



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Proposed Interim ESB Generation & Public
Electricity Supply Licences**

Consultation Paper

CER/05/197

6th October 2005

1. Background

In accordance with Regulation 16 (e) of European Communities (Internal Market in Electricity) Regulations 2005 (“SI 60 of 2005”), the Commission for Energy Regulation (“the Commission”) is publishing for comment its proposed Interim Licence to Generate Electricity to ESB. This covers the generation of electricity from ESB’s existing generation stations.

The Commission is also publishing for comment the proposed Interim ESB Public Electricity Supply (PES) Licence. This licence will be issued to cover the supply of customers under Section 14(1) (h) of the Electricity Regulation Act, 1999, as amended by Regulation 16 of SI 60 of 2005.

Section 2 of this paper sets out the consultation process. Section 3 examines the main differences between the proposed interim ESB Power Generation (PG) licence and the standard licence offered to non-ESB generators. Finally, section 4 of this paper provides the same summarised information in relation to supply.

2. Consultation Process

The Commission is reviewing all generation and supply licences in two stages.

2.1 Stage 1: Interim ESB Generation and PES Licences

In stage one the Commission will award interim licences for ESB PG and ESB PES. Where possible, these interim licences will include any ESB PG or ESB PES-specific requirements that arise from SI 60 of 2005.

2.2 Stage 2: Full Generation & Supply Licence Reviews

In stage two, the Commission will review all generator and supply licences to ensure compliance with all legal and statutory instrument requirements. The Commission will notify interested parties of the start date for stage two of the licence review work. Comments received will also be considered in stage two of the process.

2.3 Invitation to Comment on Stage 1 Interim ESB Licences

The Commission invites comment on its proposed interim licences from interested parties, to be submitted no later than 17.00 on **Friday 28th October 2005**. Any comments regarded as confidential should be clearly marked as such, and included as a separate appendix. The Commission shall then take into consideration all comments received and issue the interim licences to ESB before the end of November 2005.

Please send all comments on the interim Generation Licence to Andrew Ebrill at aebrill@cer.ie, and on the interim PES Licence to Niall Lawlor at nlawlor@cer.ie, or alternatively to the following address:

Commission for Energy Regulation
Plaza House, Belgard Road
Tallaght, Dublin 24.

3. Interim ESB Power Generation Licence

The Commission's proposed ESB Interim Licence to Generate Electricity is based on the current generic licence for generators in the Irish electricity market, issued under Section 14 (1) (a) of the Electricity Regulation Act, 1999¹.

The proposed Interim Licence for ESB also contains additional conditions which are appropriate to ESB's position in the electricity market as a vertically integrated utility. These include:

- o Condition 1, which includes a definition of 'Business'. This is as follows:

"Business" means any business or activity of the Licensee, or any affiliate, or any related undertaking of the Licensee, other than the Generation Business;

- o Condition 2, requiring separate accounts for the Generation Business;
- o Condition 3, which requires that ESB only provides or purchases electricity on terms approved by the Commission;
- o Condition 4, which prohibits anti-competitive behaviour by ESB;
- o Condition 5, which prohibits cross-subsidies and the transfer of commercially sensitive information to/from the Generation Business and any other activity within ESB;
- o Condition 6, which requires ESB to ensure the complete separation of the Generation Business from any other ESB activity, so that it is operationally and managerially independent. This will be subject to the approval of the Commission and include a code of conduct on the transfer of staff between ESB business units.

¹ This generic licence can be viewed at the Commission's website at: http://www.cer.ie/CERDocs/Generation_Licence.pdf.

4. Interim ESB Public Electricity Supply (PES) Licence

The proposed Interim ESB PES Licence, to be issued under Section 14(1) (h) of the Electricity Regulation Act, 1999, is based on the current generic supply license issued to independent suppliers under Sections 14(1) (b), (c), (d) of the same act².

However, beyond generic supply duties which apply to all electricity suppliers, SI 60 of 2005 also outlines a number of conditions that apply solely to the holder of the PES licence. These PES conditions, to be found in the accompanying licence, include provisions relating to the following duties:

- Condition 3, which outlines the terms of supply to be offered to final customers (including tariffs);
- Condition 7, which prohibits discrimination in supply;
- Condition 8, which places a duty to supply on ESB;
- Condition 9 placing an economic purchasing of electricity obligation on PES;
- Condition 10, which refers to standards of performance to be met by ESB in performing its role as PES;
- Condition 11 – records & reporting – refers to how ESB shall report on performance targets set by the Commission.

In addition, this proposed licence contains several business separation conditions concerning the separation of the PES from other businesses within ESB and from any ESB affiliate. These conditions are as follows:

- Condition 1, which includes a definition of Business. This is as follows:

"Business" means any business or activity of the Licensee, or any affiliate, or any related undertaking of the Licensee, other than the Public Electricity Supply Business;

- Condition 2, requiring separate accounts for the PES Business;
- Condition 4, which prohibits anti-competitive behaviour by ESB;
- Condition 5, which prohibits cross-subsidies and the transfer of commercially sensitive information to/from the PES Business and any other activity within ESB;

² This generic supply licence can be viewed at the Commission's website at: http://www.cer.ie/CERDocs/Generic_Supply_Licence_June04.pdf

- Condition 6, which requires ESB to ensure the complete separation of the PES business from any other ESB activity, so that it is operationally and managerially independent.