Arrangements for the Public Service Obligation Levy
A Decision by the Commission for Energy Regulation

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QUERIES TO: Jamie Burke jburke@cer.ie

The Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.

www.cer.ie
Abstract:

Section 39 of the Electricity Regulation Act 1999 sets out the legal basis for the Public Service Obligation (the PSO) levy in Ireland. Statutory Instrument No. 217 of 2002 made under Section 39 requires that the Commission for Energy Regulation (the Commission) review the costs associated with the PSO and set the associated levy for the required period. As part of this process the Commission is charged with determining the benchmark price to be used to determine the additional costs associated with PSO supported plant and contracts. In addition, SI No. 217 of 2002 provides that the Commission approves the procedures of the DSO and TSO for the collection and distribution of the PSO levy.

This paper decides on:

- the ex-ante benchmark price for the REFIT, and
- the revisions required to the current procedures for the collection and distribution of PSO monies in light of the introduction of the REFIT.

Target Audience:

Electricity generators and suppliers, including those participating in the Renewable Energy Feed in Tariff, and electricity customers.

Related Documents:

- Electricity Regulation Act 1999
- S.I. No. 217 of 2002 - Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 as amended
- Consultation on the Arrangements for the Public Service Obligation Levy, CER 08/093
- PSO Benchmark Price Setting Methodology AIP-SEM-07-431 PSO Decision Paper: Published July 31st 2007
- Proposed Approach to Setting the PSO benchmark Price in SEM AIP-SEM-07-240 PSO Consultation Paper: Published June 1st 2007
• PSO Levy 2008/2009 Decision

• Previous PSO Decision papers

• PSO Invoicing and Collection Procedures, CER/03/013, 27th January 2003

For further information on this decision paper, please contact Jamie Burke (jburke@cer.ie) Analyst - Environment, at the Commission.
Executive Summary

Section 39 of the Electricity Regulation Act 1999 sets out the legal basis for the Public Service Obligation (the PSO) levy in Ireland. Statutory Instrument No. 217 of 2002 made under Section 39 requires that the Commission review the costs associated with the PSO and set the associated levy for the required period. As part of this process the Commission is charged with determining the benchmark price to be used to determine the additional costs associated with the PSO supported plant and contracts. In addition, SI No. 217 of 2002 provides that the Commission approve the procedures of the DSO and the TSO for the collection and distribution of the PSO levy.

In June of 2007 the Commission and NIAUR consulted on and determined the methodology for setting the PSO ex-ante benchmark price in the SEM. At the time of publication of the RAs’ decision regarding the methodology for the setting of the PSO benchmark price, the REFIT had not received state aid clearance. This has now been received and the DCENR has made the necessary amendments to SI No. 217 of 2002, under SI No. 284 of 2008, to provide a statutory basis for the inclusion of the REFIT costs in the PSO levy. Given the above, the Commission now decides on the ex-ante benchmark price to be used in the calculation of the ‘opportunity cost’ stream of compensation for suppliers contracted under the REFIT. The Commission’s approach here, as set out in Section 2, is to use the same ex-ante benchmark price for the REFIT as that decided upon in the RAs’ decision, namely the estimated time weighted average SMP for the relevant period.

Finally, in Section 3, the Commission decides on the changes it considers necessary to the current procedures for the collection and payment of the PSO in light of the introduction of the REFIT, with Section 4 summarising the decisions made in this paper.
Table of Contents

