to understand their bills –whether or not they have perfect or non-existent sight.

Commission's Response: *The Commission agrees with the respondent and will clarify that the requirement is to provide equality of service to this customer category.*

- The proposed requirement that Suppliers must provide additional services that take into account the special needs of customers is too widely drawn. This could suggest that services such as Braille bills or easy-open envelopes for bills might be compulsory. It might be that acceptable additional services could include sending the bills to another, nominated person who would assist the bill payer. Clarification is required on the type of services that Commission would consider appropriate to ensure equality as outlined above, whilst taking account of a Supplier's scale of operation; some requirements would be very expensive for a relatively small scale Supplier to implement.

Commission's Response: *The Commission disagrees that the requirement to take into account the special needs of customers is too widely drawn. The Commission believes that specifying a list of services which must be provided by a supplier would unnecessarily restrict suppliers and may not lead to the optimum service to customers. The Commission believes that allowing the supplier to agree with the customer the approach, will allow both the supplier and the customer to reach the optimum solution.*

By way of example the following is a list of services provided currently by ESB Customer Supply or by suppliers in other jurisdictions. This list is not exhaustive nor should be taken as a mandatory requirement for suppliers to provide all the services listed.

- *Advice on understanding the bill, understanding what payment options are available*
- *Advice on using electricity safely and efficiently in the home*
- *Advice on what to do during a power failure*
- *Advice on staying warm and hypothermia*
- *Advice on identifying callers to the home*

- *Advice on the Department of Social and Family Affairs energy allowance schemes*
 - *Password Service*
 - *Special controls and adapters*
 - *Braille bills*
 - *Access to buildings*
 - *Internet Facilities, Fax, Text Phones*
 - *Redirected bill to a nominated family member or 3rd party*
 - *Talking Bill*
 - *Large print bill*
 - *Easy open envelopes*
- It is the opinion of the respondent that the most important service is ensuring the continuity of electricity supply to customers who would be most vulnerable to a supply disruption. Supply disruptions occur when there are network faults (without warning system breakdowns), network failures, network planned outages (maintenance, system changes) and when a supplier requests disconnection (usually associated with non payment of electricity bills). The Networks (DSO) currently maintains a register of those customers that would be seriously inconvenienced at network interruptions. Networks (DSO) also carry out specific duties to minimize the inconvenience, when interruptions to supply occur, for this customer group. It is therefore crucial that a succinct and practical definition of priority customers (or as identified in the paper, customers with a medical requirements dependant on the supply of electricity) be agreed upon.

Commission's Response: *The Commission agrees that one of the most important services to customers who would be most vulnerable to a supply disruption is ensuring the continuity of supply. Currently ESB Networks notifies customers in advance of any planned interruption to supply. ESB Networks are currently preparing a paper on services in the event of an unplanned outage.*

The Commission takes on board the point that this category of customer may include others which do not have special medical equipment installed but are equally vulnerable to a supply interruption. The Commission will consult further to provide more clarity around this category of special needs customer.

Categories

- The respondent does not agree that the Commission's two categories are necessarily the most appropriate. Clearly, customers who rely on the supply of electricity for medical reasons should have a defined category on its own but customers with "disabilities and the elderly" will not necessarily require the same services. We would suggest that these categories are established with the industry.

Commission's Response: *The two distinct categories are based around the primary provider of the additional service. In the case of the customers vulnerable to a supply interruption the DSO will alert the customer to planned/unplanned outages. The supplier's role is to*

collect the relevant customer information and provide advice on what to do in the event of a power outage. With respect to the elderly and disabled it is the supplier that is the primary provider of additional services. As the title for this group would suggest and the list of additional services that could be supplied, there are a number of sub-categories within this group.

- Elderly customers can be recognised on a supplier's systems due to their receipt of the Free Electricity Allowance. It should be noted that there may be some elderly customers who do not receive this allowance and who therefore are not identifiable as such. This fact should be taken into consideration by suppliers in operating its collection practises.

Commission's Response: *The Commission agrees that this is a useful way to identify elderly as the Free Electricity Allowance generally is available to those over 66 years of age but not all elderly customers can be identified in this manner. The Commission would expect suppliers to take this into consideration in operating its bill payment practises.*

De-energisation

- The respondent also seeks the Commission's definition of **'reasonable efforts'** before being able to fully respond. The respondent believes that our business practices will ensure that all reasonably practical avenues of informing and advising our customers on how to pay will be carried out.

Commission's Response: *The Commission expects that a supplier's business practises allow them to identify customers who are unable to pay from those unwilling to pay. The Commission expects suppliers to ensure that all reasonably practical avenues are explored before a customer is de-energised.*

However, for elderly or disabled customers it would be expected for suppliers to work with the caring agencies/social services, Department of Social and Family Affairs and the Health Boards to ensure that a customer is not de-energised.

- Where customers are dependent on special home equipment, it is unlikely that "reasonable efforts" would prove a sufficient defence against a charge of corporate manslaughter, should these efforts prove ineffective. However inclusion of all special needs customers within a generalised exclusion from de-energisation is inappropriate.

Commission's Response: *Consistent with the code of practise for de-energisation for both suppliers and the distribution system operator customers relying on medical equipment run by electricity cannot be de-energised without the customers consent unless it is due to an unplanned or planned outage. With respect to other special needs customers we refer to the response to the previous comment.*

Free Electricity Allowance Scheme

- We would refer the Commission to its published paper Commission Approval of Expenditure for Market Opening IT Programme reference Commission/03/175. In this paper it would appear that Commission has sanctioned the exclusion of this customer group from being facilitated in the current market opening scheduled from February 2005. Accordingly the respondent would be unable to comply with such a condition at full market in February 2005.

