



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**CER Decision
on the
BGEnergy Customer Codes of Contact for FVT and RTF Customers**

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CER – Information Page

Target Audience:

The intended audience is the licensed natural gas shippers and suppliers and BGEnergy FVT and RTF customers or those customers who are eligible for the BGEnergy FVT or RFT customer tariffs.

Related Documents:

- CER/07/097 – Decision on Bord Gáis Energy Supply Tariff Structure for Larger NDM Industrial and Commercial Customers (The 'Fuel Variation Tariff')
- CER/08/197 – Decision in respect of the Regulated Tariff Formula (RTF) regime in the Gas Supply Market
- CER/09/011 – Bord Gáis Energy Supply Code of Practice for Customer Contact under the Fuel Variation Tariff regime
- CER/09/012 – Bord Gáis Energy Supply Code of Practice for Customer Contact under the Regulated Tariff Formula regime

For further information on this decision paper, please contact mwood@cer.ie at the Commission.

Executive Summary

The Commission has decided to approve the BGEnergy Codes of Practice for contact with its FVT and RTF customers. These provide, in essence, that:

- BGEnergy comply, at all times, with the letter and the spirit of the FVT and RTF tariff regimes
- BGEnergy implement proper employee training on the new Codes
- BGEnergy do not mislead customers or potential customers on product offerings or the status of competing suppliers.

The Commission has also decided that BGEnergy provide these Codes of Practice for Customer Contact on their web page and make copies of the Codes available should customers request them.

This paper outlines the submissions received to CER/09/011 and CER/09/012, the Commission's responses to those submissions and the Commission's decisions regarding the BGEnergy proposed Codes of Practice for customer contact under the FVT and RTF regimes.

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1. Introduction

1.1. *The Commission for Energy Regulation*

Standard Introduction – *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.

1.2. *Purpose of this paper*

The purpose of this paper is to outline the Commission's decision with regard to the BGEnergy Codes of Practice for Customer Contact under the FVT and RTF regimes. This Commission has carried out a full public consultation on this topic and has considered fully the comments and submissions received. Issues raised throughout 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 3 submissions to the consultation papers (cer/09/011 and CER/09/012). Submissions were received from Airtricity and two companies whose responses are confidential.

1.4. *Background Information*

The Commission's decisions on the FVT and RTF were published on 16th July 2007 and 7th October 2008 respectively. On the 26th January 2009 the Commission published the BGEnergy Proposed Codes of Practice on Customer Contact in the FVT (CER/09/011) and RTF (CER/09/012) for consultation. We have received 3 submissions to this consultation.

In this paper we have addressed these submissions and detailed our decision with regard to the BGEnergy Codes of Practice for Customer Contact in the FVT and RTF regimes.

1.5. *Structure of this paper*

This paper is structured in the following manner:

- **Section 2** outlines the background to this Commission Decision.
- **Section 3** details the submissions received and the Commission's decision in each instance.
- **Section 4** is a summary of the Commission decisions
- **Section 5** includes the conclusions and next steps

1.6. *Other Relevant Information*

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2. Background to the decision

2.1. Introduction

On the 26th January the Commission published, for consultation, the BGEnergy Codes of Practice for Customer Contact with BGEnergy FVT and RTF current and eligible customers CER/09/011 and CER/09/012 respectively.

2.2. Details of the topic

In CER/07/097 the Commission set out its decision with regard to the FVT and detailed its decision to monitor the implementation of the new regime. The Commission subsequently requested that BGEnergy develop a Code of Practice which would set out an acceptable level of contact between BGEnergy employees and their current or eligible FVT customers.

This Code of Practice was submitted to the Commission by BGEnergy and published for consultation as CER/09/011 on 26th January 2009.

In CER/08/197 the Commission published its decision to retain the current RTF regulated pricing mechanism but to approve certain amendments to the BGES Code of Practice for Customer Contact with current and eligible RTF customers.

BGEnergy therefore submitted a revised Code of Practice for Customer Contact which the Commission published as CER/09/012 on 26th January 2009

2.3. Submissions to Consultation

Submissions were received from the following companies, Airtricity, and two other companies whose responses are confidential. The CER wishes to thank these parties for their submissions.

A number of queries were raised with regard to the two consultation papers. As some of the submissions were marked as confidential, the Commission has not allied queries to specific respondents.

2.4. Commissions Response to Comments

The Commission welcomes the suggestions and recommendations made during the consultation process.

Section 3 below details the comments received and the Commission response to the individual comments

3. Comments Received & the Commission's Decisions

- a. The respondents welcomed the Code of Practice for Customer Contact for FVT current and eligible customers, as they believe that reliance on the Commission's Direction on the FVT may lead to confusion and possible compliance difficulties.

The Commission agrees that the Code of Practice for BGEnergy FVT current and eligible customers should be drafted to give clarity to BGEnergy.

- b. The respondents stated that the Code of Practice for Customer Contact for RTF current and eligible customers was considered vital in building an efficient retail gas market and should reflect the changes made since 2005 when it was first published¹. It was suggested that the two Codes of Practice for Customer Contact (for RTF and FVT current and eligible customers) should closely reflect each other.

