

Response of Bord Gáis Energy Supply

to

The Commission for Energy Regulation Consultation

on

Proposals for the Improvement of the CER Public Consultation Process

CER/08/019

Bord Gáis Energy Supply (BGES) appreciate the opportunity to comment on “Proposals for the Improvement of the CER Public Consultation Process” paper issued by the Commission for Energy Regulation (CER) on 31st January 2008.

In general our overall view is that the current CER approach to public consultation is a relatively good process which could benefit from some of the proposals contained in this consultation paper by providing a more standardised approach and improving clarity. Further, given that the Single Electricity Market is in operation and the Common Arrangements for Gas are well underway, BGES believes a standard approach for consultation should be progressed across both regulators of the all-island market. The following are our comments in relation to each of the individual proposals contained in the above mentioned consultation paper.

Industry and Public Participation in the Consultation Process

Proposal 1A: Regular consultation discussion group meetings

We support this proposal as a way for industry participants to play a role in the early stages of the consultation process.

A publication at the start of each year outlining key consultations to be undertaken is a useful tool for all market participants to organise adequate resources for taking part in the consultation process. As stated in the consultation paper a general timetable of meetings to generally discuss these topics could also be published. It would be helpful if some high-level or background information was published prior to these meetings so that attendees can be well prepared to discuss topics they are interested in. In addition, we would request that any presentations and minutes be published on the CER website for any interested parties who were unable to attend the meeting. This would allow those participants unable to attend to put forward their thoughts via email or a phone call.

Proposal 1B: Publish upcoming CER consultations in bi-monthly newsletters

We support this proposal as it allows for planning however timelines need to be adhered to in lieu of publication of slippages. There is a considerable workload associated with participating in the consultation process and implementing or

responding to changes in the regulated market environment. While delays to consultations (or/and consequently decisions) are sometimes unavoidable, and this is accepted, they have an impact on the ability of participants to commit resources.

In addition to the list of consultations in the following two months would it also be possible for the CER to re-produce the draft timetable for known consultations which are planned for after this period. This would aid long term resource planning. We accept that dates can not necessarily be fixed this far in advance however the updates help ensure the most efficient process for all involved.

Proposal 1C: Individual consultation discussion meetings

This is a useful proposal for ad-hoc consultations as desired by market participants.

Proposal 1D: Open Hearing

The proposals to provide for forums on individual consultations as described earlier provide a reasonable environment for all participants to put forward their views on various topics. In practise, it should be a more productive environment, as it allows general discussion of issues, rather than Questions and Answers type arrangements associated with Open Hearings.

The paper is surprisingly specific that Open Hearings would require regulated companies to present their submissions. It should be noted that the Regulatory Authorities hold many consultations that would not necessarily be based on a submission of a regulated company. Indeed they are often in response to representations made by non-regulated companies. While Open Hearings are a part of the regulatory process in some markets, the contexts are generally quite different to the regulatory arrangements in place in Ireland.

The consultation process should allow participants to provide their ideas and concerns on regulatory issues in a reasonable manner. The market relies on the experience of regulators to make fair and reasonable decisions in the interests of balance. So long as background information is provided, open forums are established and consultation papers contain adequate information (sensitive to the competitive market environment) then the process should be successful. Organising and timetabling Open Hearings is a resource intensive process and may also lead to additional pressure to timetables for decisions.

Proposal 2: Public Energy Information Events

The CER Open Day held in January 2008 was very useful for both industry participants and the general public as a way of communicating future regulatory development. As a result we support the proposal for the CER to hold an annual Public Seminar and Energy Information Evenings as required. With rising fuel prices, energy issues are becoming more important and it is

important that the rationale behind developments is communicated to the public and that they have the opportunity to ask questions appropriately.

Proposal 3: Publication of Regulated Company Proposals

As per our response to Proposal 1D, it should be noted that not all consultations emanate from proposals from regulated companies. In general, where they are these are published alongside consultation papers in relation to same and we believe this allows for and probably benefits the adequate analysis of same.

Consultation Paper Structure and Content

Proposal 4: Standard Consultation Paper Template

We support this proposal.

It would be useful if the background section could include a list of previous papers and documents relevant to the consultation paper (e.g. similar to the list on page 7 of the SEM Policy for Large-Scale, Intermittent, Non Diverse Generation discussion paper – SEM/08/002). This would allow the reader to quickly locate relevant background information.

Proposal 5: Standard Information Page to be Included at the Beginning of all Consultations

We support this proposal.

Proposal 6: Summary of Key Questions Posed in each Consultation

While this can be a useful mechanism for focusing responses, it may also serve to limit responses to these particular areas.

Proposal 7: Jargon Free Consultation Papers

We support the concept of 'jargon free' consultation papers.

