



Electricity Supply Board

Clanwilliam House, Clanwilliam Court, Lower Mount Street, Dublin 2.
Phone: 1850-372 372 **Website:** www.esb.ie

Tara Scully,
Commission for Energy Regulation,
The Exchange,
Belgard Sq. North,
Tallaght,
Dublin 24.

14th March 2008

CER/08/019 – Proposals for improvement of CER Public Consultation process

Dear Tara,

ESB Customer Supply (ESBCS) welcomes the opportunity to respond to this consultation paper requesting comments in relation to proposals for improvement of the CER consultation process.

We are in broad agreement with the proposals and believe they can lead to a more efficient, consistent and transparent process of public consultation which will benefit stakeholders and should encourage more respondents. A few brief comments against certain proposals are included on the attached template.

The use of an 'Open Hearing' format for major consultations is one that in principle we would support as it has the potential to allow interested parties to contribute their views on issues at an early juncture in specific circumstances. The format has the potential to facilitate the dissemination of critical information by the Commission, the promotion of discussion and the gathering of participants' opinions in advance of the Commission developing a formal consultation paper.

However as the paper does not provide detail and clarity regarding the precise format for such an event we have some concerns that the process could be applied inappropriately and/or to matters that would not be the most suitable for such a format.

No evidence is offered to show that an open public hearing whereby "*regulated companies would be required to present their submissions in an open forum format and answer questions from the CER and market stakeholders*" is one that would add value to the process of consultation. Similarly it could be taken to mean that regulated companies may be required to undergo a different form and degree of challenge compared to other market stakeholders prior to the Commission developing a formal consultation paper. No

mention is made in the paper on the principle of harmonisation which pledges “*CER and OFREG will apply a transparent, consistent and harmonised approach to the regulation of the wholesale and retail markets in a manner which supports effective competition and equal treatment of participants and customers regardless of their location*”.

In support of a more transparent, consistent and harmonised approach to regulation we welcome the Commissions proposal to incorporate Regulatory Impact Assessment in line with the Government’s Better Regulation Guidelines.

By their nature major consultations, such as a 5-yr Price Review or Tariff Setting, entail a significant degree of interaction and involvement of the Commission with the regulated company often over an extended period of time and involving complex issues which are partly confidential and commercially sensitive. The process by which such major consultations are determined would need to undergo significant change in order to incorporate an open public hearing format that is meaningful and enhances the process of consultation.

We would not favour the “further suggestion” that this method could be used to replace a full “paper” consultation.

As the overall aim is to improve the consultation process as undertaken and managed by CER it may be more appropriate that the ‘Open Hearing’ format is used by the Commission to communicate on significant matters and create a means for interested stakeholders to express opinions in advance of the preparation of a formal consultation paper.

Yours sincerely,

Tony Dunlea
Regulation Manager
ET&R, ESB Customer Supply

Summary of CER Proposals on Review of the Consultation Process (CER08019)

- Please indicate response to each proposal

Proposal	Yes	No	Comments
<p>1. Industry & Public Meetings</p> <ul style="list-style-type: none"> — Regular Consultation Discussion Group — Publish List of upcoming CER Consultations — Individual Consultation Discussion Meetings — Open Hearing 	<p>Yes</p> <p>Yes</p> <p>Yes</p>		<p>Agree with Commission that these should be held only when felt useful.</p> <p>Should be confined to items with very significant consequences (e.g. fundamental industry restructure). Would be more appropriate to have CER presenting to the industry in advance of a major consultation rather than regulated companies presenting submissions.</p>
2. Public Energy Information Events	Yes		
3. Publication of Regulated Company Proposals	Yes		
4. Standard consultation paper template	Yes		
5. Standard Information page to be included at beginning of all consultations	Yes		
6. Summary of key questions posed	Yes		

to be included in each consultation			
7. 'Jargon Free' consultation papers	Yes		
8. Brief Regulatory Impact Assessment	Yes		
9. Minimum of 28days consultation period	Yes		28 day period should be applied to all publications issued by CER which seek a response not just consultations (e.g. Discussion Paper)
10. Equal weighting for all options	Yes		Where appropriate but CER's preferred approach should be identified where it is likely to be material to the outcome.
11. Standard decision paper template	Yes		
12. Inclusion of standard heading 'Reason for Decision' in all decision papers.	Yes		
13. Publication of all responses received.	Yes		The use of confidential appendices would be essential to facilitate this & allow respondent control over decision on what part is confidential.
14. Standard response to key questions section.	Yes		
15. Standard 'Next Steps' section to be included in all decision papers.	Yes		
16. Further development of CER website			
- Improved Search Function	Yes		
- Developments of 'Documents by Year' section	Yes		
- Development of the 'Consultation' section	Yes		
- Development of Decision Documents Storage section	Yes		