



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Review of the Regulatory Framework for the Retail
Electricity Market
Competition Review Q1 2010**

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Commission for Energy Regulation

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CER – Information Page

Abstract: In its decision paper, “Regulatory Framework for the Retail Electricity Market: Proposals on a Roadmap for Deregulation (CER 10/059), the Commission set out a number of criteria which must be fulfilled before deregulation can occur in a relevant electricity retail market. This review provides the April assessment for quarter 1 2010.

Target Audience:

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

Related Documents:

- CER 09/189: Consultation Paper Review of the Regulatory Framework for the Retail Electricity Market: Proposals on a Roadmap for Deregulation
- CER 10/058: Decision Paper Review of the Regulatory Framework for the Retail Electricity Market: Proposals on a Roadmap for Deregulation

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Executive Summary

- This is the first competition review of the electricity retail markets. It forms part of the process towards deregulation of the electricity retail market.
- This review assesses whether each of the four relevant markets identified in the decision paper: “Review of the Regulatory Framework for the Retail Electricity Market: Proposals on a Roadmap for Deregulation¹” fulfils the criteria for allowing deregulation. These markets are: Large Energy Users, Medium-Sized Business customers, Small Business customers and Domestic customers.
- Deregulation can occur in a market if the following criteria are met (subject to all necessary legislative and licensing changes being implemented):
 - (i) There are at least three suppliers active in the relevant market; and
 - (ii) There are a minimum of 2 independent suppliers, each of which has at least 10% share of load (GWh) in the relevant market; and
 - (iii) ESB PES and ESBIE combined serves or will serve within a specified period a defined percentage of consumption market share in a relevant market. For each of the Business markets, the percentage market share is 50% or less. In the Domestic market, the percentage market share is 60% or less.
- There are two additional requirements for the Domestic market. First switching rates must be greater than 10%. Second, ESB must provide the Commission with a satisfactory commitment for the rebranding of ESB supply companies where the commitment is in place prior to the deregulation of the domestic market.
- The Commission has concluded that the Large Energy User, Medium-Sized Business and Small Business markets have met the criteria for deregulation.
- The Commission has concluded that the Domestic market is not yet ready for deregulation as ESB’s forecast market share remains too high.
- The deregulation of the three business market cannot be effected until all necessary changes to legislation and supply licences have been made. The Commission is working with DCENR to complete this work. The

¹ CER 10/058: Decision Paper Review of the Regulatory Framework for the Retail Electricity Market: Proposals on a Roadmap for Deregulation

Commission expects this work to complete in time for deregulation to take place on October 1st of this year.

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1.0 Introduction

1.1 Purpose of this paper

The purpose of this paper is to review the development of competition in the relevant markets identified in the decision paper: “Review of the Regulatory Framework for the Retail Electricity Market Proposals on a Roadmap for Deregulation.” The paper will determine if any of these markets fulfil the criteria to allow deregulation. These markets are Large Energy Users, Medium-Sized Business, Small Business and Domestic.

Section 2 provides a background to the review while Section 3 provides an assessment of each of the retail electricity markets. The final Section details the outcome of the assessments.

1.2 Other Relevant Information

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2.0 Background

2.1 Introduction

Late in 2009, and as a result of increasing competition in the business and domestic retail electricity markets, the Commission came to the preliminary conclusion that the price control and other restrictions placed upon ESB Public Electricity Supplier (ESB PES) need to be reviewed and possibly amended or removed. The Commission was mindful of the need for regulatory certainty and therefore proposed that a 'Roadmap' for deregulation be put in place.

On December 2nd, 2009, the Commission published a consultation paper titled: "Review of the Regulatory Framework for the Retail Electricity Market: Proposals on a Roadmap for Deregulation," also known as the 'Roadmap.' That document looked at the circumstances where price controls may be removed from the PES and related matters. A decision paper has been published by the Commission today.

2.2 Criteria for Deregulation

In the Roadmap, the Commission decided that there are four separate markets; Large Energy Users (DG 7, 8, 9, 10 & TCON), Medium-Sized Business (Public Lighting & Low Voltage Maximum Demand – DG3&6), Small Business (Low Voltage Non-Maximum Demand – DG5) and Domestic Customers (DG 1&2).