Executive Summary ........................................................................................................... 4
1.0 Introduction ................................................................................................................. 6
  1.1 The Commission for Energy Regulation ................................................................. 6
  1.2 Purpose of this paper ............................................................................................... 6
  1.3 Comments Received ................................................................................................. 7
  1.4 Background Information ....................................................................................... 7
  1.5 Structure of this paper ......................................................................................... 8
  1.6 Other Relevant Information .................................................................................. 9
2.0 The Methodology for the Calculation of the Ex-ante Benchmark Price for the REFIT in the SEM ................................................................. 10
  2.1 Introduction ........................................................................................................... 10
  2.2 Overview of Responses to the Methodology for the Calculation of the Ex-ante Benchmark Price for the REFIT in the SEM .............................................. 10
    2.2.1 Commissions Response to Comments ...................................................... 11
    2.2.2 Commission’s Decision .............................................................................. 11
  2.3 Summary ............................................................................................................. 13
3.0 The Process for the Collection and Distribution of the PSO Levy ........................................ 13
  3.1 Introduction ......................................................................................................... 13
  3.2 Overview of Responses to the Methodology for the Calculation of the Ex-ante Benchmark Price for the REFIT in the SEM .............................................. 14
    3.2.1 Commissions Response to Comments ...................................................... 15
    3.2.2 Commission’s Decision .............................................................................. 16
  3.3 Summary ............................................................................................................. 18
4.0 Conclusions and Next Steps .................................................................................... 19
  4.1 Summary ............................................................................................................. 19
  4.2 Next Steps ............................................................................................................ 19
    4.2.1 Summary of Next Steps .............................................................................. 19
Appendix A – List of Decisions outlined in this paper .................................................... 20
Appendix B – Glossary of Terms .................................................................................... 21
1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation (‘the Commission’) is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sector’s. The Commission was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the Commission’s jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the Commission additional powers in relation to gas and electricity safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the Commission’s functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the Commission and the Northern Ireland Authority for Utility Regulation (NIAUR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

The purpose of this paper is to outline and describe the Commission’s decision with regard to:

- the ex-ante benchmark price for the Renewable Energy Feed in Tariff in the context of the Public Service Obligation (the PSO), and
- the collection and distribution procedures to apply for the PSO levy.

The Commission has carried out a public consultation on these two issues, with a proposed decision regarding the Arrangements for the Public Service Obligation Levy (CER 08/093) being published on the Commission’s website on the 16th of June 2008, and has considered fully the comments and submissions received. Issues raised throughout the consultation process are addressed in this decision paper.

The Commission notes that the PSO Arrangements consultation paper (CER 08/093), published on the 16th of June 2008, included a consultation section (section 2) on the ex-post calculation of the correction factor to apply to parties complying with their PSO obligations, including those involved with the REFIT. The Commission will separately decide on this matter. The Commission is currently reviewing the detailed issues of the ex-post calculation that have arisen since publication of CER 08/093, the various options available on the calculation
of the ex-post correction factor and expects to publish the follow-up paper within the coming month.

1.3 Comments Received

The Commission received nine submissions to the consultation paper (CER 08/093). Submissions were received from the following organisations or individuals:

- Viridian Power and Energy Limited
- Hibernian Wind Power
- Airtricity
- Eirgrid
- ESBIE
- Irish Wind Energy Association
- SWS
- Meitheal na Gaoithe
- Bord Gais Energy Supply

The Commission will be publishing in full each of the responses received from the parties listed above with the follow-up paper on the ex-post calculation in due course.

1.4 Background Information

Under Section 39 of the Electricity Regulation Act 1999\(^1\) the Commission is responsible for the imposition of public service obligations on the Board, licence holders and holders of permits under section 37 of the Principal Act. S.I. No. 217 of 2002\(^2\) was made by the Minister under Section 39 which sets out more detail in relation to the above matters. S.I. No. 217 of 2002 provides, *inter alia*, for the calculation of the PSO to provide for the recovery of costs by relevant parties in accordance with the notifications to the EU regarding the various mechanisms supported by the PSO.

The original Notification (November 2000) (‘the Notification’) whilst setting out the broad areas that may be covered by the PSO (as listed in Section 39), namely security of supply, use of indigenous fuel sources and environmental protection, refers specifically to the schemes envisaged to be covered by the PSO at that juncture, i.e. the imposition on the ESB of a requirement to have available to it the output of electricity generating stations using peat and stations using renewable, sustainable or alternative forms of energy. The Notification sets


out the detail regarding the calculation of the PSO in this context. Paragraphs 5.10 to 5.12 refer to the method for setting the ‘market value’. Paragraph 5.11 states:

*From 2005 the market will be fully open and a time-weighted market price will be determined by the CER in an open consultative process, and posted by the CER in its annual review.*

Thus replacement of the Best New Entrant price (‘the BNE’) is envisaged in the Notification.

