



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Information Note

Roadmap to Deregulation – Next Steps

CER/10/083

9th June 2010

*The Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.*

www.cer.ie

1. BACKGROUND ON DEREGULATION

Further to the sustained positive changes in the electricity market 2009 and consultation with the industry, the Commission published a decision paper on a Roadmap to Deregulation (CER 10/058) in April 2010. Therein, the Commission set out its decision with regard to the deregulation of the Irish retail electricity market, and an end to the regulation of retail prices for customers in all three business markets; Large Energy Users, Medium and Small Sized Business, from 1st October 2010. The paper also set out the Commission's decision with regard to the criteria for the deregulation of the domestic market; 60% incumbent market share (ESB Customer Supply & ESB Independent Energy), a minimum 10% market share for two independent competitors, 10% switching level and the removal of ESB brand from the supply company in advance of domestic market deregulation.

The aim of this note is to set out the next steps for the Roadmap and provide certainty to the market about the regulatory environment and the upcoming changes necessary to deliver and sustain market deregulation. It sets out the work programme to be followed by the Commission and the associated timelines. The Commission considers that the ultimate aim of deregulation is to benefit consumers, and therefore the work programme places particular emphasis on consumer protection issues and associated suppliers' obligations, with a specific consultation paper on this topic. The work programme covers the following key areas:

- Legislation & Licence Changes
- Customer Communications Plan
- Domestic Tariff Regulation 2010
- Competition Reviews
- Customer Protection Consultation
- ESB Rebranding
- Market Monitoring
- Global Aggregation

2. KEY WORK AREAS

2.1. *Legislation & Licence Changes*

The implementation of the decisions outlined in the Roadmap to Deregulation requires both changes to legislation and to the **Public Electricity Supplier (PES) Licence**¹.

2.1.1 Legislative Changes

The Commission is engaged with the Department of Communications, Energy and Natural Resources to implement the necessary legislative changes to the regulation of tariffs under SI60 which must be in place before market deregulation.

2.1.2 Licence Changes

It is proposed that licence changes will be completed in two parts, requiring two separate consultation processes. The first consultation will take place in July, to give effect to the licence changes required to deregulate the business markets from 1st October 2010. This will consist primarily of the modification of licence conditions pertaining to the regulation of tariffs in relevant markets. A modified licence will be issued to ESB Customer Supply prior to 1st October 2010.

¹ Issued to ESB for its Customer Supply business under section 14(1)(h) of the **Electricity Regulation Act, 1999**.

The second consultation will address the remaining issues associated with deregulation including the designation and administration of the Supplier of Last Resort and Universal Supplier Obligations. It will incorporate changes to the generic supply licences, as it applies to all suppliers, to give effect to the requirements of SI 60 in relation to customer Codes of Practice and also any decisions coming out of the Customer Protection Consultation (discussed in section 5 of this note). The second licence consultation will be scheduled after the Customer Protection consultation.

2.2 Customer Communications Plan

As with the publication of the Commission's decision regarding deregulation, the Commission intends to continue targeted communications signally the milestones of the Roadmap to Deregulation to all market participants, but particularly final customers. This emphasis on final customers is seen by the Commission as particularly apt in light of the results of a recent customer survey², which highlighted consumers' reliance on suppliers' media campaigns for information. The communications campaign will be tailored to each market group as follows:

2.2.1 Business

- The Commission intends to write to all relevant business stakeholder groups informing them of the changes in the market and encouraging them to inform their members of the changes and their options in terms of switching. The Commission will accommodate, and indeed encourage, requests for meetings/workshops with relevant stakeholders.
- The Commission will publish notifications alerting business customers to change in the market structures and the cessation of regulated tariffs for all business customers.
- The Roadmap to Deregulation highlighted low levels of switching in relation to the supply of Public Lighting and unmetered supplies. The Commission intends to write to all County Councils / Local Authorities advising them of changes in the market, supplier switching options, and the industry processes for change of supplier.

