



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**ESB PES
Seasonal Time of Day (STOD) tariff for
Large Energy Users (LEU) from
1st October 2008 to 30th September 2009**

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CER – Information Page

Abstract:

The Commission proposes to approve PES's revised proposal for a 12month fixed STOD for LEU customers with PES from the 1st October 2008 to the 30th September 2009.

Target Audience:

This proposed decision paper is for the attention of members of the public, the energy industry, customers and all interested parties.

Related Documents:

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|----------------------------|--|
| CER/08/131 | CER Decision Paper Interim Electricity Price Increase – 1st August 2008 |
| CER/08/134 | Decision on ESB PES Electricity Tariffs 1 August – 31 December 2008 |
| CER/08/144 | ESB PES Proposal STOD tariff for LEUs from 1 st October 2008 to 30 th September 2009 |

For further information on this decision paper, please contact **Fergus O'Toole at the Commission.**

Executive Summary

- The Commission proposes to approve PES's revised proposal for a 12 month STOD for LEU customers with PES from the 1st October 2008 to 30th September 2009.
- The STOD rates have been revised since the consultation to take account of the recent movements in forward wholesale prices of the SEM and the final Decision by the Regulatory Authorities on the Capacity Payments for 2009 and Market Operator Charges and Imperfections for 2008/09.
- The fixed rate STOD will be offered to LEU customers with PES in conjunction with the Individual and Group PPPT tariffs from the 1st October 2008.
- The Commission proposes that PES customers who wish to avail of the STOD tariff will have to do so on or before the 31st of October 2008. Once a customer has opted for this tariff, that customer cannot switch to any other pricing arrangement before 30th of September 2009.

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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 proposed decision with regard to ESB PES's (Public Electricity Supplier) proposal for a Seasonal Time of Day (STOD) tariff for Large Energy Users (LEU) from the 1st October 2008 to 30th September 2009. This Commission has carried out a full public consultation on this topic from the 1st to the 28th August 2008 and has considered fully the comments and submissions received. Issues raised during the consultation process will be addressed in this paper, as well as outlining the final decision on this topic.

1.3 Comments Received

The Commission received seven responses to the consultation paper (CER/08/144). These responses are published in conjunction with this decision paper on the Commission's website. Submissions were received from the following organisations or individuals:

- Airtricity
- Bord Gais
- Eirgrid
- ESB Independent Energy
- Irish Estates Management Ltd

- NIE Energy Ltd
- Viridian Power & Energy Limited

1.4 Legislative basis

The functions of the Commission for Energy Regulation in relation to electricity are set down in section 9 of the Electricity Regulation Act 1999 (“the 1999 Act”), as amended by subsequent Statutory Instruments. National regulatory authorities have been given additional functions under EU Directive 2003/54/EC. Regulation 3 of the recently enacted SI 60 (European Communities (Internal Market in Electricity) Regulations 2005) provides for the amendment of Section 9 of the 1999 Act for the purposes of assigning additional functions to the Commission.

In particular, Regulation 3 of SI 60 requires the Commission to consider proposals from ESB operating as Public Electricity Supplier (PES) in relation to tariffs and their underlying costs. Regulation 3 also provides the Commission with the power, following an examination of proposals from PES in relation to underlying tariff costs, to issue directions to the Public Electricity Supplier in relation to such costs underlying any charge to final customers.

1.5 Structure of this paper

This decision paper is structured as follows;

Section 1 sets out the duties and legislative basis for the Commission’s involvement in the regulation of PES retail tariffs.

Section 2 provides a brief summary of the Commission’s decisions on the revised tariff timeline for 2008/09 and sets the context for which PES submitted a proposal for a STOD tariff option for LEU customers from 1st October 2008 to 30th September 2009. This section sets out the details of PES STOD proposal and summarises respondent’s comments on this proposal. Furthermore the Commission’s proposed decision and response to issues raised by respondents during the consultation period are addressed in this section.

Section 3 summarises the Commission’s proposed decision and sets out the next steps.

The final rates for the STOD tariff are published in conjunction with this paper on the Commission’s website.

1.6 Responding to this paper

Interested Parties are invited to comment on the proposals presented in this paper by close of business on 19th September 2009. CER requests that respondents structure their comments to address the specific proposals outlined in the document. Where possible, reference to the section number should be made with specific comments. CER regrets that it cannot undertake to provide individual responses to submissions on this paper.