Subsequent to the Notification, new schemes have been notified to the EU in accordance with Article 88(3) of the Treaty and Directive 2003/54/EC and have received state aid clearance. SI No. 217 has been amended by subsequent SIs to provide for the recovery of costs under the PSO for such schemes. These include recovery of costs associated with peaking plant and plant that entered the market under a competition held by the Commission due to security of supply concerns. Most recently, the REFIT has been notified to the EU and received state aid clearance. A SI to amend SI 217 of 2002 has been drafted and circulated.

In June 2007 the Regulatory Authorities (the RAs) published a consultation paper entitled ‘Proposed Approach to Setting the PSO Benchmark Price in SEM: A Consultation Paper (AIP/SEM/07/240). This was driven by the desire to align the processes for setting the ex-ante benchmark prices for the PSOs in Ireland and Northern Ireland. In AIP/SEM/07/431 the RAs decided that the ex-ante benchmark price for the PSO in Ireland will be based on a series of forecast modelled pool prices using the same model as that adopted in determining directed contract prices. It is also stated that the benchmark price will include a capacity adder. Finally, it states that there will be one price in Ireland and three separate prices in Northern Ireland.

**1.5 Structure of this paper**

Standard text – This paper is structured in the following manner:

- **Section’s 2.0 to 3.3** will outline the detail of the substantive issues which the Commission sought views on and is now making its decision on;

- The “Arrangements for the Public Service Obligation Levy” Consultation paper outlined a list of questions that the Commission was seeking the views of respondents on. The Commission will outline its response to the issues raised in the key questions of the consultation paper CER 08/093.
• Any questions or alternative options which were raised by respondents to CER 08/093 during the consultation phase will also be clearly responded to.

• **Section 4.1** contains an overall summary of the decisions being made in this paper and the Commission’s conclusions in this area;

• **Section 4.2** outlines the Commission’s next steps with regard to the arrangements going forward for the PSO and the timetable for implementation of the decision taken in this paper.

### 1.6 Other Relevant Information

Any queries on the decision as set out in this document regarding the arrangements for the Public Service Obligation Levy should be directed to the following, preferably in electronic format:

Jamie Burke  
Analyst - Environment  
Commission for Energy Regulation  
The Exchange  
Belgard Square North  
Tallaght  
Dublin 24

E-Mail: jburke@cer.ie  
Tel: 00 353 1 4000800
2.0 The Methodology for the Calculation of the Ex-ante Benchmark Price for the REFIT in the SEM

2.1 Introduction

In June of 2007 the Commission, together with NIAUR, consulted on and determined the methodology for setting the PSO ex-ante benchmark price in the SEM. Following this consultation process and the publication of a decision on this matter, state aid clearance was received from the EU regarding the REFIT and in early May of this year the DCENR circulated a draft SI on this matter, which has recently been signed by Minister Ryan, SI 284 of 2008. Therefore, with SI 284 now being signed into law, it is now deemed appropriate to decide on the ex-ante benchmark price to apply to the REFIT in the context of the PSO.

2.2 Overview of Responses to the Methodology for the Calculation of the Ex-ante Benchmark Price for the REFIT in the SEM

One respondent to section 3 of the consultation paper, CER 08/093, noted that the inclusion of forecast capacity payments in the ex-ante benchmark price would be more suitable, “since these will be part of the ex-post calculation”. A second respondent requested that the Commission “use a simple average SMP in calculating the benchmark price for REFIT, rather than the proposed time weighted SMP”. Further to this, the respondent maintained that employing a simple average SMP in the calculation “is a more accurate reflection of the old BNE cost in the new SEM market”. This respondent went on to note that the proposal put forward by the Commission in this section of the paper “will oblige Suppliers to act as Intermediaries on behalf of Generator and as a result take on significant additional risk and costs which need to be recovered”.

