

Paul Fuller
Commission for Energy Regulation
The Exchange
Belgard Square North
Tallaght
Dublin 24

1st February 2010

Dear Mr Fuller,

Re: Proposals for a Roadmap on Deregulation

ESB Independent Energy welcomes this opportunity to articulate its views on the proposals outlined in the roadmap to full deregulation of the electricity market.

CER considers that a fully competitive retail electricity market can bring real benefits to consumers in terms of the choice and quality of the offers available from suppliers, improved value-added services and potentially lower prices. Given the experience from other energy markets, ESB Independent Energy as an independent energy supplier fully concurs with this view and believes that a fully competitive retail market is in the best interests of consumers in delivering competitive prices, high quality services and product innovation. Furthermore, during these current difficult economic times the benefits of competition across the whole market sector will help drive the competitiveness of business (LEU & SME sectors) and overall customer welfare (Domestic) and promote economic recovery.

ESB Independent Energy is of the view that the market is now ready for full price deregulation and the removal of the ESB Independent Energy licence restriction arising from the key determinant that all of the relevant business markets are competitive.

The key points that ESB Independent Energy wishes to address in it's response to the roadmap paper are as follows:-

- Removal of 225MWh licence restriction on ESB Independent Energy
- Price Deregulation
- Competition and Market Structure
- Future role of the Regulator

ESB Independent Energy's Current 225MWh Consumption Restriction Threshold

A key business objective for ESB Independent Energy in the coming years is to grow the customer base, however, this strategy is hampered by the current licence restriction and would strongly urge CER to remove the 225MWh restriction immediately. Furthermore, given the number of suppliers and level of competition in the business sectors, there is no longer a need or rationale for this restriction to continue. ESB Independent Energy is the only supplier with this restriction in the all island dual fuel market.

ESB Independent Energy strongly urges CER to remove the current licence restriction imposed on its business for 3 key reasons:-

1. ESBIE are the only independent supplier to carry this restriction
2. The market is now, and has long since been, sufficiently competitive
3. There are no similar restrictions on any supplier in NI

ESB Independent Energy agrees that the transition to full price deregulation will be a significant and important step for the market and therefore recognises the interim options as outlined by CER. On the basis that the price deregulation should happen in the immediate future, ESB Independent Energy would conclude that these options are not feasible.

Price Deregulation

ESB Independent Energy broadly concurs with CER on the criteria to be met to enable the removal of regulatory price control, however would be of the strong opinion that the market share thresholds would seem low in comparison to those outlined at the time of de-regulation in the UK electricity market. Furthermore, given the rapid rate of change in market share of suppliers in 2009 (e.g. SSE won an additional 12% market share in the medium SME sector in the first 8 months of 2009) a forward looking approach must be adopted as the most appropriate basis in calculating the market shares of all suppliers.

ESB Independent Energy would also like to make the following points to support price deregulation:-

- Competition is more effective than regulation in enhancing service offering and driving innovation from both a quality and cost perspective.
- Experience of the business sectors (LEU/I&C sector) on an All-Island basis provides evidence of this. Based on the data as outlined in the Roadmap paper, the same opportunity now needs to be afforded to the SME markets.
- Regulatory best practice (supported by EU policy) is for effective competition to replace regulation within the utility supply sectors.
- CER has done a very good job in promoting competition and as such its (CER's) role is largely fulfilled in this area, the only real outstanding action now is to provide a level playing field for all suppliers.
- Competition is active in all sectors of the retail market and it is now time to remove uncompetitive restrictions on all suppliers.
- All Suppliers should be allowed compete in an unconstrained and even basis in all retail sectors.

Competition and market structure

The paper has proposed a review on the basis of four relevant electricity markets in the form of Large Energy Users, Medium Sized Business, Small Business and Domestic Customers. ESB Independent Energy recognises that the concept of thresholds as a means to define a roadmap to deregulation is good, however, the company would hold a consistent view with the EU recognition of three distinct categories, being Large Energy Users, SME and Domestic. This classification avoids unnecessary over-complication and as such would be advantageous to the market and CER in terms future regulation and less burdensome in terms of sub-divisions and reducing the risk of supplier's non-adherence. Furthermore, the thresholds should not be held to be overly prescriptive and should be flexible to reflect customer switching inertia etc over time.

ESB Independent Energy welcomes the Commissions proposal to review market conditions in March 2010 and broadly concurs with the proposal by CER with regard the 'tariff-freedom' milestone and would strongly urge CER to give advanced notice to all suppliers.

ESB Independent Energy is of the view that the factors outlined by CER in assessing the level of retail competition are appropriate and have been created in a logical manner from factual evidence and experience in other markets, however, would like to take the opportunity to make the following points/suggestions:-

1. The high level of customer switching would be indicative information that there are low barriers to entry in all market sectors;
2. The paper has alluded to a single ESB supply business and ESB Independent Energy would strongly argue that the standard business model needed to support this is vertical integration. This has the obvious benefit of reduced duplication and would drive cost efficiencies.

The above points/suggestions, however, should not delay the delivery timelines as outlined in the CER paper.

Future role of the Regulator (Post deregulation)

ESB Independent Energy is in favour of continued involvement by CER in monitoring market activity, however, this should apply to all suppliers in the market and should not be specific to the former incumbent or it's affiliates. This monitoring should be in the context of an all-island market.

ESB Independent Energy welcomes the Commissions standpoint on the issue of vulnerable customers and suggests the requirement for all suppliers to have the same obligations to protect vulnerable customers and enshrining such in licence conditions may well be a sensible way forward.

Irish Government policy strongly supports the green agenda and an effective energy market structure should support this. It is essential that the growth in the green segment of the energy market happens in an open and transparent fashion and that dominance in this market does not detract from the real development of this market. The roadmap as presented does not adequately address this in our view although it is a key area for CER to be taking a proactive role in. Consideration for example should be given to the question of dominance in the "Green Market" and the responsibilities that such a "dominant position" would require.

Future role of the Regulator (Post deregulation) cont'd

ESB Independent Energy would also encourage CER to be active in the following areas:-

- Monitoring of activities from an all-island perspective;
- Supplier obligations and liquidity with regard customer contracts;
- Mergers and acquisitions;
- Adherence to the market rules;
- Sales and marketing code of practice.

Summary

ESB Independent Energy has welcomed the opportunity to articulate its views on the proposals on the roadmap to full deregulation of the electricity market and strongly advocates the benefits that a fully competitive retail electricity market would bring to all customers. ESB Independent Energy recognises the good work carried out by CER in promoting competition which is reflective of where the markets are currently at in terms of the positions of all suppliers across the various segments.

Finally, ESB Independent Energy would like to make the final key points that it considers as being integral to bring the electricity retail market to its' next phase:-

1. Removal of ESBIE 225MWh Consumption Restriction Threshold;
2. Removal of price restriction subject to appropriate notice and a reasonable timetable to enable suppliers engage a business marketing plan;
3. Recognition of 3 market categories i.e. LEU, SME and Domestic;
4. Future consideration given to the definition of the retail market on an all-island basis and cognisance of the dual fuel status of suppliers in the market.

Your sincerely,



Susan Kinane
General Manager, ESB Independent Energy