Deregulation can occur in a market if the following criteria are met (subject to all necessary legislative and licensing changes being implemented):

- (i) There are at least three suppliers active in the relevant market; and
- (ii) There are a minimum of 2 independent suppliers, each of which has at least 10% share of load (GWh) in the relevant market; and
- (iii) ESB PES and ESBIE combined serves or will serve within a specified period a defined percentage of consumption market share in a relevant market. For the Business markets, the defined percentage market share is 50% or less. In the Domestic market, the defined percentage market share is 60% or less.

There are two additional requirements for the Domestic market. First switching rates must be greater than 10%. Second, ESB must provide the Commission with a satisfactory commitment for the rebranding of ESB supply companies

where the commitment is in place prior to the deregulation of the domestic market.

2.3 Detail of Market Reviews

The Roadmap decision paper sets out details of the market reviews that the Commission will undertake and these are specified below.

The Commission will carry out market reviews on a quarterly basis in March², June, September and December. The number of active suppliers in a given market will be determined on Meter Registration System Operator (MRSO) data. Supplier market share will be calculated as follows:

- It will be assessed on the latest available consumption data from the MRSO. If the market is found to have passed these and all other criteria then it will be deregulated immediately (subject to all necessary legislative and licensing changes being implemented).
- However, where markets have not met the market share thresholds, a forecast will be calculated for a forward looking assessment. Monthly switching trend data from the MRSO will be used to forecast the most up to date market shares. The average amount of switching over the last three available months of data will be used to extrapolate what the forecast market shares will be in 3 and 6 months time.
- The 6 month prospective assessment will serve as a provisional indicator of whether or not deregulation will take place at that time. In order to ensure certainty, a final decision will not be made about the deregulation of the relevant market until 1 month before it is predicted to take place. Similar to the initial assessment, the amount of switching over the previous month will be used to extrapolate what the forecast market shares will be at the proposed time of deregulation. For example, in the June 2010 review, the Commission will use MRSO market share data for Q1 2010 as a baseline. The Commission will then use an average of the switching data from March, April and May to extrapolate what the market shares of the market participants will be at the end of December.

If the June review predicts that the market is likely to have reached its threshold at the end of December 2010, the Commission will publish a final assessment in November which will decide whether the market is to be de-regulated or not. Switching data from October will be used to extrapolate what the market shares of the market participants will be at the end of December.

² This review has been delayed to coincide with the release of the Roadmap Decision paper.

Regarding the average switching rate over the last 12 months, the Commission will draw upon the 12 most recent monthly switching reports submitted by the MRSO.

3.0 Market Analysis

3.1 Introduction

This section contains the market analysis of each of the relevant markets which will be used to determine whether the criteria for deregulation in each relevant market have been reached.

3.2 Large Energy Users

Below is the analysis of the Large Energy Users (LEU) market. The LEU market contains customers with DG 7, 8, 9, 10 & TCON connections.

3.2.1 Number of Suppliers and Market Share

The table below shows supplier market shares for the period 2006 to 2009. The percentages are an average of each supplier's market share over the year and therefore do not provide the latest information.

YEAR	2006	2007	2008	2009
ESB PES	10.59%	10.29%	10.42%	8.89%
ESBIE	35.75%	37.72%	36.49%	41.48%
Airtricity	0.03%	2.45%	4.12%	8.83%
Energia	30.88%	28.88%	25.30%	21.43%
BGE	17.36%	15.60%	16.62%	12.54%
Others	5.39%	5.05%	7.05%	6.82%

Table 3.1 LEU Market Share (GWh) 2006-2009³

In order to provide the most up to date assessment of market share, the Commission has examined supplier consumption market share for the fourth quarter of 2009.

³ 'Others', in the market share graphs refers to the purchasing of smaller suppliers (those with a market share of less than 1%) and generator 'house load,' (electricity purchased by generators through their own supply licenses to keep plants running when they are not producing). Generators purchasing electricity from other suppliers are included in the calculation of the percentage for that supplier.