As responses will be published in full on CER's website, respondents should include any confidential information in a separate Annex. Submissions on this paper should be forwarded, preferably in electronic format, to:

Fergus O'Toole,
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2.0 ESB PES LEU STOD – 1st October 2008

2.1 Introduction

The cost of fuel is one of the key determinants in the cost of electricity generation and consequently the retail price of electricity charged to consumers. On the 21st July the Commission published a decision paper which set out a number of actions the Commission deemed necessary in order to cushion customers from the recent unprecedented increases in fuel costs¹.

The decision paper, CER/08/131, approved;

- Interim price increase of an average of 17.5% for households and SME's (Small Medium Enterprises) to apply from the 1st August 2008.
- Further review of tariffs this autumn with a final decision on 1st December on prices to apply from 1st January 2009.
- Customer credit of €300 million from ESB to be credited to all electricity customers from 1st January 2009.
- STOD tariff to be offered to LEU customers from 1st October 2008.

In addition to sanctioning a two part interim increase for domestic and SME customers, the Commission also agreed that PES could submit a proposal to offer a 12 month STOD tariff to LEU customers. This tariff would be reflective of forward prices in the Single Electricity Market (SEM) and would give LEU customers with PES who are currently on unregulated variable Pool Price Pass Through (PPPT) tariffs the option to fix their energy costs for the year ahead.

LEU customers (those connected at 10kV or 20kV (MV), 38kV and 110kV) with PES are currently offered two PPPT tariff options, a Group PPPT tariff and an Individual PPPT tariff. The Commission's decision paper, CER/07/149, replaced published tariffs, from the 1st November 2007, with the PPPT arrangement for PES LEU customers (Individual PPPT option was available from 1st November while customers on a transitional STOD tariff for the first four months of the SEM defaulted to the Group PPPT from the 1st March 2008). In order to further encourage the development of competition, as part of this decision paper, the Commission continues to sanction the restriction from supplying new customers placed on PES. This decision placed on PES on 8th September 2006 prevents PES from supplying new customers connected at MV, 38kV, and 110kV, or customers connected at these voltages that were previously supplied by PES but are now supplied by an independent supplier.

Customers are only permitted to revert to PES under exceptional circumstances and on terms approved by the Commission

¹ Gas prices have risen by over 130%, oil by 85% and coal by almost 100%.

2.2 PES's Proposal

Under PES's proposal, energy prices will be fixed for different times of the day and these will apply for the period 1st October 2008 to 30th September 2009. PES proposes to revise figures to reflect any changes in distribution and transmission use of system charges and supply charges that will apply from 1st January 2009. Account will also be taken, at that time, of ESB's €300 million customer rebate.

PES proposes to maintain the four individual time periods for each month as per the transitional STOD arrangement for the first four months of the SEM. The interval periods are divided into Weekday Day, Weekend Day (to include public holidays), Night and Weekday peak (1st Nov-28th Feb inclusive only).

PES's proposal sets out the details of the non energy prices, the energy prices/KWh from October to December 2008 and the indicative rates from January to September 2009 for the separate MV, 38kV and 100kV categories of customers². Please note that rates published today include revisions to PES earlier paper to take account of changes in its forecast of forward wholesale electricity prices.

PES proposes that the fixed STOD option is confined to existing PES large Energy Users. PES also proposed that customers who wish to avail of the fixed STOD option must do so before 1st October and that those who avail of this option are restricted from switching back to the PPPT tariff until the expiration of the offer on the 30th September 2009. After this date PES proposes that all LEU customers will regress to one of the PPPT tariff options.

The Commission notes that no revenue correction factor will apply to the proposed STOD tariffs. In other words any over or under recovery in revenues earned by PES cannot be taken into account when setting tariffs next year.

The ESBCS paper outlining its proposal has been published in tandem with this document on the CER website.

2.3 Respondents' Comments

Four respondents were in support of the proposal to introduce the STOD tariff for LEU's as it would give these customers more choice and allow them to fix their

² Separate set of STOD rates for each voltage level to reflect the differences in network loss factors.

energy costs. Two respondents were against the introduction of the STOD arguing that its reintroduction would be contrary to the Commission's previous policy of removing regulated tariffs in the LEU sector of the market. Conversely another respondent welcomed that the proposed STOD contained the necessary restrictions (the STOD would be offered to existing PES customers for a limited window and would expire after the 30th September 2009) to prevent this tariff from undermining the independent sector of the market.

One respondent supported the proposal to introduce a STOD tariff as it would be cost reflective of forward prices in the SEM. It would allow customers to budget, sets a benchmark from which other suppliers offers would be measured and it provide straightforward and simple signals to users which allows them to easily control their consumption profile.

