



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

## PUBLIC SERVICE OBLIGATION LEVY 2009/2010

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Commission for Energy Regulation

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## CER – Information Page

### Abstract:

Section 39 of the Electricity Regulation Act 1999 ('the Act') sets out the legal basis for the Public Service Obligation (PSO) levy in Ireland. Statutory Instrument No. 217 of 2002 made under Section 39 requires that the Commission for Energy Regulation ('the Commission') calculates and certifies the costs associated with the PSO and sets the associated levy for the required period. The PSO levy takes into account the estimated and actual costs incurred in undertaking generation activities which are covered in the relevant PSO legislation, including costs associated with the Renewable Energy Feed In Tariff (REFIT) scheme. This proposed decision paper sets out the proposed PSO levy of €57.7m for the period 1<sup>st</sup> October 2009 – 30<sup>th</sup> September 2010.

### Target Audience:

Electricity generators and suppliers, including those participating in the REFIT scheme, and electricity customers.

### Related Documents:

- Electricity Regulation Act 1999  
<http://www.irishstatutebook.ie/1999/en/act/pub/0023/index.html>
- S.I. No. 217 of 2002 - Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 as amended  
<http://www.irishstatutebook.ie/2002/en/si/0217.html>
- S.I. No. 284 of 2008 – Amending S.I. No. 217 of 2002 for REFIT  
<http://www.attorneygeneral.ie/esi/2008/B26313.pdf>
- Proposed Approach to Setting the PSO benchmark Price in SEM  
AIPSEM- 07-240 PSO Consultation Paper: Published June 1st 2007
- PSO Benchmark Price Setting Methodology AIP-SEM-07-431 PSO  
Decision Paper : Published July 31<sup>st</sup> 2007  
<http://www.allislandproject.org/GetAttachment.aspx?id=d5e5c834-8551-4551-81df-f0cf94326045>

- Calculation of the R-factor in determining the PSO levy (CER 08/234)  
<http://www.cer.ie/en/renewables-decision-documents.aspx?article=39ce537a-1620-486d-b93e-bc70ab5934ca>
- Arrangements for the Public Service Obligation Levy – A Decision by the Commission for Energy Regulation (CER 08/093)  
<http://www.cer.ie/en/renewables-current-consultations.aspx?article=39ce537a-1620-486d-b93e-bc70ab5934ca>

- Relevant EU State Aid Clearance Decisions

State Aid N 475/2003: Capacity and Differences Agreements (CADA) [Link](#)

State Aid N 553/2001: AER [Link](#)

State Aid N 571/2006: RES-E Support i.e. REFIT [Link](#)

State Aid N 826/2001: AER I-V [Link](#)

- Previous PSO Decision Papers  
<http://www.cer.ie/en/renewables-decision-documents.aspx#PSODecisions>
- DCENR's Website with links  
<http://www.dcenr.gov.ie/Energy/Sustainable+and+Renewable+Energy+Division/>

For further information on this proposed decision paper, please contact James Mc Sherry ([jmcsberry@cer.ie](mailto:jmcsberry@cer.ie)).

## **Executive Summary**

The PSO levy is charged to all electricity customers and is designed to recoup the additional costs incurred by ESB and other suppliers in meeting their obligations to purchase electricity from sustainable, renewable, and indigenous sources pursuant to the relevant support scheme, in accordance with the Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 (SI No. 217 of 2002). S.I. No. 217 of 2002 has been amended (by S.I. No. 284 of 2008) to provide for parties other than ESB to receive support under the PSO mechanism.

Under Section 9(2) and (3) of the Electricity Regulation Act 1999, (Public Service Obligations) Order (Amended) 2002, (SI No. 217 of 2002), the Commission is obliged to approve parties' estimated additional & administrative costs to be incurred in complying with the Public Service Obligation and apportion those costs in a levy, recoverable from all final customers of electricity, based on the proportion of maximum demand attributed to each category of demand (Domestic, Small/Medium and Large). This paper consults on the PSO levy to apply from 1<sup>st</sup> October 2009 to 30<sup>th</sup> September 2010.

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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 the PSO benchmark price and resulting PSO levy for the upcoming PSO period of the 1<sup>st</sup> of October 2009 to the 30<sup>th</sup> of September 2010.

