



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

## PUBLIC SERVICE OBLIGATION LEVY 2010/2011

DOCUMENT TYPE:	<b>Proposed Decision Paper</b>
DATE PUBLISHED:	11 <sup>th</sup> June 2010
CLOSING DATE:	28 <sup>th</sup> June 2010
REFERENCE:	<b>CER/10/086</b>
RESPONSES TO:	James Mc Sherry jmcsherry@cer.ie



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

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

[www.cer.ie](http://www.cer.ie)

## 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 a proposed PSO levy of €194.58m for the period 1<sup>st</sup> October 2010 – 30<sup>th</sup> September 2011.

### 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>
- PSO Benchmark Price Setting Methodology AIP-SEM-07-431 PSO Decision Paper : Published July 31<sup>st</sup> 2007  
<http://www.allislandproject.org/en/generation.aspx?page=2&article=ab6bf37c-9803-4167-8528-05d20e034477>
- 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 6/A/2001: Peat Stations PSO [Link](#)

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

This paper consults on the PSO levy to apply from 1<sup>st</sup> October 2010 to 30<sup>th</sup> September 2011.

The PSO levy is charged to all electricity customers. It is designed to support the national policy objectives of security of energy supply, the use of indigenous fuels (i.e. peat) and of renewable energy sources in electricity generation. Specifically, the proceeds of the levy are used to recoup the additional costs incurred by ESB and other suppliers in having to source a proportion of their electricity supplies from such generators.

The policy and terms associated with PSO levy supported plant are mandated by Government and approved by the European Commission. The Commission for Energy Regulation does not set the policy and terms associated with PSO levy supported plant.

The levy is calculated by the Commission for Energy Regulation in accordance with the relevant legislation and particular terms of the various PSO schemes.

For the 2010/2011 electricity tariff year the PSO levy is forecast to amount to **€194.5m**. This is a very substantive increase on recent years when the levy was running at, or close to, zero. The reasons for this increase – including the once off factor which arose in 2009 – are set out in the paper.

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## 1.0 Introduction

### 1.1 Purpose of this Paper

The purpose of this paper is to outline 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 2010 to the 30<sup>th</sup> of September 2011.

### 1.2 Background Information

The PSO levy is designed to support certain peat, gas and renewable generation plant as mandated by Government and approved by the European Commission. The underlying policy objectives are security of energy supply – including the use of indigenous fuels - and the promotion of renewable energy generation.

The proposed PSO levy forecast for 2010/11 is sizeable, at **€194.5m**, compared to recent years. This is due to a number of factors, principally;

- the cost of the various PSO contracts/schemes given the forecasted market revenues earned by those plant; and
- an offsetting PSO credit of (€128m) that was due to come through in the 2010/11 PSO levy was 'brought forward' and included in the 2009/10 PSO levy. This was a once off measure designed to enable setting the 2009/10 PSO levy to zero. This once-off measure would not be sustainable going forward, as repeating this measure would only result in higher electricity costs for consumers in the future.

#### 1.2.1 PSO Items

The PSO levy currently covers a number of different plant and schemes. These are as follows:

- **Peat Stations:** Lough Ree (100MW), Edenderry (120MW) and West Offaly (150MW) power stations all receive support under the PSO levy. These were notified to the EU in October 2011 to enhance Ireland's security of supply.

Lough Ree (commissioned December 2004) and West Offaly (commissioned January 2005) sell their electrical output into the SEM

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<sup>1</sup>See N/n006a/01 [http://ec.europa.eu/community\\_law/state\\_aids/comp-2001/n006a-01.pdf](http://ec.europa.eu/community_law/state_aids/comp-2001/n006a-01.pdf)

pool and receive revenues from the SEM for that output. If the revenues they receive are less than entitled costs, Lough Ree and West Offaly recover monies from the PSO. Similarly, if either plant over-recover from the SEM, monies must be returned to the PSO fund.

Edenderry Power (December 2000) sells its electricity to ESB CS under a Power Purchase Agreement (PPA), whereby ESB CS then sells that electricity on to the SEM pool. ESB CS is compensated for the shortfall between what it pays for the electricity and what it receives for selling the electricity to the SEM pool. If ESB CS over-recover from the SEM, monies are returned to the PSO fund.

- **Capacity 2005:** Aughinish Alumina (160MW) and Tynagh (400MW) receive support under the PSO levy. These plants were notified to the EU Commission in October 2003 in order to secure additional capacity to meet an anticipated generation capacity shortfall in 2005 and were cleared by the EU Commission at the end of 2003<sup>2</sup>.