A third respondent recommended in their submission “that the ex-ante factor be set as a forecast of the ex-post quantities”, which would reduce the expected cashflow difference to minimal level. However, the respondent argued that “there is still the potential for significant corrections to be required”. Another respondent argued that the interpretation of the ex-ante benchmark price as set out in the consultation paper was not acceptable in light of the length of time elapsed since, “REFIT Terms and Conditions which referenced the BNE price were published, divergence of BNE Base Load from BNE Peaking Plants introduced ambiguity and the need to select a new benchmark price was identified”. This respondent argued for the use of an actual SMP revenue earned by “each respective wind generation facility with no hidden extras”.
A fifth respondent requested the introduction of a monthly correction and settlement using ex-post prices. This respondent argued that this step would “reduce the administrative burden on the scheme administrator and provide cash-flow benefits and in turn mitigate a structurally avoidable risk to market participants”.

2.2.1 Commissions Response to Comments

With regard to the inclusion of forecast capacity payments in the ex-ante benchmark price, the joint Commission / NIAUR PSO Benchmark Price Setting Methodology PSO Decision paper (AIP-SEM-07-431), published on the 31st of July 2007, states that the “PSO benchmark price will include a capacity adder. If the capacity value is not added to the benchmark price it will systematically undervalue the market cost of the energy procured under the PSO”. To clarify, the Commission will include a capacity adder in the setting of the ex-ante benchmark price for the REFIT. Therefore, the ex-ante benchmark price will consist of the forecasted average SMP and a capacity adder. This will ensure conformity between the ex-ante benchmark price set for the REFIT and that set for the PSO.

The Commission is not aware that the REFIT will oblige suppliers to act as intermediaries on behalf of generators. The decision by suppliers to partake in the REFIT scheme is completely on a voluntarily basis and there is no ‘obligation’ for such suppliers to act as intermediaries. Also, for clarification purposes, an estimated time-weighted average SMP has the same interpretation as that of a simple average SMP.

With regard to the point raised by one of the respondents that a monthly correction and settlement using ex-post prices would reduce the administrative burden on parties involved, the Commission fails to see how such a process could facilitate this perceived benefit. This matter will be considered further in the follow-up paper on the ex-post calculation. It is also noted that the R-Factor is designed to mitigate risk to market participants to the highest possible level.

2.2.2 Commission’s Decision

It should be noted by all parties that in reaching this decision the Commission has adhered to the principles and policies outlined in the relevant PSO and REFIT governing legislation, including SI 217 of 2002 as amended, SI 284 of 2008, the PSO Notifications to the EU, the relevant State Aid decisions and the REFIT Terms and Conditions, as published by the DCENR.

As stated in the consultation paper CER 08/093, the Commission considers that the ex-ante benchmark price for the REFIT should be set in a manner that is
consistent with the Notification to the EU regarding the REFIT, is transparent, does not impose an unnecessary administrative burden and provides for parity of treatment as between those receiving support under the REFIT as appropriate and those receiving support under other PSO supported mechanisms. The setting of the ex-ante benchmark price should also be consistent with methodology as set out in the PSO Benchmark Price Setting Methodology PSO Decision paper.

Therefore, the benchmark price for the REFIT will be an ex-ante price and will be generally in line with the reserve price for PSO backed hedges. The ex-ante benchmark price will be an estimated time-weighted average SMP, which will be a forecast of the relevant 12 month PSO period, with a capacity adder. The PSO benchmark price will continue to have ex-post reconciliation where actual outturn of the costs and volumes of the contracts are different to what was forecast. This decision is being made to ensure equality between all mechanisms supported under the PSO, including the REFIT.