While most respondents were in support of introducing a STOD tariff, questions were raised about its duration, the cost reflectivity of the rates, how the tariff would be hedged and customer access to this tariff.

While one respondent noted that the pricing of the proposed STOD seems reasonable and in line with historical SMP profiles, two respondents commented that the consultation provided inadequate information for a proper evaluation of the proposed STOD tariff to be made. These respondents called for the Commission to provide further information. Another respondent was concerned that a fixed price tariff provides a benchmark in the market. If the proposed tariff was is not cost reflective, it would make it difficult for other suppliers to complete.

A couple of respondents welcomed the fact that there will be no correction factor provision in place for the proposed STOD. One respondent suggested that such a provision is of no use where independent suppliers are unable to compete with this tariff offering. Another respondent asked for clarification on how the costs and revenues in the STOD tariff market will be allocated, separated and ring fenced from PES's other costs and revenues (to provide a level playing field for competition.)

One respondent commented that (in order not to undermine the market) the tariff should be offered for one year and should not become a regular feature of the market - without further consultation. Conversely another respondent suggested that it would be better to offer this tariff on an ongoing basis so that customers could choose to avail of this option within the year. Another respondent remarked that offering of a 12 month lock-in contract would slow down the development of the independent retail market. This respondent also suggested that the 12 month contract would inhibit customer switching.

Three of the respondents raised a question as to how the proposed tariff would be hedged. One respondent remarks that it is unclear how the proposed tariff would be compliant with PES's hedging strategy and the Economic Purchase

Obligation (EPO) obligation. Another noted that any Contracts for Difference obtained bilaterally should be priced on a transparent basis. Others said that if PES remained unhedged under this tariff, it would result in PES taking on significantly higher market risk than would be prudent for them.

In completing analysis of the proposed rates, one respondent suggests that the proposed price could be viewed as predatory as the tariff is priced too cheaply. Another respondent suggests that the Commission should insert a condition in PES's licence to prohibit below cost selling by PES identical to that found in the licences of independent suppliers.

Two respondents support the proposal to restrict the tariff to existing customer while another two respondents suggest that the restriction be removed altogether. It was suggested that the restriction had the unintended effect of providing a disincentive to customer switching. Customers are not changing supplier for fear they will not be allowed return to PES in the future. Another respondent proposes that the restriction is removed on the grounds that most respondents to the original consultations in 2006 & 2007 were opposed to its introduction.

Two respondents were completely opposed to the introduction of the proposed STOD tariff for LEUs. One noted that they were unaware of any change in the retail market which would warrant the reversion of the Commission's policy. Competition and overall economic efficiency would be better facilitated through the removal of tariff regulation. This respondent, while acknowledging that energy prices have significantly risen over the last year, commented that there is no economic basis for the special treatment of PES customers as a result of these high prices. Another respondent commented that it was inappropriate for the Commission to consider the proposal to introduce a STOD tariff for LEU at this stage of the retail market development, especially in light of the Commission's decision paper CER/08/120 which stated that there would be no further changes in tariff structures at this time.

2.4 Commission's Response to Comments

With references to respondents concerns that the STOD tariff may not be fully cost reflective, the Commission requested that PES submit the detailed assumptions used in the calculation of the proposed STOD including the details on any alternative assumptions used to those contained in the NERA validated PLEXOS model, in particular: date and source of forward fuel and carbon prices used, exchange rates, start VOM Costs, scheduled outages. The Commission further requested that PES submit a copy of the model used to average the half hourly SMPs from the PLEXOS across all the STOD tariff categories and derive the end tariffs.

As per its submission, PES noted that all prices would be adjusted to take account of changes in (forecast) forward wholesale prices of the SEM during the consultation period. Accordingly PES has submitted the updated underlying assumptions of the forward price of the SEM. This data was verified by a parallel PLEXOS run completed by the Commission.

The STOD prices have been adjusted since the consultation period to take into account recent movements in the costs of fuel and the recent decisions by the Regulatory Authorities on the Capacity Payments, the Market Operator charges and Imperfections, and as such the Commission considers that the fixed STOD prices are reflective of the forward prices of the SEM. In light of this and the validation of the underlying inputs used by PES in formulating the STOD prices by the Commission, the Commission does not deem the pricing of the STOD tariff to be predatory. The Commission reminds that Condition 4 of the PES licence states that PES shall not prevent restrict or distort competition to any appreciable extent in the supply market of electricity.

