



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

CER Business Information Centre
Review of CER Public Consultation Process
Summary of Comments Received

29th November 2007

Ref: CER/07/211

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1.0 Introduction

On 7 September 2007, the Commission for Energy Regulation (“the Commission”) published its consultation paper, entitled “Review of CER Public Consultation Process” - reference: CER/07/140.

The objective of the Consultation Paper was to elicit public and industry comment on the Commission’s current public consultation process.

While the primary focus of the consultation was the Commission’s formal consultation process, stakeholders were invited to comment on all aspects of the Commission’s consultation process and customer service.

Interested parties were invited to complete a questionnaire with a variety of questions outlined under the following headings:

- Overall Impression of CER’s Public Consultation Process;
- Communication of Consultations and Decisions;
- CER’s Decision Making Process;
- Overall impression of CER’s Customer Service.

Alternatively, respondents were welcome to submit comments on any aspect of the CER’s consultation process or customer service in their preferred format.

The Commission received 8 responses to its consultation. Further to the conclusion of the consultation process, the Commission has considered the responses received and is now publishing a summary of comments and its initial proposed next steps.

2.0 Purpose of this Paper

The purpose of this paper is to provide a summary of comments received. A response to comments will not be provided at this stage of the process; all comments will be considered with equal weighting when developing proposals for the improvement of the CER’s public consultation process.

A number of comments were received regarding issues outside the remit of this review. These comments are not included in the summary; however they will be addressed by the CER through different channels.

3.0 Summary of Comments Received

The Commission received submissions on its consultation process from the following parties:

1. Airtricity
2. BOC Gas
3. Bord Gáis Energy Supply
4. Bord Gáis Networks
5. ESB Customer Supply
6. ESB Networks
7. Paul Hunt Energy Consulting
8. Viridian Power and Energy

The Commission received a number of general comments highlighting the positive aspects of the overall consultation process at present. In addition, there were a variety of criticisms of the process as well as a number of helpful suggestions to improve the overall process.

In general respondents indicated that the current structure and content of consultation and decision papers is good; however there is room for improvement. Some dissatisfaction was expressed with the level of involvement of industry participants at the early stages of consultation. A number of suggestions were made in this area.

For the purpose of clarity, comments have been grouped into the following areas:

- Overall process;
- Length of consultation period;
- Structure and content of consultations;
- Structure and content of decisions;
- Underlying rationale of decisions;
- Confidential responses;
- Alternative methods of consultation;
- Futility of participation;
- CER's customer service.

3.1 Consultation Comments: Overall Consultation Process

A number of responses were received relating to the manner in which the overall public consultation process is carried out. This section provides a summary of these comments.

- The Commission received many positive responses to its Consultation paper, with the majority of respondents viewing the overall current public consultation process favourably. A number of respondents have also welcomed this review of the Commission's public consultation process;
- Comments received describe the current written consultation process as clear, comprehensive, informative and easy to follow;

- Transparency was highlighted by three respondents as a key strength of the current public consultation process;
- One respondent believes there is an appropriate mix of written papers and open meetings in the current consultation process;
- However, a number of respondents feel the current model does very little to allow for the early involvement of industry participants and would like to see a more open form of preparation of consultation papers. It is suggested this could be through ad hoc forums / industry meetings held prior to the development of a consultation paper. Such meetings would afford industry participants an opportunity to put forward their ideas and opinions on shared issues;
- One respondent suggested the Commission publish an initial scoping paper, inviting interested parties to contribute towards the development of consultation proposals;
- The use of follow-up calls with respondents following receipt of comments to consultations is also suggested;
- It was suggested by one respondent that a full independent review of all CER consultations to date needs to be undertaken;
- One respondent suggests that the regulatory process should be reformed and proposes a number of ways in which this could happen;
- One respondent complimented the Commission on improving the availability of consultations on its website;
- Another respondent would like to see a more structured approach to the storage and retrieval of consultations and decisions on the Commission's website.

3.2 Consultation Comments: Length of Consultation Period

A number of comments were received regarding the length of time allowed for receipt of comments to consultations. This section provides a summary of these comments.

- Four parties commented that the consultation period allowed is often too short. A minimum of 28 days consultation period should apply to all consultations;
- Comments were also received suggesting the length of a consultation period should reflect the impact of the subject, with in excess of 28 days applying for more complex issues or where a number of related issues are being consulted on simultaneously;
- One respondent suggests up to three months should be allowed for more complex issues;
- One respondent identifies the main weakness of the current process as lengthiness.
- Respondents would like to see greater consistency in the positioning within consultation papers of the closing date of the consultation.