It should be noted that for the purposes of the 2008/2009 PSO Levy decision paper (CER 08/129) the Commission forecasted that the PSO benchmark price for the upcoming PSO period of the 1st of October 2008 to the 30th of September 2009 would be €112.25 per MWh. This figure was an annual, average time-weighted price calculated using the validated PLEXOS model. In calculating this price, the model was run thirty times using the most up-to-date fuel, carbon and exchange rate averages over a two week period (23rd of June to the 4th of July 2008), based on publicly available indices as referred to in the Directed Contracts process. The Commission deemed it appropriate in the context of the continuing upward trend in fuel prices, to set the benchmark price on this basis, rather than on the basis proposed in the 2008/2009 PSO Proposed Levy paper (CER 08/092).

Reason for Decision

The Commission will use an estimated time-weighted average SMP to set the ex-ante benchmark price of the REFIT. The reason this decision is being taken is to ensure equality between all mechanisms supported under the PSO, including the REFIT.

This decision also ensures consistency between the methodology of setting the ex-ante benchmark price for the REFIT and that of the Notification to the EU regarding the REFIT. The Commission is also minded, in this decision, to ensure uniformity with the methodology of setting the PSO benchmark price as set out in the joint Commission / NIAUR PSO Benchmark Price Setting Methodology PSO Decision paper, published in July of 2007.
2.3 Summary

The benchmark price for the REFIT will be an ex-ante price and will be generally in line with the reserve price for PSO backed hedges. The ex-ante price will be an estimated time-weighted average SMP, which will be a forecast of the relevant 12 month PSO period, with a capacity adder.

3.0 The Process for the Collection and Distribution of the PSO Levy

3.1 Introduction

In accordance with Articles 11, 12, 13, 14 and 15 of SI No. 217 of 2002 as amended, and Schedule 2 of that SI, the PSO levy is collected by suppliers from all final customers and paid to the DSO or TSO as appropriate. The TSO is also tasked with paying the ESB the appropriate amounts owed to it under the levy. Under Article 19 of the above SI, the Commission is responsible for approving the collection and payment procedures put in place by the DSO and the TSO. This Article also provides that these procedures may be modified from time to time with the consent or at the request of the Commission.

In accordance with the requirements of SI 217 of 2002 as amended, the Commission has approved the collection and payment procedures of the DSO and TSO in relation to the PSO levy. These approved procedures are set out in CER 03/013.3

Section 10 of CER 03/013 sets out the PSO cash and information flows. Section 9 of CER 03/013 indicates the timelines for the invoicing and collection of the PSO. The high level process can be summarised as follows:

- **Invoicing:** The DSO invoices all supply businesses at the end each month the appropriate amount of PSO charge based on the number of distribution connected customers registered to each supply business. The TSO does the above in relation to TSO connected customers. Invoices are issued by the TSO and the DSO 20 business days after the end of the month.

- **Collection:** Suppliers pay the DSO and TSO invoices within five and ten business days respectively.

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3 PSO Invoicing and Collection Procedures, CER/03/013, 27th January 2003 (http://www.cer.ie/CERDocs/CER03013.pdf)
• Payment: The DSO pays the TSO all monies collected in respect of the PSO 28 business days after the end of the relevant month. The TSO pays the ESB 33 business days after the end of the relevant month.

### 3.2 Overview of Responses to the Process for the Collection and Distribution of the PSO Levy

A majority of the respondents agreed that the PSO invoicing and collection procedures outlined in CER 03/013 would need to be changed in light of the new PSO arrangements and the introduction of the REFIT.

One respondent to section 4 of the consultation paper, CER 08/093, believed that the monthly distribution of PSO monies could be retained in the new PSO arrangements, “provided that it is clear that interest payments on the reconciliation can take into account the exact actual cash-flow (as audited)”. This respondent also asked for the Commission to clarify what interest rates would be employed in this reconciliation.

Another respondent maintained that the PSO invoicing and collection procedures, as detailed in CER 03/013, were “significantly out of date as they precede the establishment of Eirgrid as the TSO, and do not reflect the existence of the SEM and SEMO as the market operator”. This respondent requested that the Commission publish a separate consultation on a revised version of CER 03/013. A third respondent to the consultation paper noted that the implementation of a new PSO payments process would need to be fair to all relevant parties and is also clear, transparent and easy to put into operation. This respondent also maintained that the process should not expose the collection and distribution operator to any risk resulting in a mismatch between the amount collected and the amount payable in any one period.