### **1.3 Background Information**

Under Section 39 of the Electricity Regulation Act 1999 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 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 levy by the Commission 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 of the Electricity Regulation Act 1999), 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 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 included the recovery of costs associated with peaking plant and plant that entered the market under a competition held by the CER due to security of supply concerns. Most recently, REFIT has been notified to the EU and received state aid clearance. S.I. No. 284 of 2008 amends S.I. 217 of 2002 to take account of parties other than ESB receiving support under the PSO.

In June 2007 the Regulatory Authorities ('the RAs') published a consultation paper, *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 benchmark prices for the PSOs in Ireland and Northern Ireland.

In July 2007 the RAs published the follow-up decision paper, *Proposed Approach to Setting the PSO Benchmark Price in SEM: A Decision Paper* AIP/SEM/07/431 the RAs decided that the benchmark price will be based on a series of forecast modelled pool prices using the same model as that adopted in determining directed contract prices. Both the software & inputs used to develop the modeling results are available to all market participants<sup>1</sup>. Finally, the paper states that there will be one price in Ireland and three separate prices in Northern Ireland.

REFIT payments were made for the first time under the 08/09 PSO levy. A number of areas relating to the calculation, collection, and distribution of the PSO levy were consulted upon as a result of suppliers other than ESB CS now being

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<sup>1</sup> Visit [www.allislandproject.org](http://www.allislandproject.org)

eligible for PSO payments. The Commission issued decisions<sup>2</sup> in relation to the issues outlined therein.

The PSO levy is determined each year based on estimates of costs to be recovered by all relevant parties, relative to the PSO benchmark price. In line with the Notification, this amount is corrected retrospectively two PSO periods later, once actual, audited costs are verified and the true market price is known. The PSO levy in a given year is therefore composed of estimates for the upcoming PSO levy period and an adjustment ('R-factor') relating to PSO amounts two PSO periods previous.

#### ***1.4 Responding to this Paper***

Responses to this paper should be forwarded to James Mc Sherry by close of business on Monday 29<sup>th</sup> of June 2009, preferably in electronic format to:

[jmcsberry@cer.ie](mailto:jmcsberry@cer.ie)

or alternatively by post to:

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<sup>2</sup> The consultations and decisions are available at the following link. CER/08/236 and CER/08/153 are the relevant decision papers. <http://www.cer.ie/en/renewables-decision-documents.aspx?article=39ce537a-1620-486d-b93e-bc70ab5934ca>



## **2.0 PSO Levy 2009/10 – Key Considerations**

### **2.1 Benchmark Price**

For the purposes of this consultation paper, the Commission has forecasted that the benchmark price for the upcoming PSO period of 1<sup>st</sup> October 2009 to 30<sup>th</sup> September 2010 is €55.72/MWh. This figure is an annual, average time weighted price calculated using the validated PLEXOS model. In calculating this price, the model was run thirty times using fuel, carbon and exchange rate averages over a two week period (11<sup>th</sup> – 22<sup>nd</sup> May 2009) based on indices as referred to in the Directed Contracts process<sup>3</sup>. For more information on the validation process see the relevant documents on the AIP website, [www.allislandproject.org](http://www.allislandproject.org).

### **2.2 Capacity**

Regarding the capacity element of the benchmark price, revenues associated with the capacity payment have been estimated for the relevant period for each plant supported under the levy. These have been calculated in advance of the finalisation of the Annual Capacity Payment Sum for 2009 and are therefore based on the most up to date information available prior to a decision on the above matter. The share of capacity for each unit was estimated based on installed capacity and availability, adjusted to account for special treatment and shares for interconnectors, wind units and hydro. The capacity revenues included in the final PSO decision in July will be based upon updated information used as inputs to the consultation on the calculation of the Annual Capacity Payment Sum for 2009.

### **2.3 Emissions Trading**

In calculating emissions costs for the 2009/2010 period, the Commission has assumed a carbon allowance cost of €15.50 per tonne for the PSO year 1<sup>st</sup> October 2009 to 30<sup>th</sup> September 2010. This figure is an average of carbon prices over the 11<sup>th</sup> – 22<sup>nd</sup> May 2009 period used to determine the benchmark price. Generation plants will have to purchase carbon allowances in excess of those allocated to them for free under the National Allocation Plan (NAP).

