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Tara Scully  
Commission for Energy Regulation  
The Exchange  
Belgard Square North  
Tallaght  
Dublin 24

7 March 2008

Dear Tara,

### **PROPOSALS FOR IMPROVEMENT OF CER PUBLIC CONSULTATION PROCESS**

Thank you for the opportunity to comment on the above proposals. Our key points are noted below, and for completeness, please find attached our completed summary questionnaire.

These proposals represent a set of very helpful improvements to the Commission's consultation process. The challenge going forward, will be in the application of these in a balanced and proportionate manner that embraces an inclusive process for all industry participants (including the voluntary sector), but without unduly increasing the burden on participants. We therefore agree with the majority of the proposals.

This is a 'tool kit', to be applied proportionately according to the matter being consulted upon. For example, major price control reviews and SEM matters will require almost the full range of measures. Some, such as the Commission's Forward Work Plans, will in particular benefit from Open Hearings - the Open Day of 31 January 2008 being an excellent example of effective industry engagement. For others, it may simply be a case of publishing a consultation document in the agreed format and allowing 28 days for comment. However, to prevent an over zealous approach in the application of these measures, and to ensure consistency, the Commission could issue guidance to its employees on consultation management and engagement. This would ensure consistency, and if published, could also act as a guide for industry participants on what to expect.


On our second point, we question whether a regular 'Consultation Discussion Group' is either worthwhile or even advisable - principally we worry about its inclusiveness and openness. Such a group would need to be accessible by all industry participants, possibly also non-market participants, and we question whether this is practical on a quarterly basis and how the outputs would then be made public. If not executed correctly, there is a danger it could run counter to an effective consultation process. We therefore believe the Commission's energy and resources

would be better spent concentrating on publishing a consultation schedule and keeping this routinely updated (e.g. monthly).

Third, whilst we fully agree that all options for change should be clearly set out in any consultation, i.e. in equal measure, the Commission should indicate where it holds in favour a preferred option or range of options, and why. This is important from a regulatory transparency perspective and it also helps respondents to effectively manage their inputs. The firmer the Commission is wedded to an outcome, the more the respondent understands what it must do in order to move that opinion. The corollary is also true, if the Commission has no preferred option, then it should say so. Indeed, we encourage the Commission to make greater use of sign posting where additional inputs are being sought to challenge or reinforce their thinking. Under no circumstances should the Commission remain silent – transparency and accountability are fundamental requirements of any good consultation process.

On a slightly separate note, albeit slightly wider than the consultation process review, we are disappointed the Commission has remained silent on our proposal for an Appeal's mechanism for industry decisions that may have a fundamental effect on markets. At the very least, we believe that such a mechanism must be installed within the joint regulation of the SEM and we will continue to press for this to be developed at the earliest opportunity.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tony Thornton', with a stylized flourish above the name.

Tony Thornton

Consultant – Energy Regulation  
(for VPE/Energia)

## Consultation Process (CER08019)

### Summary Questionnaire – (please also refer to main response)

Proposal	Yes	No	Comments
1. Industry & Public Meetings — Regular Consultation Discussion Group — Publish List of upcoming CER consultations — Individual Consultation Discussion Meetings — Open Hearing	YES		We agree with all the recommendations, bar one – the Regular Consultation Discussion Group will be problematic (please refer to our main response)
2. Public Energy Information Events	YES		As appropriate, and only Where key issues are up for Discussion.
3. Publication of Regulated Company Proposals	YES		Absolutely critical for full Market transparency.
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 to be included in each consultation	YES		Where relevant.
7. 'Jargon Free' consultation papers	YES		It is recognised this cannot be absolutely eradicated, and some level of industry knowledge will need to be assumed. For example, the SEM is a good example.  Where jargon cannot be avoided, a vocabulary of terms would be helpful
8. Brief Regulatory Impact Assessment	YES		Providing this establishes the rationale and must add value.
9. Minimum of 28days consultation period	YES		More for complex issues.
10. Equal weighting for all options		NO	In the interests of transparency and accountability, the Commission should make

			clear its preferred option or set of options.  (Please refer to main response)
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		Subject to confidentiality rules
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  <ul style="list-style-type: none"> <li>- Improved Search Function</li> <li>- Developments of 'Documents by Year' section</li> <li>- Development of the 'Consultation' section</li> <li>- Development of Decision Documents Storage section</li> </ul>	YES		There are a number of very helpful design aspects to the present web site – please do not lose these. For example, the document consultation section is well designed - it provides a reasonably comprehensive trail of documents, responses, decisions etc, all listed in one place.