

**ESB Independent Energy's response to CER
Consultation Paper on Debt Blocking**

17th September 2009

ESB Independent Energy (ESBIE) welcomes the Commission's recent consideration on the topic of debt avoidance within the Gas and Electricity Retail Markets. While the topic has been explored by the Commission in the past, market maturity and the current economic environment in our view support the need for this review.

ESBIE recognises the concerns of the Commission in attempting to address the impacts of these proposals and the effects they might have on suppliers and those of our customers, the end user. ESBIE would like to firstly reassure the Commission that our interest in these proposals is solely with business end users and in no way do we support the introduction of such measures on the domestic community.

Since the Commission's last deliberation on the topic in 2005 the market has developed and matured and the level of competition in the business sector is healthy. However, the environment in which suppliers are now operating has changed considerably, due primarily to the current economic downturn. Suppliers are seeing debt rising to levels not experienced in the industry since the early 2000's. It is against this backdrop that suppliers are looking to the Commission to ensure best practice is supported.

The following is our response to the various proposals considered by the Commission:

Proposal 1 – Maintain the Status Quo

We feel that the legitimate concerns of suppliers are not being addressed with this proposal. While suppliers work with customers with outstanding debt to facilitate a resolution, this proposal is forcing additional expense on suppliers who have to resort to de-energisation as a final remedy. If anything, the status quo in the current economic environment will require the Commission to make available additional resources to complete an increase in de-energisation requests. What additional resources is the Commission allocating to this activity?

Proposal 2 – Introduce Process Changes

Our view on this is that it will lead to too many de-energisation requests to the DSO which will add additional time to the already lengthy period before the de-energisation can take place. In addition, we can assume that additional resources will be required to support the increase numbers of de-energisation requests. If SLA's are not met how will the Commission compensate suppliers for the additional exposure due to delays?

The other flaw in this proposal is that (as is the case presently) the customer can still switch supplier after they have been de-energised. Therefore, ESBIE cannot support this proposal.

Proposal 3 - Introduce Debt Blocking for Business Customers

ESBIE supports the implementation of some restrictions for business customers. By amending the current code of practice inherent in supplier licenses it will ensure that proper governance is applied. There would be no objection to the imposition of a compensation clause in cases where wrongful claims were made. In fact the clause would act as a constant reminder to suppliers of the importance of balancing our request for a change with our obligations in the market.

Given the volatile environment in which all suppliers operate, it is important that the Commission is open and accepting of requests to review processes designed for a different market environment. In the case of Ofgem, who constantly review all their processes on an annual basis and whose rules were not well crafted in the first place, the fact that they have not removed the debt hopping clause is further evidence that it works for that market. In Northern Ireland, the facility to prevent a customer from debt hopping is there. With the harmonisation of both markets being to the forefront of CER and NIAUR strategy on a number of key fronts it seems that having two different rules in both jurisdictions in relation to debt hopping is somewhat at variance with this harmonisation strategy. This is a chance for the Commission to reflect on the current market environment and encourage debate and change.

ESBIE - Alternative Proposal

ESBIE would like to propose an alternative to Proposal 3. We understand the difficulties and sensitivities associated with the introduction of a change that focuses primarily and exclusively on “Debt Hopping”. The Commission may be right to be concerned that pressure may be brought to bear in the future to extend this proposal into the domestic market and we feel this alternative protects this group from a possible future extension of Proposal 3.

In some parts of the document the Commission refers to “Debt Hopping/Contract Default” as one while in other parts as “Debt Hopping” only. As we are focusing solely and exclusively on business customers the Commission might consider amending the proposal to be “In Contract Switching”. Business customers are familiar with contracts that are used throughout the energy industry. To remove the focus from “Debt Hopping” and to safeguard the Commission’s concerns around the domestic market and barriers to switching a proposal around “In Contract Switching



of Business End Users” might be more acceptable. In such a proposal, the Commission is recognising the legitimacy of a binding contract and is not supporting customers incurring a contract default.

ESBIE would welcome the opportunity to discuss our proposal with you in more detail at any future date of convenience to you.