A fourth respondent requested that the “provision be included for suppliers so that where suppliers who are due payments from TSO or DSO do not receive them in the timeframes set out in the procedure document that they would also be entitled to late-payment interest”. This respondent also noted that all market participants privy to PSO payments be not required to create a separate PSO bank account, but that this choice “should remain at the discretion of the supplier”. Finally, this respondent requested that a “single point of contact be established for all payments and invoicing related to the PSO”, which would result in a reduction in the administrative burden.

Another respondent questioned the step of having the DSO collect funds “within five days and then wait three days to pass the funds on to the TSO”. This respondent also argued for a single point of collection for all invoices. A sixth
respondent maintained that the TSO and DSO in their roles would be most suitable bodies to develop the procedures for the collection and distribution of PSO monies. This respondent proposed an idea of the “TSO and DSO netting off the amount owed to/from suppliers against the monies owed by these suppliers for their TUoS and DUoS charges”.

Another respondent maintained that the process in its present form contained at “least one redundant step”, suppliers paying the DSO who then waits three days before passing the payments on to the TSO. This respondent suggested that it should be responsibility of the DSO to issue invoices and “sub-contract the TSO to collect”. Finally, this respondent requested that more information be provided by the Commission on how inter-party money transfers should take place in the process.

### 3.2.1 Commissions Response to Comments

As stated in the PSO Arrangements consultation paper, CER 08/093, the Commission realises that in light of the commencement of the REFIT and the fact that parties other than the ESB will now be entitled to recover monies under the PSO levy, there is a necessity to changes the PSO invoicing and collection procedures as set out in CER 03/013.

The Commission acknowledges the fact that the introduction of the REFIT will also result in the need for inter-party transfers of monies between beneficiaries under the PSO as certain parties may owe monies, whilst others will be owed. The Commission also notes the periodicity of payments under CER 03/013 and the additional complexity that may arise in any move to increase the frequency of payments to suppliers under the PSO, given that multiple suppliers are now recipients under that mechanism.

In addition, with the current trend in fuel prices there is the potential for a zero PSO Levy or net negative PSO Levy, as is the case for the upcoming 2008/2009 PSO Levy (CER 08/129). There is the distinct possibility that a zero or net negative PSO levy will occur in future PSO periods. Any proposals to change the current procedures for the collection and distribution of PSO monies must be robust enough to deal with a net positive, zero and net negative PSO Levy.

It is also noted by the Commission that the current governing PSO legislation will need to be changed to allow for a zero and net negative PSO levy. As stated in the 2008/2009 PSO decision paper, CER 08/129, the Commission “will examine the legislation governing the PSO, with a view to advising the DCENR what changes are deemed appropriate in the context of future negative PSO Levies”. This examination will also include a review of the legislative changes needed to SI No. 217 of 2002 to reflect the updated PSO invoicing and collection procedures.
Tributary to this, the Commission, as per the request of one of the respondents above, will be publishing a document in due course that reflects the revisions needed to CER 03/013.

For clarification purposes, until this review takes place and recommendations are made to the DCENR, the Commission must adhere to the invoicing and collection requirements as set out in SI. 217. Therefore, the concept of a ‘redundant step’ is not under consideration at present. Also, the issue raised by one of the respondents concerning interest payments on the PSO reconciliation is deemed by the Commission to be outside the scope of the consultation paper on the PSO Arrangements (CER 08/093). However, the Commission will look to take these issues into consideration when publishing the revised CER 03/013 in due course, and as stated above the Commission is committed to examining the legislative changes needed to the PSO invoicing and collection procedures.

### 3.2.2 Commission’s Decision

The Commission’s decision on the matter is that PSO payments to suppliers from the PSO levy will be made on a monthly proportionate basis. The monthly proportionate payments of the updated process will be made in accordance with section 9 of CER 03/013, **i.e. end of month + 33 business days**. The following are the steps involved in calculating what is owed by/to a supplier in a month to/from the PSO Levy. These steps cover the possibility of a positive, negative and zero PSO Levy. The TSO will act as the independent party who makes the final monthly payments to the relevant suppliers, in accordance with the amended SI 217 and CER 03/013.