It is the Commission's understanding that the hedges acquired by ESBCS in the recent auctions (and Directed Contract allocations) will not be used to manage any price risk associated with the proposed STOD tariff. ESBCS intends to use these contracts to support tariffs for domestic customers and SME.

The Commission confirms that no correction factor provision will be applied to the fixed STOD option. The Commission notes that this tariff is a separate stand alone tariff which will be offered in conjunction with the PPPT tariffs in the LEU sector.

The Commission remains of the view (as per CER/07/149) that the LEU market is sufficiently competitive to warrant the removal of tariff regulation. Evidence of this can be seen by the fact that in 2007 independent suppliers supplied 69.2% of Medium Voltage Maximum Demand (MVMD 10kV or 20kV) customers and 65.7% of High Voltage (HV 38kV, HV 110kV) customers. This represents 84.2% of the market in terms of consumption for MVMD customers and 98.6% of HV customers.³

The majority of LEU customers who remain with PES are customers who, perhaps, due to their complex or unusual load profiles do not appear to obtain supplies from the independent sector. Thus, these customers have no alternative supply offer than the Individual or Group PPPT option with PES. In light of the large increases in fuel costs over the past year the Commission deems that it is appropriate to offer a fixed price STOD to PES LEU customers so that these customers have one alternative tariff option to the PPPT. These customers will have the choice of staying on the group or individual PPPT arrangements or opt for the STOD tariff.

³ [CER/08/090](#) Electricity Retail Market Information Report

The Commission agrees with the respondent's comment that the restriction on PES supplying new or existing customers with independent suppliers should remain in place with regards to the STOD tariff option. This is in line with the Commission's reasoning that the STOD tariff option is available to PES's remaining LEU customers.

The Commission has taken on board the respondents' comments on the terms of the STOD tariff option and the timeframe provided in order to avail of this product. The Commission has approved the implementation of the STOD tariff option for LEU customers with PES from the 1st October due to the unprecedented increases in the cost of fuel over the past year, to this effect the Commission maintain that this offer will not be made available beyond the 12 month term ending 30th September 2009 without further consultation and a review of market conditions towards the end of the term of this offer.

2.5 Commission's Decision

Reason for Decision

The underlying rationale for introducing this tariff is that it gives LEU customers with PES an opportunity to buy electricity at a fixed price. These customers are currently on a variable Pool Price Pass Through (PPPT) arrangement. Many LEU customers with PES may not be offered supplies from the independent sector, due to the characteristics of their load shapes. In light of the large increases in fuel costs over the past year the Commission is of the view that it is appropriate to offer a fixed price STOD to PES LEU customers so as these customers have one alternative tariff option to the PPPT.

The Commission has taken on board all of the issues and considered the comments received during the public consultation. With these in mind the Commission has also examined thoroughly the rationale behind the tariff rates proposed by PES and after doing so has decided to proceed with the LEU STOD Tariff.

The STOD Tariff is to be offered to existing PES customers only and any customer who wishes to avail of this tariff must elect to do so by the 31st of October this year. If they do select this tariff then they will be restricted from switching back to the PPT tariff before the 30th of September 2009.

2.6 Summary

This paper outlines and describes the Commission's proposed decision with regard to ESB PES's (Public Electricity Supplier) proposal for a Seasonal Time of Day (STOD) tariff for Large Energy Users (LEU) from the 1st October 2008 to 30th September 2009. Under PES's proposal, energy prices will be fixed for different times of the day and these will apply for the period 1st October 2008 to 30th September 2009. PES proposes to revise figures to reflect changes. This is to allow prices to take account of distribution and transmission use of system charges and supply charges that apply from 1st January. Account will also be taken of ESB's €300 million customer rebate that will apply from 1st January 2009.

The STOD Tariff will be available only to existing PES customers. PES customers wishing to avail to the STOD tariff must do so by the 31st of October 2008. They are then restricted from switching back to the PPPT tariff until the expiration of the offer on the 30th September 2009.

The Commission undertook a full public consultation and received seven responses on the LEU STOD Tariff. The most pertinent points were outlined in the paper along with the Commission's response.

Finally the Commission outlined its decision to proceed with the LEU STOD Tariff, what restrictions are to be imposed and the rationale behind the decision

3.0 Brief Summary

3.1 Summary

The Commission proposes to approve the introduction of an LEU STOD tariff. This tariff will come into effect on the 1st of October 2008 for a period of one year, ending on the 31st of September 2009. It is available to PES customers only, who have until the 31st of October to access this option. Any PES customers who elect to take up this tariff will then be restricted from switching back to the PPPT tariff until the expiration of the offer on the 30th September 2009.