2.2.2 Domestic

The Consumer Protection Consultation will define many of the detailed requirements on suppliers with respect to the ongoing level of information to be provided to domestic customers. In addition to guaranteeing the provision of such data, the Commission also proposes the following once a decision on the date for the deregulation of the domestic market has been agreed:

- To write to all relevant consumer stakeholder groups informing them of the changes in the market and encouraging them to inform the public of changes in the market, supplier switching options and the processes for change of supplier.
- To publish notifications alerting domestic customers to the changes in the market structures and the cessation of regulated tariffs for all domestic customers.

2.3 Domestic Tariff Regulation 2010

The Commission has also set out its decision on the interim arrangements for regulation of the domestic market (CER/10/067) until such time as the market has met the criteria for deregulation.

² Findings from 2009/2010 research on residential and business attitudes and experience of the electricity market across the island of Ireland. The Research Perspective Ltd. (CER 10/084)

The implementation of changes to the price control, introducing an ex-post review based on a Maximum Allowed Revenue (MAR), are transitional steps to the deregulated market.

2.3.1 Maximum Allowed Revenue

The move to the ex-post MAR will facilitate a regulatory framework more appropriate to an increasingly competitive market, where the Commission conducts an ex-post revenue review. With regards to 2010/11 tariffs, while the Commission will not consult on the proposed tariffs as it has done in the past, ESB Customer supply will be required to submit its input costs for Commission approval and tariffs will continue to be priced on a cost reflective basis.

ESB Customer Supply will also be required to provide quarterly updates setting out its rolling position with respect to the MAR and to modify its tariffs should its forecast revenue move outside $\pm 3\%$ of the MAR

2.3.2 Supply Costs Review

The 2 year supply costs review feeding into the MAR will be published for consultation in June with a decision in August.

2.4 Competition Reviews

The Roadmap to Deregulation set out the detailed schedule of Competition Reviews that will determine when the domestic market is to be deregulated. The reviews will be published quarterly with updates on market share, switching rates, etc. The reviews will take a forward looking view of market share data, forecasting if deregulation will occur at 6 month intervals. Where a date for deregulation is forecast in a particular review, the final decision to deregulate will depend on a further confirmation that all the criteria has been met one month in advance of the forecasted date. The first review will look at Q2 2010 and is due for publication in July 2011. It is proposed that these reports will replace the current quarterly market information reports.

The Commission will also publish weekly updates with respect to switching from July 2010.

2.5 Customer Protection Consultation

With the ultimate aim of deregulation to benefit consumers, the Commission will undertake a consultation process focusing solely on consumer protection issues. The consultation paper will cover such matters as;

- The application of the Universal Service & Supplier of Last Resort obligations
- Tariff arrangements for vulnerable customers
- Improving general customer awareness
- Encouraging active market participation across the domestic market
- Improving price transparency

Experience of retail deregulation in other jurisdictions has shown that consumers, often the most vulnerable, do not always have a positive experience and that additional measures may be required to ensure that all customers can benefit from retail competition. In the Energy Supply Probe³, Ofgem issued several directions on remedies which were designed to improve the

³Office of Gas and Electricity Markets, Energy Supply Probe - Initial Findings Report (Ref: 140/08).

functioning of the market for all consumers, particularly vulnerable households and small businesses. The key objectives of the package were to:

- improve the quality and accessibility of the information available to consumers so that they can make well-informed decisions about their energy supply; and
- empower more consumers to engage effectively in the market.

In drafting the consultation, the Commission will take account of such experiences in other markets, as well as the responses to the consultation on the Roadmap to Deregulation and feedback from consumers in the aforementioned customer survey. The Commission proposes to meet with stakeholders over the coming months to discuss the issues, publishing a consultation paper in September 2010, with a decision in December 2011. Any decisions that require licence changes will be included in the second round of licence revisions in December 2010.