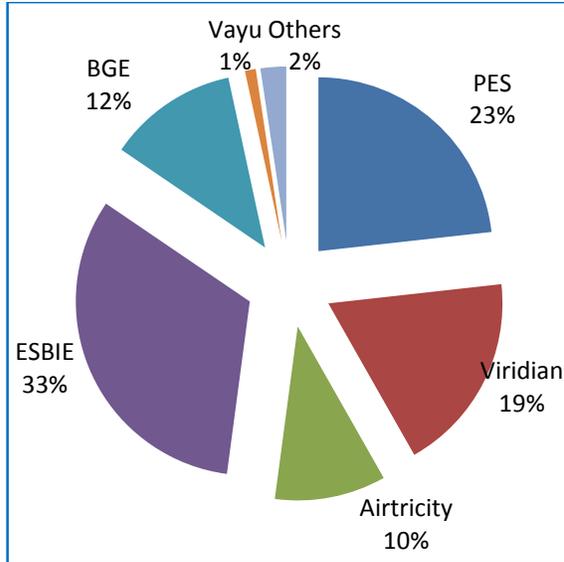


Figure 3.1 LEU Market Share (No. of Customers) in Q4 2009

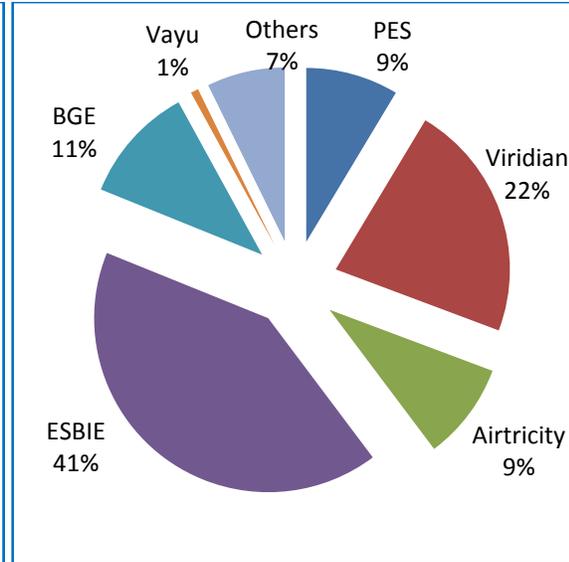


Figure 3.2 LEU Market Share (GWh) in Q4 2009.

From the above data we can determine that there are more than two active suppliers in the market where two have a consumption market share of 10% or more. In addition, the combined market share (GWh) of ESBIE and ESB PES is 50%. Therefore the criteria related to the number of suppliers and market share are fulfilled. On this basis, the Commission determines that the analysis of the LEU market has satisfied all the necessary criteria for deregulation.

Deregulation of the LEU market cannot be effected until all necessary changes to legislation and supply licences have been made. The Commission is working with DCENR to complete this work. The Commission expects this work to complete in time for deregulation to take place on October 1st of this year.

3.3 Medium-Sized Business

Below is the analysis of the Medium-Sized Business market. The Medium-Sized Business market contains customers with Low Voltage Maximum Demand – DG6 and Public Lighting – DG3 connections.

3.3.1 Number of Suppliers and Market Share

The table below illustrates suppliers' market shares for the period 2006 to 2009. As noted above, the data in this table provides an average of each supplier's market share over the year, and is therefore not the most up to date assessment.

YEAR	2006	2007	2008	2009
ESB PES	47.72%	41.96%	41.03%	29.36%
ESBIE	17.70%	17.63%	15.40%	16.85%
Airtricity	2.72%	3.99%	5.27%	13.50%
Energia	20.94%	25.12%	27.59%	28.76%
BGE	8.93%	9.61%	10.01%	11.36%
Others	2.01%	1.70%	0.71%	0.09%

Table 3.2 % Medium-Sized Business Market Share (GWh) 2006-2009

In order to provide the most up to date assessment of market share, the Commission will assess supplier consumption market share for Q4 2009.

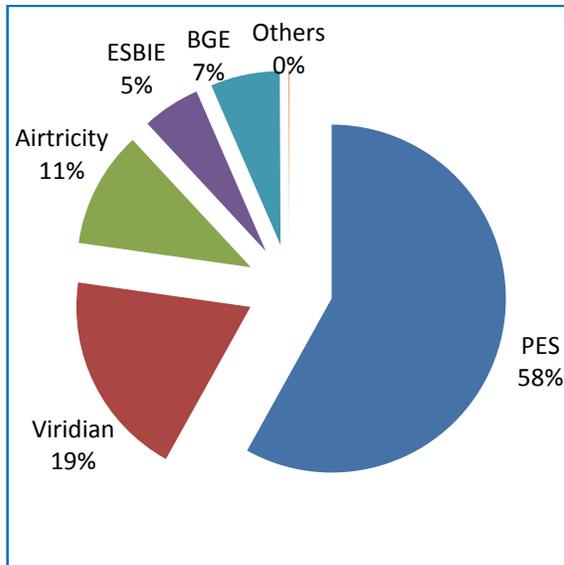


Figure 3.3 Medium-Sized Business Market Share (No. of Customers) in Q4 2009.