(i) The total PSO levy in a particular month will be calculated by adding what is owed in the month by a supplier(s) to the PSO levy and PSO payments collected by suppliers through the customer billing process.

(ii) If a supplier **owes to the PSO levy** they will be required to pay 12 instalments of equal value to the PSO levy over the 12 month PSO period. The Commission will calculate the monthly instalments of equal value, with these monthly PSO instalments being made to the TSO.

(iii) If a supplier **is owed money from the PSO levy** the Commission will calculate the amount and what percentage proportion this supplier is owed of the total 12 month PSO levy and what proportion they are owed in a particular calendar month. This information will be communicated to the TSO prior to the commencement of the PSO levy period.

(iv) The supplier(s) that is/are owed money from the PSO levy will receive the proportion of their total 12 month PSO levy amount from the TSO for a particular month in line (i.e. pro-rata) with what PSO sum was received in
that particular month. This payment will take place no more than 33 working days after the end of that month.

(v) The procedure and timelines for invoicing and payment of these PSO amounts will be carried out in line with SI. 217 of 2002 and CER 03/013 as stated above, i.e. end of month + 33 business days.

Suppliers will not be required to set up a designated PSO bank account. However, the TSO and DSO will be required to create a designated PSO bank account to enable the monthly input and output of PSO monies to take place. PSO designated bank accounts will facilitate the operation of the updated process and are in the interests of good administration and transparency.

It should also be noted that all suppliers owed PSO monies will be paid on a monthly basis and the Commission cannot presently foresee the possibility of ‘late-payments’ to suppliers, which would necessitate the implementation of late-payment interest accruing to suppliers. However, this issue will be taken into consideration when the Commission examines the changes needed to the governing PSO legislation, as discussed above.

In the event of a zero or net negative PSO levy, with no PSO to be collected through customer billing by suppliers, the PSO in each month will be made up solely of the monthly PSO instalment paid by a supplier(s) who owe to the PSO Levy. With the PSO levy for 2008/2009 (CER 08/129) being set to zero there will be no need for suppliers to collect PSO monies from final customers for the PSO period 1 October 2008 to 30 September 2009. Following on from this, the TSO and DSO will therefore not be charging a PSO levy to suppliers through their TUoS and DUoS charges respectively. However, those suppliers availing of the REFIT payments will receive those payments on a monthly basis in accordance with the timelines as set out above.

In a possible future net positive PSO where suppliers will need to bill final customers for the PSO levy, payments out to suppliers will be made on a monthly proportionate basis, based on what PSO monies have been collected in a particular month. To clarify, in the case of a positive PSO levy, the PSO sum received in a particular month will be made up of the monthly payment that is owed by a supplier(s) to the PSO levy and PSO payments collected by suppliers through the customer billing process.

The monthly pro-rata payments to suppliers mechanism is believed to best ensure that any mismatch between monies paid in by suppliers and monies to be paid out to suppliers is minimised. However, the Commission can foresee two situations that a potential mismatch between monies paid in by suppliers and monies to be paid out to suppliers can take place;
• When the ex-ante demand forecast that is used to calculate the PSO Levy collected from each customer category as applicable does not accord to actual demand levels.

• Where a supplier fails to pay or to collect monies owing during a 12 month PSO period.

The Commission considers that in the first instance that it may be appropriate depending on the likely significance of the issue, to manage this issue via the R-Factor. With regard to the second instance, the Commission understands that the legal onus is on the TSO or DSO as appropriate to ultimately collect these monies, in accordance with paragraph 15 of SI 217, with these monies being managed through the R-factor. However, the Commission is fully aware that all parties involved in the invoicing, collection and payments process must be kept whole and we will be reviewing processes in due course to ensure this, whether employing the R-factor or other mechanisms such as the requirement for participants to post collateral.