The Commission agrees that a Code of Practice for Customer Contact for BGEnergy current and eligible FVT customers is preferable to utilising the FVT Direction for this purpose as this will bring the Code of Practice for contact with BGEnergy current and eligible FVT customers into line with that in use for BGEnergy current and eligible RTF customers.

- c. It was also suggested that both Codes should be kept up to date, made available on the BGEnergy and Commission web sites and any customer should be able to request them from BGEnergy; and that referencing other documents within the Codes made the codes less transparent.

The Commission's agrees that the Codes should be kept up to date, it is for that reason that the Codes refer to the "the Direction" it will therefore always refer to the latest Direction regarding either the RTF or the FVT as applicable, the Commission does not believe that this makes the Codes unclear or ambiguous. The Commission reserves the right to direct BGEnergy to redraft the Code as appropriate, and undertakes to publish the redrafted Code for Consultation at that time. The Commission also agrees that the Codes should be available on-line on the Commission and BGEnergy web sites in order that customers might be fully aware of their rights and the conditions under which BGEnergy operates in relation to customer contact.

- d. It was suggested that BGEnergy should use only Commission appointed external auditors to carry out the review of compliance with the Codes; that the CER confirm when the last training programme for new and existing employees was carried out; and it was requested that the results

¹ CER/05/104

from the Codes of Practice for RTF and FVT Customer Contact audit from the 2007/08 gas year should be published.

The Commission does not agree that only Commission appointed external auditors should be used to review compliance with the Codes of Practice for customer contact by BGEnergy. The current method, where BGEnergy reports on compliance monitoring in a manner and format agreed with the CER has been found efficient and is utilised for all compliance monitoring by the CER.

The CER can confirm that the training programme for new and existing employees as regards the Codes of Practice for Customer Contact for both current and eligible FVT and RTF Customers is on-going.

In relation to customer contacts that are initiated by current or eligible BGEnergy FVT and RTF customers a number of suggestions were made.

- e. That in the event of a complaint the customer should be informed of their rights and the complaint dealt with within a specified timeframe.

That BGEnergy should not comment on a competitor's business or operation.

Where a current or eligible customer initiates contact with BGEnergy, BGEnergy should quote for that customer no more than two months before that customer's supply contract is to expire.

It was suggested that when a customer moved from BGEnergy to a competing supplier BGEnergy would not be permitted to contact the customer for three months.

It was suggested that when an FVT or RTF customer moves from BGEnergy the customer should not be able to use the BGEnergy web based services except for access to the customer's own historic data.

In relation to FVT customer initiated contacts the Code of Practice on Complaint Handling, which is already published on the BGEnergy web site, covers the handling of complaints made by BGEnergy FVT customer.

The Commission does not believe it is necessary to formally regulate BGEnergy's complaint handling in relation to RTF customers as competition, in this market sector, is now advanced.

Any comments made by a licensed natural gas shipper or supplier regarding a competitor's business or operation will be covered under "The Marketing of the Licensee's Products and Services" Condition 11 in the revised Natural

Gas Shipping Licence and Condition 12 in the revised Natural Gas Supply Licence. The Commission believes this will afford sufficient protection for competing shippers and suppliers in the natural gas market.

The Commission has decided to allow BGEnergy to provide quotes, at any time, for the supply of gas to either FVT or RTF customers who initiate contact with BGEnergy, such quotes being in full compliance with the relevant FVT or RTF Direction.

The Commission has decided that the access to BGEnergy web based services is a matter for BGEnergy to decide.

- f. There was some objection to the clause permitting BGEnergy to discuss a competing supplier's offer, financial standing, competence or integrity where such information related to factual inaccuracies or mis-representations made by the competing supplier.

The clause refers to BGEnergy discussing information, which BGEnergy knows to be factually inaccurate or mis-representative.

The Commission is satisfied that it is appropriate to allow BGEnergy to comment on factual inaccuracies in competing offers.

4. Summary of the Commission's Decision

The Commission requested BGEnergy to draft two Codes of Practice for Contact by BGEnergy employees with Customers in the RTF and FVT market sectors; these were provided and published for consultation on 26th January 2009.

Responses to the consultation were received from Airtricity, and two other companies.

The Commission now approves both draft Codes of Practice and directs that:

- 1) BGEnergy provide the Codes of Practice for Customer Contact with BGEnergy current or eligible RTF and FVT customers on their web page and make copies of the Codes available should customers request them;
- 2) BGEnergy ensure that their employee training programme on Customer Contact is based on the revised Codes of Practice

The Commission reserves the right to amend both Codes of Practice for Customer Contact in the future should it believe this is necessary.

5. Conclusions and Next Steps

The Commission will continue to monitor the Codes of Practice for Customer Contact and reserves the right to alter them should this be considered necessary.

The Commission directs that BGEnergy commence use of the Codes of Practice for Customer Contact within their organisation on the 6th April 2009 and to make the Codes available on the BGEnergy web site by 24th April 2009.