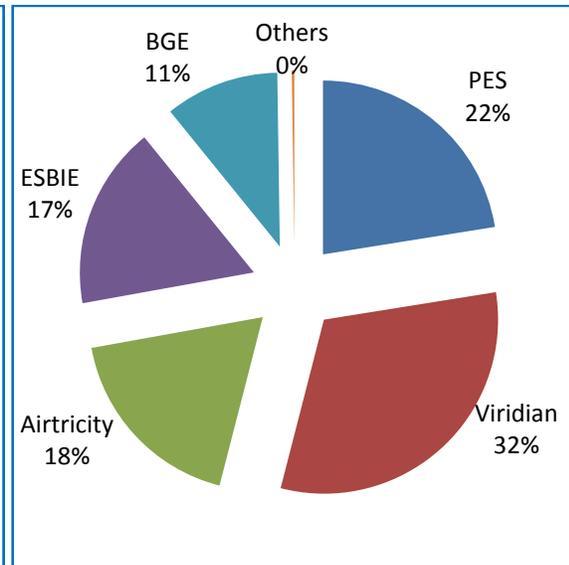


Figure 3.4 Medium-Sized Business Market Share (GWh) in Q4 2009.

From the above data the Commission has determined that there are more than two active suppliers in the market each with a market share (GWh) of 10% or more and the combined market share (GWh) of ESBIE and ESB PES is 39%. Therefore the criteria related to the number of suppliers and market share are fulfilled. On this basis, the Commission determines that the Medium-Sized Business market has satisfied all the necessary criteria for deregulation.

As above, deregulation cannot be effected until all necessary changes have been made to legislation and licences. The Commission is working with DCENR on these changes and expects the work to complete in time for deregulation to take place on October 1st of this year.

3.4 Small Business

Below is the analysis of the Small Business market. The Small Business market contains customers with Low Voltage Non-Maximum Demand – DG5 connections.

3.4.1 Number of Suppliers and Market Share

The table below illustrates suppliers' market shares for the period 2006 to 2009. As noted above, the data in this table provides an average of each supplier's market share over the year, and is therefore not the most up to date assessment.

YEAR	2006	2007	2008	2009
ESB PES	56.64%	51.46%	48.09%	39.86%
ESBIE	1.74%	2.16%	1.87%	1.94%
Airtricity	18.00%	15.26%	15.93%	17.07%
Energia	15.80%	21.34%	25.79%	28.48%
BGE	3.91%	6.86%	7.31%	12.55%
Others	3.91%	2.93%	1.01%	0.09%

Table 3.3 % Small Business Market Share (GWh) 2006-2009

In order to provide the most up to date assessment of market share, the Commission will assess supplier consumption market share for Q4 2009.

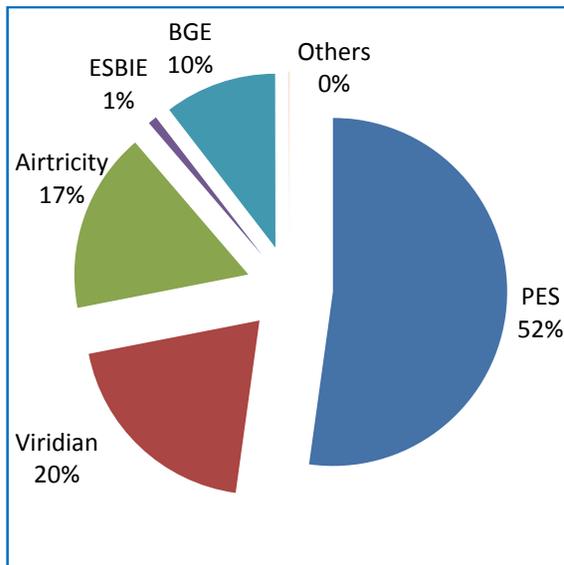


Figure 3.5 % Small Business Market Share (No. of Customers) in Q4 2009.