Aughinish and Tynagh entered a CfD agreement with ESB CS, whereby ESB CS recovers or returns additional monies paid under the agreement from/to the PSO levy.

- **Alternative Energy Requirement (AER):** The technologies supported under the AER scheme include wind energy, small-scale hydropower, combined heat and power (CHP) biomass (landfill gas), biomass-CHP; biomass-anaerobic digestion and offshore wind. The plant involved contract with ESB CS, which is then entitled to compensation from the PSO levy if the revenue it receives for selling the electricity is less than what it paid the renewable generators. Similarly ESB CS returns money in the event of over-compensation. Since the Programme was launched in 1995, six AER competitions have been held.
- **Renewable Energy Feed-In Tariff (REFIT):** The REFIT Terms and Conditions<sup>3</sup> as published in 2006 cover five categories of plant. These are Large Wind Small Wind, Hydro, Landfill and Biomass. Generators contract with suppliers in a similar fashion to the AER scheme. Unlike AER however, the scheme is open to all suppliers (not just ESB CS) to contract with renewable generation. There is 1074MW of renewable generation capacity included in this proposed PSO decision.

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<sup>2</sup> See N/475/03 [http://ec.europa.eu/community\\_law/state\\_aids/comp-2003/n475-03.pdf](http://ec.europa.eu/community_law/state_aids/comp-2003/n475-03.pdf)

<sup>3</sup> REFIT Terms and Conditions  
<http://www.dcenr.gov.ie/Energy/Sustainable+and+Renewable+Energy+Division>

- **PSO-related Contracts for Differences (PSO CfDs):** In addition to ESB's Directed Contract (DC) and Non-Directed Contract (NDC) rounds<sup>4</sup>, additional contracts for differences (CfDs) have been offered out by ESB PG to facilitate greater liquidity in the SEM for electricity suppliers<sup>5</sup>. These contracts have been offered out since 2007 and the negative value arising from their offering was included in the PSO levy for the first time in the 2009/10 PSO levy. The inclusion of these CfDs in the PSO levy is to be reviewed post the 2010/11 auctions.

### **1.2.2 Legislation**

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 all relevant parties in accordance with the notifications to the EU Commission regarding the various mechanisms supported by the PSO.

The original Notification (November 2000) ('the Notification') sets 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. It 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.

Subsequent to the Notification, new schemes have been notified to the EU Commission 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

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<sup>4</sup> Information Paper on CfDs in the SEM

[http://www.allislandproject.org/en/market\\_decision\\_documents.aspx?article=1324200e-97d3-412e-99a2-94b64c804e1e&mode=author](http://www.allislandproject.org/en/market_decision_documents.aspx?article=1324200e-97d3-412e-99a2-94b64c804e1e&mode=author)

<sup>5</sup> ESB PG carries out this role in the context of the SEM arrangements with the agreement of the SEM Committee. This allows for all suppliers to partake in such auctions and promotes liquidity in the SEM.

to security of supply concerns. Most recently, REFIT I<sup>6</sup> has been notified to the EU and received state aid clearance. S.I. No. 217 of 2002 (as amended by SI No. 284 of 2008 and SI No. 444 of 2009) also takes account of suppliers receiving support under the PSO.

### **1.2.3 The Benchmark Price**

The Notification sets out the detail regarding the calculation of the PSO in this context. The benchmark price is a forecast of the SEM market price for the PSO levy period and is determined before the PSO levy period commences. It is determined, *inter alia*, using forecasts of fuel and carbon prices. A lower forecast benchmark price therefore predicts that less revenue will be earned from the market by PSO plant, thus resulting in a higher PSO levy. A higher benchmark price predicts that greater revenue will be earned from the market by PSO plant, thus resulting in a lower PSO levy.

Paragraphs 5.10 to 5.12 of the Notification 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.

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>7</sup>.

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<sup>6</sup> <http://www.dcenr.gov.ie/Energy/Sustainable+and+Renewable+Energy+Division/>

<sup>7</sup> Visit [www.allislandproject.org](http://www.allislandproject.org)

### **1.2.4 R-Factor**

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 usually corrected retrospectively ('R-factor') two PSO periods later, once actual, audited costs are verified and the true market price and generation levels are known<sup>8</sup>.

