



Airtricity (Joint) Response to

**Bord Gáis Energy Supply Code of Practice for
Customer Contact**

**(Contact with Customers under the Fuel Variation Tariff Regime and the
Regulated Tariff Formula)**

CER/09/048/a

25 March 2009



Introduction

Airtricity appreciates the regulatory requirement on Bord Gáis Energy Supply to develop Codes of Practice for customer contact in relation to the Fuel Variation Tariff Regime and the Regulated Tariff Formula. These measures will contribute, in combination with other measures, to mitigating the use of undue advantage in the gas market. It is our expectation that these Codes of Practice will indeed be put into practice. In addition we anticipate that the Commission will ensure adequate monitoring of these measures in operation.

Comment on Auditing

The section on auditing refers to a serious breach of the Codes which may subject BGES to audit and review by CER. Given that the Codes deal with limited events of contact between BGES and members of specific customer classes, it may be necessary to give an indication of what a serious breach refers to, in contrast to what may be considered a minor infraction. The request here is not for an exhaustive list of occurrences that may be regarded serious breaches, just an illustrative example or two.

Comment on Competing Offer

The Codes prohibit BGES from discussing the financial standing, competence or integrity of a competing supplier when requested to provide comment on a competing offer, *unless such discussion relates to factual inaccuracies or misrepresentations made by the competing supplier*. This seems to imply that BGES can discuss the financial standing, competence or integrity of a competing supplier in limited events.

We concede that where a competing supplier has made factual inaccuracies or misrepresentations regarding a BGES offer, BGES can discuss such. Since BGES is the principal of that offer it is within its authority to know if a factual inaccuracy or misrepresentation has been made.

If however the purported factual inaccuracy or misrepresentation relates to a competing supplier's offer, financial standing, competence or integrity, on what basis can BGES be said to in full knowledge of the rationale for such a statement as to judge it factually inaccurate or misrepresentative? And how does this then give BGES authority to discuss the financial standing, competence or integrity of the competing supplier?

Airtricity strongly rejects this exception clause granted to BGES to discuss a competing supplier's offer, financial standing, competence or integrity. If BGES has knowledge or suspicions regarding factual inaccuracies or misrepresentations made by a competing supplier in an offer, it should bring such matter before the Commission, which is the relevant authority empowered by law to regulate the gas market, including the conduct of participants. Doing otherwise will amount to BGES arrogating the Commission's powers to itself.