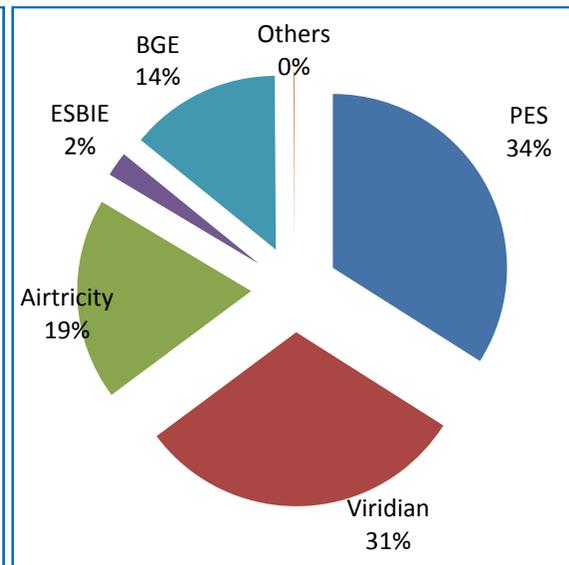


Figure 3.6 % Small Business Market Share (GWh) in Q4 2009.

From the above data the Commission has determined that there are more than two active suppliers in the market, each with a market share of 10% or more and the combined market share (GWh) of ESBIE and ESB PES is 36%. Therefore the criteria related to the number of suppliers and market share are fulfilled. On this basis, the Commission determines that the analysis of the Small Business market has satisfied all the necessary criteria for deregulation.

As for the other business markets, deregulation cannot be effected until all necessary changes have been made to legislation and licences. The Commission is working with DCENR on these changes and expects the work to complete in time for deregulation to take place on October 1st of this year.

3.5 Domestic Customers

Below is the analysis of the Domestic market. The Domestic market contains customers with DG1 and DG2 connections.

3.5.1 Number of Suppliers and Market Share

The domestic market has only become active since February 2009, therefore no historical chart is provided.

In order to provide the most up to date assessment of market share, the Commission will assess supplier consumption market share for Q4 2009.

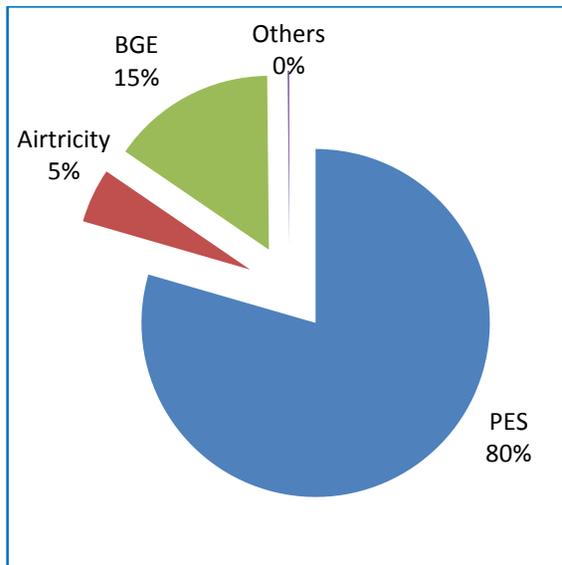


Figure 3.7 % Domestic Market Share (No. of Customers) in Q4 2009.

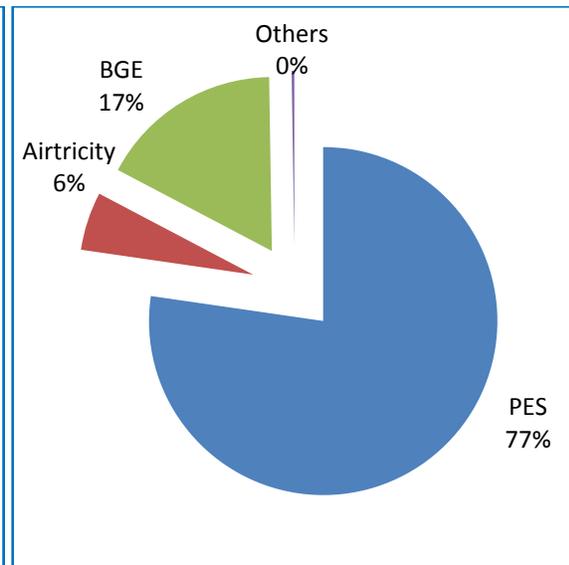


Figure 3.8 % Domestic Market Share (GWh) in Q4 2009.