### **1.3 Responding to this Paper**

Responses to this paper should be forwarded to James Mc Sherry by close of business on Monday 28<sup>th</sup> of June 2010, preferably in electronic format to:

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

or alternatively by post to:

James Mc Sherry  
Commission for Energy Regulation  
The Exchange  
Belgard Square North  
Tallaght  
Dublin 24

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<sup>8</sup> See CER 08/236 "Calculation of the R-Factor in Determining the PSO levy"  
<http://www.cer.ie/en/renewables-decision-documents.aspx?article=39ce537a-1620-486d-b93e-bc70ab5934ca>

## **2.0 PSO Levy 2010/11 – Key Considerations**

### **2.1 Benchmark Price**

For the purposes of this proposed decision paper, the Commission has forecasted that the benchmark price for the upcoming PSO period of 1<sup>st</sup> October 2010 to 30<sup>th</sup> September 2011 is €54.88/MWh. This figure is an annual, average time weighted price calculated using the validated PLEXOS model. In calculating this price, the model was run with thirty different outage patterns, using fuel, carbon and exchange rates from the 19<sup>th</sup> May 2010 based on indices as referred to in the Directed Contracts process<sup>[1]</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 payment used in the calculations, 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 2010 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 2010.

### **2.3 2008/09 R-factor**

An R-factor of €20.46m is included in the PSO levy, relating to the 1<sup>st</sup> October 2008 to 30<sup>th</sup> September 2009 PSO period. A credit relating to the ESB's 2008/09 R-factor for the period 1<sup>st</sup> October 2008 to 30<sup>th</sup> September 2009 was estimated and included in last year's PSO levy in July 2009. The net value of this credit was (€128m) and included amounts relating to ESB CS's PSO contracts, ESB PG's Peat contracts and PSO-related Contracts for Differences (CfDs). The €20.46m is the correction of that R-factor, once known actual information from July 2009 – September 2009 was available.

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<sup>[1]</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)

A brief outline of the key elements of the 2008/09 R-factor included in this year's PSO levy is given below. The €20.46m is broken down as follows:

- West Offaly and Lough Ree Power, €13.42m. Lower income than expected was earned by ESB's plant. This also includes an amount relating to capital cost recovery of peaking plant (Rhode and Aghada) that was not submitted as part of the 2008/09 R-factor credit last year.
- ESB CS, €10.05m. Lower net income than expected was earned by ESB CS from the market under its PSO arrangements, resulting in more support required under its contractual obligations under the PSO.
- REFIT (832MW), €7.27m, Lower income than expected was earned by the plant. The lower income was primarily driven by lower than expected market revenues for the October 2008 to September 2009 PSO period.
- PSO-related CfDs, (€10.28m). Lower market price than expected resulted in ESB PG returning money to the PSO.

### 3.0 PSO Levy 2010/11

This section sets out proposed PSO levy for 2010/11. The proposed PSO levy is composed as follows:

	Totals
Lough Ree	€33,766,893
West Offaly	€45,263,897
EPL	€10,536,210
AERs	€20,090,502
CAP 05	€20,724,326
REFIT	€40,497,266
Sub-Total	€170,879,094
Other <sup>9</sup>	€23,703,145
<b>Total PSO</b>	<b>€194,582,239</b>

The Commission has calculated the proposed payment by customer category for the levy period 1<sup>st</sup> of October 2010 to the 30<sup>th</sup> of September 2011 to be as follows:

Customer Category	Levy Amount	Levy Amount/month
Domestic customers	€40.85/customer	€3.40/customer
Small commercial customers (maximum import capacity of less than 30kVA)	€142.19/customer	€11.85/customer
Medium and large customers (maximum import capacity of equal to or greater than 30kVA)	€16.55/kVA	€1.38/kVA

<sup>9</sup> These costs include the administration costs for all PSO parties, and the associated 2008/09 R-Factor for all PSO parties. The R-factor is a correction for over/under recoveries in PSO income in 2008/09.

## **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 2010/11 PSO Levy

Allocating 2010/11 PSO									
	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	Monthly Charge
						€per Cust	€/kVA	Monthly €	
<b>Domestic Profile</b>	2,542,238	0.43	82.92	2,029,956		40.85		3.40	€per Customer
<b>Small &amp; Medium Profile</b> <small>ie. non-domestic (excl PL) &lt;30kVA</small>	761,602	0.13	24.84	174,705		142.19		11.85	€per Customer
<b>Large Profile</b>	2,661,846	0.45	86.82				16.55	1.38	€/kVA
<b>TOTAL</b>	5,965,685	1.00	194.58						

*Number of months to recover charge*

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