3.3 Consultation Comments: Structure and Content of CER Consultation Papers

Various comments were received on the structure and content of the Commission's consultation papers. These comments are summarised below.

- Structure of consultation papers is generally good and consistent.
- Three respondents have suggested a front cover sheet / information page be included with all consultations. It is proposed that this would include details such as; title, closing date, context, target audience, document structure, brief summary and full timetable. This would enable effective internal targeting within the industry;
- One respondent suggests the above information be included in the email distributed to interested parties;
- All consultations should include a 'context' section indicating if the consultation is stand alone or part of a group of consultations;
- The scale and detail of each consultation should be tailored to the impact of the pending decision;
- Two parties have suggested a summary of key questions posed be included with all consultations;
- All consultation papers should be preceded by a statement of intent to consult and a brief regulatory impact assessment;
- Consultations often outline the Commission's preferred approach which may hinder the possibility of fully exploring the pro's and con's of all arguments. Respondents would like to see all options receive an equal weighting when outlined in the consultation paper.

3.4 Consultation Comments: Structure and Content of CER Decision Papers

Various comments were received on the structure and content of the Commission's decision papers. These comments are summarised below.

- In general, respondents are happy with the current structure of decision papers;
- One party commented that decision documents would benefit from the inclusion of a standard "Next Steps" heading;
- Each key question outlined in the consultation document needs to be thoroughly analysed and responded to in the response paper;
- Where possible each decision paper should reference any previous decision that is partly altered or replaced by the new decision;
- Hyperlinks should be included to referenced documents and related consultations/decisions.
- Two respondents commented that the language used in decision papers can sometimes be vague;

- One respondent would like to see responses received published in full in advance of the final decision paper. This would allow for further short comment prior to the publication of a final decision.

3.5 Consultation Comments: Underlying Rational of Decisions

A number of comments were received regarding the underlying rational used by the Commission when coming to a decision. These comments are summarised below:

- The CER's consultation process was described as transparent by three respondents;
- Three parties have requested greater disclosure of the underpinning data and rational used in the decision making process.

3.6 Consultation Comments: Use of Confidential Responses

Comments were received regarding the use of confidential responses. These comments are summarised below.

- Three parties commented that confidential responses to consultation papers are without justification;
- One respondent suggests greater use of confidential appendices for commercially sensitive data.

3.7 Consultation Comments: Alternative Methods of Consultation

The Commission received a variety of comments on alternative methods of consultation. These comments are summarised below.

- A number of parties would like to have the opportunity to participate face-face at the earlier stages of the consultation process. One possibility to allow for this could be through ad hoc forums held pre publishing of consultation papers;
- One respondent proposes the model of the IGG, Supplier Forum and TSC Modifications Committee as a method for the future development of consultations on most industry issues;
- Online responses may be appropriate for consultations where a number of specific questions are being asked.

3.8 Consultation Comments: Futility of Participation in CER Consultations.

Comments received regarding the possible futility of responding to Commission consultations are summarised below.

- One respondent listed a number of individual cases which they believe indicate the Commission do not take responses to consultations received fully into account during the decision making process. It is suggested that this leads to a low level of response to many of the CER's consultation papers.

3.9 Consultation Comments: CER's Customer Service

The questionnaire provided with the consultation paper contained a section on the level of customer service offered by the Commission;

- Overall, positive comments were received regarding the CER's Customer Service.

4.0 Next Steps

The Commission would like to take this opportunity to thank all respondents for their valuable input to this consultation. As outlined in the consultation paper, public consultation is a critical aspect of the regulatory decision making process. In light of the comments received the Commission is continuing to review the current public consultation process and is working to develop detailed proposals for future improvement. Areas of particular focus will be:

- Earlier involvement of Industry Participants in the Public Consultation Process;
- Structure and content of CER Consultation Papers;
- Length of time allowed for receipt of responses;
- Structure and content of CER Decision Papers;
- Transparency of decision making process and input of participants;
- Storage and retrieval of Consultation and Decision Papers on the CER's website.

It is anticipated that a detailed Next Steps paper outlining specific proposals to enhance the consultation process will be published in early 2008.

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