It is proposed in this section that that the length of consultation papers will be tailored to the impact of the issue being consulted on. Whilst we agree with this in principle, it is important that topics are explained fully in order for the reader to have a full understanding of the issues. The aforementioned list of relevant references would be useful for all participants to enable the reader to find more detail regarding a topic if they so wish.

Proposal 8: Brief Regulatory Impact Assessment

Providing participants with an assessment of the likely effects of a proposal should aid in the submission of responses based on a well understood basis of the issue and the resulting effects of changes proposed on all market participants. We would suggest that in decision papers, information is provided on the process that is to be introduced to implement the decision and when the decision takes effect.

Proposal 9: Minimum of 28 Days Consultation Period

We fully support the implementation of a standardised process for all future consultations. However we believe that, in conjunction with the proposals for an annual calendar of consultations, bi-monthly information on expected timelines and forums around the general time that a consultation paper is issued, a standard 21 days is adequate for all interested parties to provide informative responses. Notification of deviances from this standard process should be published and explanations for same provided and these may be longer/shorter than the standard 21 days as each case may require.

Proposal 10: Equal Weighting for all Options

We agree with this proposal as it will minimise any potential influence on responses. However, we find CER's opinion in consultation papers regarding benefits and disadvantages of proposals useful and would ask that this information continues to be provided.

Decision Paper Structure and Content

Proposal 11: Standard Decision Paper Template.

We agree with this proposal.

As with the proposed standard consultation paper template, it would be useful if the decision paper could include a list of previous papers and documents relevant to the decision paper in order to allow the reader to quickly locate any background information.

Proposal 12: Inclusion of Standard Heading 'Reason for Decision' in all Decision Papers

We agree with this proposal as it will allow for a greater understanding of decisions that have been made.

Proposal 13: Publication of all Responses Received

This may be a very prescriptive standard requirement of the consultation process and it may not always be necessary to publish all responses to consultations particularly if participants request for theirs not to be for commercially sensitive reasons. Given the increased level of consultations it can be time consuming for participants to make submissions without the necessity to prepare an appendix of information not suitable for publication. There may be some concern that participants do not provide written responses in favour of verbal communication which lends itself to transparency problems.

We would support a less specific standard be implemented along the current arrangements whereby a participant can present their case to not have a response published e.g. for commercial sensitivity reasons. However the market

would benefit from a standard arrangement e.g. in the past responses to certain consultations over others were published

Proposal 14: Standard Response to Key Questions Section

We support this proposal as it will add clarity to the consultation process.

Proposal 15: Standard Next Steps Section to be included in all Decision Papers.

We support this proposal as publishing next steps will aid planning.

CER Website

Proposal 16A: Improved Search Function

In a number of cases the search function only returns the document reference number in the search results. It should also provide the document title at the very least. However, it would be useful to be able to search the website based on document reference numbers.

Proposal 16B: Development of 'Documents by Year' Section

In the current 'Documents by Year' section some of the documents have the document number "CER" followed by a number whilst others have only a number. As a result the current sorting is not in document number order. It would be useful if a standard document numbering was introduced to ensure that participants have confidence that they are aware of all current consultations. The current email alert appears to miss some consultations (on the All Island Project and CER website)

Proposal 16C: Development of the 'Consultation' Section

This would be useful but should not supersede maintenance of the 'Documents by Year' section of the website

Proposal 16D: Development of a Decision Documents Storage Section

As above for 16C

Other Suggestions

It might be useful for the CER to hold follow up sessions with respondents on the issues/concerns/ideas raised by them. This could be by way of phone call or meeting depending on the particular consultation. We believe this would help both the CER and respondents to clarify the points made and answer any queries that the respondent may have had in relation to the consultation itself.

Conclusion

We welcome the CER paper on the consultation process and acknowledge the efforts of the CER in encouraging a transparent and effective process for aiding regulated decisions. To this end, we believe the current process is reasonably effective and with some small changes/improvements could be deemed to be very effective. These have been proposed by the CER and are as follows:

- Annual proposed high-level table of consultations
- Quarterly Consultation Discussion Groups
- Publication of consultation timetable in the bi-monthly newsletter
- Standardisation of Consultation and Decision Papers
- Standardisation of timeframes around consultations
- Timely forums for some consultation processes either prior to, or post, publication of a consultation paper
- Improvements to the website so that publication of all papers is clearly visible and notification emails sent to all interested parties
- Follow-up sessions on responses received

In theory, a standardised approach to consultations, combined with the above, would improve the current process immensely. The process would commence with an annual indication of consultations, information/meetings to discuss upcoming consultations at a high level, standardised papers and timeframes for consultation papers followed by a draft decision paper (if necessary) and concluding with a full decision paper.