Commission's Response: *The Minister for Communications, Marine and Natural Resources has specified by order that all customers will be able to choose their supplier from 19th February 2005. The Department of Social and Family Affairs runs the Free Electricity Allowance Scheme and the systems currently in place are designed to interact with one supplier, namely ESB Customer Supply. This is being addressed and the Commission expects the systems to be updated to allow all suppliers to participate in the scheme. The Commission recommends that suppliers contact the Department to clarify the requirements of participating in the scheme.*

The Commission believes that it is reasonable to require suppliers active in the domestic segment of the market to participate in the scheme which will be available to suppliers shortly after full market opening.

Information Transfer

- The respondent believes that the industry has a significant role to play in ensuring that no customer already identified as 'medical' on the DSO records is lost by omission or error on part of a suppliers data capture process at Change of Supplier. The respondent believes there is a ready industry solution to this, (which has already been submitted to the RMIG for consideration) and which can meet the requirements of Data Protection legislation. We are led to believe that there is now a changing view of Data Commissioners that information held for the safety and protection of an individual can be used to help that individual when the individual is deemed 'vulnerable'. Normally this is where customer's consent has been obtained but if necessary without prior consent. In these situations the respondent's view is that prior consent has already been obtained, for information use by Networks, and it is their right to ensure that this data is kept on record for industry use to preserve the quality/continuity of supply service.

Commission's Response: *The Commission agrees with the respondent's comment. There are approximately 3,600 customers with medical equipment registered with ESB Networks. The Commission believes that this data should be available to all suppliers to the extent necessary to ensure that customers are not inadvertently removed from ESB Network's register and correctly recorded on a supplier's system. The only concern relates to ensuring compliance with the Data Protection Act.*

- The role of Networks is particularly crucial in that it is they who plan and carry out planned outages and de-energisation so the measures agreed should extend to Networks operations. Similarly, Networks operate the meter reading service and are best positioned to update records as to a medical condition which the registered supplier should be aware of. It is important to note however that, in terms of data transfer between suppliers and other industry participants, clarification is needed on the legal basis for doing so. We understand that Networks has been enquiring into this on behalf of the Commission and await the final conclusions to this process. Equally the individual customer's views should be considered here.

Commission's Response: *See previous response.*

- It is very important to observe that suppliers can only record on their systems the information that is provided to them by their customers. Equally, this information can only be kept up to date where customers inform suppliers of such changes to their circumstances. Caring agencies also have an important role to play. Therefore it is important that awareness of the facility to record that a customer has a dependence on medical equipment is raised. At the same time it should be pointed out to customers that a continued supply cannot be guaranteed due e.g. to storms.

Commission's Response: *The Commission agrees with the respondent. This point re-enforces how important it is for suppliers to have their staff trained to record a customer's details and be able to enquire whether a customer has special needs in a sensitive manner. In addition, the Commission agrees that suppliers when they become aware of a problem should be in contact with the health boards and/or social services.*

- We understand that the Commission is investigating options for allowing non-ESB suppliers to participate in the free electricity allowance scheme. Without a definition of how the scheme is to be implemented in a competitive market, it is not yet possible to say what arrangements suppliers might need to put in place. We would expect to manage any registration process on the customer's behalf and to show the amount claimed on the bill, but some Suppliers may not wish to participate in the scheme and would have no arrangements for participation in place. In terms of customer protection issues, it is not within the remit of the Code of Practice to impose a requirement on Suppliers to participate in this scheme.

Commission's Response: *The Commission disagrees with the respondent. Given that there are over 275,000 customers participating in the Free Electricity Scheme the Commission believes that it is reasonable to require suppliers to participate in the scheme. The Commission understands that the Department of Social and Family Affairs is currently modifying its systems to allow all suppliers to participate in the scheme. It is an opportune time for suppliers to engage with the relevant parties to ensure the systems are compatible.*

Reporting

- The respondent seeks further clarification on what the Commission requires in terms of reporting on the “adequacy of the services”. The respondent would suggest that we provide statistical returns on numbers of customers using the services, details of the services provided and how they are delivered.

Commission’s Response: *The Commission expects suppliers to take a proactive approach to the delivery of service to customers with special needs. For example with advances in technology it would be expected that a supplier might vary the services to a customer to improve its delivery, reduce cost etc. Therefore, the Commission requires suppliers to demonstrate that they keep their services to customers with special needs under review.*

Other issues

- As the Commission has agreed to a full market opening without the facilities for all suppliers to provide two key payment methods for customers (Free Electricity Allowance and Prepayment Meters) we suggest that this group of existing customers be identified as, in the interim, outside initial market opening.
- It is however a fact that the Commission has agreed that for suppliers (other than ESB Customer Supply) in the fully open market in 2005 neither of those two options will be available. Suppliers will be faced with, for an indeterminate interim period, being unable to provide an appropriate debt recovery procedure which benefits customers and the business.

Commission’s Response: *As previously mentioned it is the Commission’s understanding that the Department of Social and Family Affairs are modifying their systems to allow all suppliers to participate in the Free Electricity Allowance Scheme. With respect to the prepayment meters, ESB Networks has initiated a pilot scheme in co-operation with suppliers to examine the advantages of the various technologies employed with the ultimate aim of providing this service to all suppliers.*