From the above data, the Commission determines that there are more than two active suppliers in the market, there is one independent supplier with a market share of 10% or more and the combined market share (GWh) of ESBIE and ESB PES is 77%.

The Domestic market does not meet all necessary criteria at this time for immediate deregulation. There are an insufficient number of independent suppliers with a market share of 10% or more. In addition ESBIE and ESB PES do not fulfil the combined market share criteria of 60%.

Below is a projection of ESB PES domestic market share until the end of September 2010.

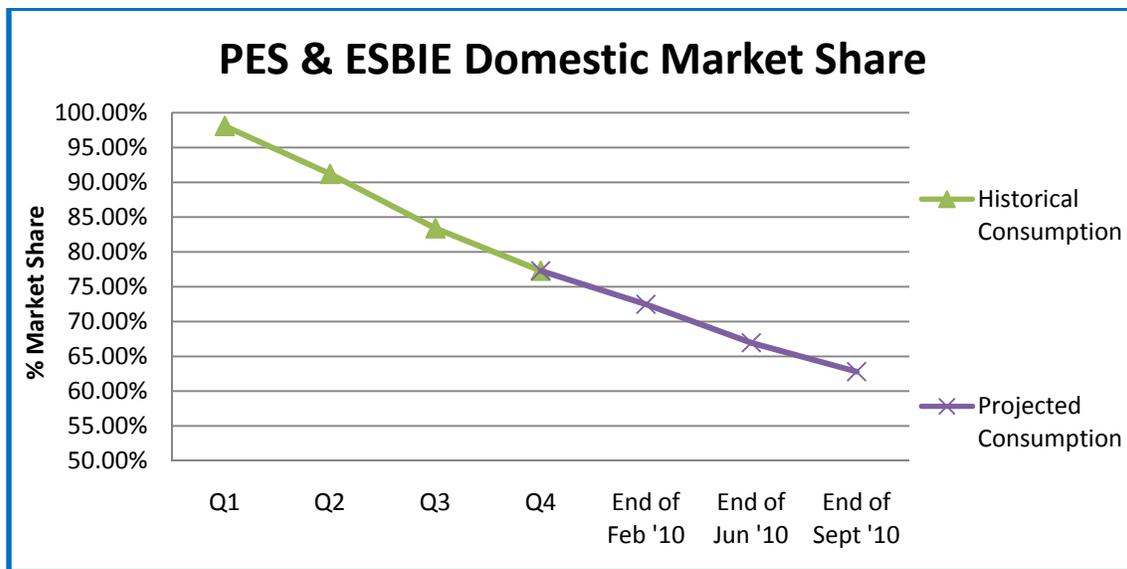


Figure 3.9 % Change in Combined ESB PES & ESBIE Domestic Market Share in Q1 2009 – End Feb 2010 with projection of Market Share to End Sept 2010

The Commission's analysis suggests a projected domestic market share, for ESB, of 62.8% and on this basis does not foresee a sufficient fall in market share to allow deregulation to occur on October 1st 2010. The next competition review will provide an undated assessment of ESB's domestic market share for the end of September. The Commission will make a final assessment in August of the end September market share.

Below is a projection of Bord Gáis Energy (BGE) and Airtricity's domestic market share until the end of September 2010.