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<sup>3</sup> Please find the relevant information at the following link:  
[http://www.allislandproject.org/en/programme\\_updates\\_recent\\_publications.aspx?article=5317459c-14e3-44b7-9704-39ecb6f77e5a](http://www.allislandproject.org/en/programme_updates_recent_publications.aspx?article=5317459c-14e3-44b7-9704-39ecb6f77e5a)

## **2.4 R-factor**

A significant negative R-factor of (€86.7m) is included in the PSO levy, relating to the 1st January 2008 – 30th September 2008 PSO period. A brief outline of the key elements of the R-factor is given below.

- a) ESB Power Generation Plant - (€32.2m). Higher income than expected was earned by some of ESB's plant and this combined with lower than expected costs increases the amount paid back through the R-factor.
- b) AER/Edenderry Power Ltd/Capacity 2005 – (€54.5m). This figure has arisen due to a variance between the estimated output for the above plant used in the calculation of the PSO levy for 2008 and the actual output during that period. It also reflects the difference between the benchmark price of €66.52/MWh and SEM pool prices for the period January to September 2008. This difference serves increase the R-factor credit to the PSO levy.

### 3.0 PSO Levy 2009/10

This section sets out the Commission's proposed PSO levy for 2009/10. The proposed PSO levy is composed as follows:

PSO Element	Totals
Lough Ree	€43,084,155
West Offaly	€33,492,458
Edenderry Power	€7,911,012
AERs	€13,191,873
CAP 05	€18,200,000
REFIT <sup>4</sup>	€28,428,646
Sub-Total	€144,308,145
Other <sup>5</sup>	-€86,612,887
<b>Total PSO</b>	<b>€57,695,258</b>

Therefore, the Commission has determined payment by customer category for the levy period 1<sup>st</sup> of October 2009 to the 30<sup>th</sup> of September 2010 to be as follows:

Customer Category	Levy Amount
Domestic customers	€12.28/customer
Small commercial customers (maximum import capacity of less than 30kVA)	€33.57/customer
Medium and large customers (maximum import capacity of equal to or greater than 30kVA)	€4.62/kVA

<sup>4</sup> These costs include the administration costs for suppliers other than ESB CS.

<sup>5</sup> These costs include the administration costs for ESB CS & DSO, and the associated 2008 R-Factor. The R-factor is a correction for over/under recoveries in PSO income in 2008.

## Appendix A – Glossary of Terms

<b>AER</b>	<b>Alternative Energy Requirement</b>
<b>Board</b>	<b>Electricity Supply Board</b>
<b>Commission</b>	<b>Commission for Energy Regulation</b>
<b>DCENR</b>	<b>Department for Communications, Energy and Natural Resources</b>
<b>NIAUR</b>	<b>Northern Ireland Authority for Utility Regulation</b>
<b>PSO</b>	<b>Public Service Obligation</b>
<b>RAs</b>	<b>Regulatory Authorities, being the Commission for Energy Regulation and the Northern Ireland Authority for Utility Regulation</b>
<b>REFIT</b>	<b>Renewable Energy Feed in Tariff</b>
<b>SEM</b>	<b>Single Electricity Market</b>
<b>SI</b>	<b>Statutory Instrument</b>

## Appendix B - Demand Allocation & Components of PSO Levy

Appendix B – Allocation of PSO Levy – 1<sup>st</sup> October 2009 to 30<sup>th</sup> September 2010

	Individual Peak	% of Individual Peak	PSO Allocation €m	Total Mkt Cust Nos Mid Year (excl PL a/cs i.e. DG3)	Total Non-domestic mkt MICs kVA	Annual Charge		Monthly Charge	
						€per Cust	€/kVA	€per Cust	€/kVA
<b>Domestic Profile</b>	2,403,861	0.43	24.93	<b>2,029,956</b>		12.28		<b>1.02</b>	
<b>Small &amp; Medium Profile</b> <small>ie. non-domestic (excl PL) &lt;30kVA</small>	586,353	0.11	6.08	<b>181,111</b>		33.57		<b>2.80</b>	
<b>Large Profile</b>	2,573,706	0.46	26.69		5,774,766		4.62		<b>0.39</b>
<b>TOTAL</b>	5,563,921	1.00	<b>57.70</b>						

*Number of months to recover charge*

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