2.6 ESB Rebranding

The Roadmap to Deregulation decision paper required a commitment from ESB which will address, to the satisfaction of the Commission, the rebranding of the ESB supply businesses, including any appropriate transitional arrangements as a condition of the deregulation of the domestic market. The “Third Package” of European energy legislation also requires that Member States ensure that there is no confusion with respect to the roles of the DSO and the supply arms where both are part of the same company. The Commission is working to evaluate the initial plans for rebranding presented by ESB in the context of the Roadmap to Deregulation and ensure transparency to all market players on the progress of this project.

2.7 Market Monitoring

The Roadmap to Deregulation detailed the Commission’s decision to continue to monitor the market post deregulation to ensure that competition is sustained, and developed, in all markets. The paper proposed that the Commission would publish bi-annual reports on the status of the deregulated markets including;

- Number of suppliers
- Market Share (GWhs) for all suppliers
- Switching – total level of switches and switching between competitors
- Revenue – revenue earned for all suppliers to determine profitability
- Range of tariffs on offer and average prices paid by customers by tariff.

The decision to monitor suppliers’ revenues may require a data direction to all suppliers, the details of which will have to be defined. The first report will cover the period from 1st Oct 2010 – 31st April 2011 and will be published in May 2011.

2.8 Global Aggregation

The Roadmap to Deregulation indicated that the Error Supply Unit (ESU), which is currently attributable to PES under the Trading & Settlement Code (T&SC) algebra, will no longer apply to the business markets from 1st Oct 2010. This means that the costs of the residual energy defined

by the ESU will be shared across a diminishing number of regulated ESB Customer Supply customers. With full deregulation, the rationale for the ESB Customer Supply to serve as the ESU diminishes. While a working group of the T&SC has been established to develop a long term all-island solution for Global Aggregation in the context of harmonised retail market systems, from 2012, this will not address the short term requirement for an interim jurisdictional remedy.

The Commission will work with ESB Networks and ESB Customer Supply to develop an interim solution which will see the costs of residual energy shared across industry players in advance of Global Aggregation. The Commission will liaise with ESN and industry in the coming weeks to assess the viable interim solutions with minimal IT changes in advance of the deregulation of the domestic market.

3. TIMELINES

3.1. Detailed Work Programme

The summary timeline for the implementation of the decisions outlined in the Roadmap to Deregulation is set out in Annex I.

ANNEX I - Deregulation Timetable

| Work Areas | 2010 | | | | | 2011 | | | | |
|---|-------------------|-------------------|------------|------|-------------------|------|------------|------------|-----|-----|
| | Jun | Jul | Aug | Sept | Oct | Nov | Dec | Jan | Feb | Mar |
| ➤ Legislation & Licence Changes | [Solid black bar] | | | | | | | | | |
| Changes to SI60 | [Grey bar] | | | | | | | | | |
| Licence Changes Part I | | [Grey bar] | | | | | | | | |
| Licence Changes Part II | | | | | | | [Grey bar] | | | |
| ➤ Customer Communications Plan | [Solid black bar] | | | | | | | | | |
| Business Customers | | [Grey bar] | | | | | | | | |
| Domestic Customers (Dates tbd by Competition Review) | | | | | | | | [Grey bar] | | |
| ➤ Domestic Tariff Regulation 2010 | [Solid black bar] | | | | | | | | | |
| CER Review PES Submission | | | [Grey bar] | | | | | | | |
| MAR Quarterly Reports | | | | | | | | [Grey bar] | | |
| ➤ Competition Reviews | [Solid black bar] | | | | | | | | | |
| Quarterly Reviews | | [Grey bar] | | | [Grey bar] | | | [Grey bar] | | |
| ➤ Customer Protection Consultation | [Solid black bar] | | | | | | | | | |
| Consultation | | | [Grey bar] | | | | | | | |
| Decision | | | | | | | [Grey bar] | | | |
| ➤ ESB Rebranding (Dates to be decided) | | [Solid black bar] | | | | | | | | |
| ➤ Market Monitoring | | | | | [Solid black bar] | | | | | |
| ➤ Global Aggregation | [Solid black bar] | | | | | | | | | |