Reason for Decision

The Commission considers that PSO payments made to suppliers on a pro-rata basis reflects the concerns raised by a number of respondents to the consultation paper and best achieves two distinct objectives:

(i) To ensure that the PSO invoicing, collection and payments process is fair to all relevant parties, while at same time being clear and transparent.

(ii) To minimize the costs associated with the invoicing, collection and payments of PSO monies to as low a level as possible for all parties and to not leave these parties financially exposed as a result of the process with regard to input and output of PSO monies, in particular the co-ordinator of these payments.

3.3 Summary

The Commission’s decision on Section 4 of this paper is that PSO payments to suppliers from the PSO levy will be made on a monthly proportionate basis. These monthly pro-rata payments of the updated process will be made in accordance with section 9 of CER 03/013, i.e. end of month + 33 days. The Commission is committed to examining the governing legislation of the PSO invoicing and collection procedures, with a view to advising the DCENR what changes are deemed appropriate in the context of the introduction of the REFIT and future zero or net negative PSO levies. The Commission will also be
publishing, in due course, a paper to reflect the updated PSO invoicing and collection procedures with the necessary revisions to CER 03/013, as discussed above.

### 4.0 Conclusions and Next Steps

#### 4.1 Summary

The purpose of this paper was to outline and describe the Commission's decision with regard to (i) the ex-ante benchmark price for the REFIT in the context of the PSO and (ii) the collection and distribution procedures to apply for the PSO levy going forward.

The Commission decided in Section 3 of this paper that it will use an estimated time-weighted average SMP to set the ex-ante benchmark price of the REFIT. The Commission’s decision on Section 4 of this paper was that PSO payments made to suppliers from the PSO levy will be made on a monthly proportionate basis.

#### 4.2 Next Steps

##### 4.2.1 Summary of Next Steps

- The Commission will publish its follow-up paper to the consultation on the ex-post calculation of the correction factor to apply in calculating the actual costs incurred by all parties complying with their PSO obligations, within the next month.

- The Commission will examine the governing PSO legislation, including the PSO invoicing and collection procedures, with a view to advising the DCENR what changes are deemed appropriate going forward.

- Publication of paper to reflect the updated PSO invoicing and collection procedures with the necessary revisions to CER 03/013.
Appendix A – List of Decisions outlined in this paper

- The Commission decided in Section 2 of this paper that it will use an estimated time-weighted average SMP to set the ex-ante benchmark price of the REFIT.

- The Commission’s decided in Section 3 of this paper that PSO payments to suppliers from the PSO levy will be made on a monthly proportionate basis.
### Appendix B – Glossary of Terms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AER</td>
<td>Alternative Energy Requirement</td>
</tr>
<tr>
<td>Commission</td>
<td>Commission for Energy Regulation</td>
</tr>
<tr>
<td>DCENR</td>
<td>Department for Communications, Energy and Natural Resources</td>
</tr>
<tr>
<td>DUoS</td>
<td>Distribution Use of System</td>
</tr>
<tr>
<td>MSQ</td>
<td>Market Scheduled Quantity</td>
</tr>
<tr>
<td>NIAUR</td>
<td>Northern Ireland Authority for Utility Regulation</td>
</tr>
<tr>
<td>PPA</td>
<td>Power Purchase Agreement</td>
</tr>
<tr>
<td>PSO</td>
<td>Public Service Obligation</td>
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<tr>
<td>RAs</td>
<td>Regulatory Authorities, being the Commission for Energy Regulation and the Northern Ireland Authority for Utility Regulation</td>
</tr>
<tr>
<td>REFIT</td>
<td>Renewable Energy Feed in Tariff</td>
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<tr>
<td>SEM</td>
<td>Single Electricity Market</td>
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<tr>
<td>SI</td>
<td>Statutory Instrument</td>
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<tr>
<td>SMP</td>
<td>System Marginal Price</td>
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<tr>
<td>TSO</td>
<td>Transmission System Operator</td>
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<tr>
<td>TUoS</td>
<td>Transmission Use of System</td>
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