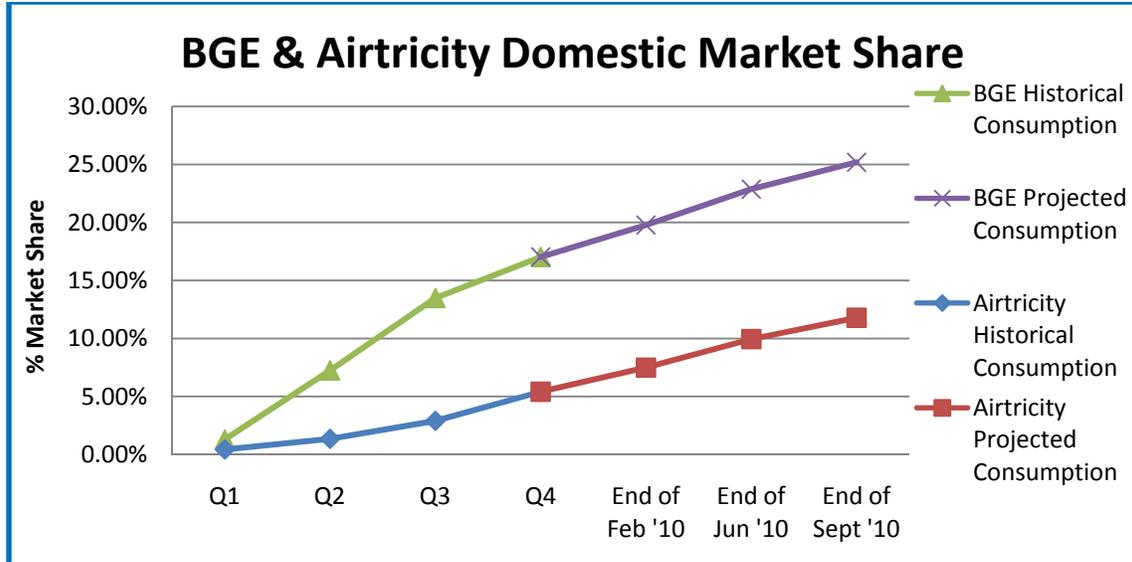


Figure 3.10 % Change in BGE and Airtricity Domestic Market Share in Q1 2009 – End Feb 2010 with projection of Market Share to End Sept 2010

Although the analysis projects that BGE (25.2%) and Airtricity (11.8%) will have sufficient market share at the end of September 2010 to allow deregulation on October 1st. A final assessment will occur in August on the end September market shares.

3.5.3 Switching

The Single Switching Rate from Mar '09 to end Feb '10 was 23.38%.

This fulfils the switching deregulation criteria for the Domestic market.

3.5.4 Branding

ESB has not yet provided the Commission with a satisfactory commitment for the rebranding of ESB supply companies. Therefore the deregulation of the domestic market cannot yet occur.

3.5.3 Conclusion

The Commission has determined that, at this point in time, not all of the criteria for deregulation have been met to allow the deregulation of the domestic market. While there are enough suppliers in the market (and meeting the market share requirements) and the switching rate is sufficiently high, ESB PES and ESBIE's current market share exceeds the threshold of 60% and projections indicated that their share is likely to remain in excess of 60% in September 2010. The Commission refers interested parties to its consultation paper (CER/10/042) which sets out the regulatory framework what will apply to PES operating in retail markets that have not been deregulated.

4.0 Summary and Next Steps

4.1 Summary

The Commission has concluded that the criteria for deregulation have been achieved in the following markets:

- Large Energy Users
- Medium-Sized Business
- Small Business

Therefore, the above three markets are deregulated. The Roadmap Decision paper (CER/10/058) provides more information as to how deregulated markets will be treated by the Commission. While the business markets have now satisfied the criteria for deregulation, the current legislative and licence provisions continue to be in effect. Therefore deregulation will not effectively take place until such time as they have been amended to take account of the changed structure of the regulatory framework. The Commission is working with DCENR and expects this work to complete in time for deregulation to take place on October 1st of this year.

The Commission has concluded that the criteria for deregulation have not been achieved in the domestic market and therefore it will remain regulated for the time being.

4.2 Next Steps

The Commission will publish its next competition review on June of this year. The second review will give a provisional 6 month assessment for the end of December and an updated assessment for the end of September. In August, the Commission will publish its final assessment for September. The Commission will continue to publish these reviews until the domestic market is deregulated.

At this time, the Commission is of the view that the Domestic market will be the subject of a new price control and revised regulatory framework from October. The Commission published a consultation paper⁴ earlier this year on the form of regulation that would apply. The Commission will publish a decision paper by end April. A separate consultation paper will issue in May setting out PES's allowed costs and revenues for a two year period from 1st October 2010. This will be followed by a decision paper in July.

⁴ Draft Decision on the ESB PES's Revenue Regulation Framework – [CER10042](#)