

ESB Energy Solutions

Clanwilliam House, Clanwilliam Court, Lower Mount Street, Dublin 2.

Sean Mac an Bhaird,
Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.

4th February 2011

ESB Energy Solutions - Response to Consultation CER10-241 – Customer Protection in the Deregulated Electricity Market

Dear Sean,

ESB Energy Solutions is pleased to have this opportunity to respond to this important consultation paper. We have summarised our comments in relation to each proposal included in the consultation paper and also include a more detailed response below.

Customer Education Programme

ESB Energy Solutions is in favour of the proposal to promote active but also responsible customer switching. Education campaigns should be fair and balanced and not just focused on encouraging customers to switch only on the basis of price. All communication channels including the newly developed social network channels should be considered. We would urge that a number of switching rules are applied and enforced around consumer obligation in relation to actual meter readings to full customer information and to arrears with the existing supplier.

Price Comparison Tools

ESB Energy Solutions is in favour of the proposal regarding the development of tariff comparison tools but is of the view that the market should be allowed to develop them over time. One central accredited site is unlikely to be sufficient and the development of one such site could compromise the CER's independent role and stifle the development of innovative solutions emerging in the market.

Doorstep Checklist

ESB Energy Solutions is not in favour of the development of a separate standard checklist that doorstep sellers should provide customers with. Current obligations under the CER approved Marketing Guidelines are applied by suppliers effectively as is evident in that no significant problems have emerged over the last two years. Our view is that the competitive market should be allowed to develop further albeit under review by the CER. If problems arise the CER has sufficient regulatory powers to intervene and introduce effective remedies.

Annual Statement

The provision of regular billing data including consumption information is a feature of the Irish electricity market which is not replicated in many other European Countries. The CER's proposal to provide a separate annual statement to include consumption and cost data averaged over a 12 month period would mean that a number of technical/practical difficulties would need to be addressed and solutions

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agreed with all suppliers. We suggest that Smart Meters will ultimately provide customers with the detailed information they may require. In the meantime online billing and enhanced services from suppliers will enable customers to research/review their historical consumption.

Communications with Customers

ESB Energy Solutions currently applies the principles of Universal Design to its website services and is compliant with the Web Content Accessibility Guidelines (WCAG) 2.0. We would be in favour of extending the principles in relation to more of our communications with customers. We would be happy to participate in an industry forum and work with the NDA to progress this proposal.

Expanded Vulnerable Customer Definition

The current definition of vulnerable customers is specific and clear. The proposed new definition is quite broad and not so clear-cut. Ambiguity will create difficulties in implementing it fairly. It is very important that we obtain clarification as to how the terms 'critical' and 'independent living' are to be understood, so that qualifying customers are required to meet reasonable and objective criteria. We aim to serve all of our customers equally and fairly and with this in mind are agreeable to the expansion of the definition but have concerns regarding the evidentiary aspect for 'vulnerable' status eligibility.

Additional Protections for Vulnerable Customers

In a competitive market where there is no longer a 'regulated tariff' benchmark there is also a difficulty in defining what is a 'standard tariff'. In an open competitive market there will be continuous tariff changes and innovation with a range of varied tariffs. It is our view that the CER should let the market develop and mature for the moment and monitor supplier behaviour. As previously stated the CER have sufficient powers to intervene where a clear need arises to protect specific customer categories.

If you need any further clarification please contact me.

Yours sincerely,

**Gerry McDonald,
ESB Energy Solutions.**

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Proposal 1. Customer Education Campaign

The development of dedicated customer education campaigns to inform domestic customers of deregulation and the competitive market, and to promote active switching. This could use multiple communications channels, targeting specific groups where necessary, and interacting with representative bodies where appropriate.

Q1. Respondents are invited to comment on the proposal to promote active customer switching in the deregulated market?

Are you in favour of the proposal? Are there alternative options, communications channels that should be considered, or specific groups which should be targeted? Outline reasons for agreement or disagreement.

Response – Q1

ESB Energy Solutions is in favour of the proposal to promote active but also responsible customer switching. As stated in the consultation paper the Irish market currently has exceptionally high levels of switching – among the highest in the world for 2 years running – and the challenge is to ensure that all customers have adequate knowledge and information to facilitate them when/if they decide to switch supplier. We concur with the view that along with suppliers, the CER and consumer groups have a role in promoting active switching. Education campaigns should be fair and balanced and not just focused on encouraging customers to switch only on the basis of price – there are other considerations such as customer service and value to be borne in mind. We welcome that the CER are proposing to carry out some additional research on switching in the near future which should also assist in determining what communication channels should be used. We agree that multiple forms of communications channels will be the norm and agree with the comprehensive list of channels in the paper (brochures, factsheets, leaflets, consumer checklists, web price comparators, advertising) as recommended by ERGEG. We would suggest that mobile telephone technology and social network channels such as 'Facebook' and 'Twitter' should also be considered.

Regarding active customer switching, we would urge that a number of switching rules are applied and enforced around consumer obligation in relation to actual meter readings to full customer information and to arrears with the existing supplier. If this approach is not adopted there is a risk that consumers could ultimately subject themselves to hefty re-registration deposits and previously accumulated debt. This could leave the already vulnerable in an even more difficult situation.

Proposal 2. Price Comparison Tools

The development of price comparison tools in the Irish market.

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Q2. Respondents are invited to comment on the proposal to facilitate the development of tariff comparison tools.

Are you in favour of the proposal? What is the preferred model for delivery? Are there alternative options which should be considered? Outline reasons for agreement or disagreement.

Response – Q2

ESB Energy Solutions is in favour of the proposal regarding the development of tariff comparison tools but is of the view that the market should be allowed to develop them over time. As stated in the consultation paper the CER's 2009 consumer survey showed evidence of the relative ease with which price comparisons were possible when the electricity domestic initially experienced customer switching. As the market matures tariff comparability may become more difficult for the domestic consumer and the requirement for reliable and easily understood tariff comparison tools will become more important. The experience of other markets, and in particular GB, where the market has been competitive for many years confirms this. Independent comparison websites for other products are already in place in Ireland and these and others will develop to include electricity in the coming years. The competitive sector should be allowed to address this on an independent basis. One central accredited site is unlikely to be sufficient and the development of one such site could compromise the CER's independent role and stifle the development of innovative solutions emerging in the market. An independent 'accredited' site would be a welcome development at some point in the future but is premature at this stage in the development of the electricity market in Ireland.

Q3. Respondents are invited to comment on any additional measures which could be introduced to enhance the switching process, making it easier for consumers. Are there alternative options which should be considered? Outline reasons for agreement or disagreement.

Response – Q3

ESB Energy Solutions view is that arising from the significant investment in retail market systems it is already easy for customers to switch supplier. The quality of the process could be improved by the inclusion of a number of rules such as actual meter readings, requirement for full customer information and arrears with existing supplier as we have already outlined under our response to question 1 above.

Proposal 3. Doorstep Checklist

The development of a standard checklist that doorstep sellers would provide to customers, which would facilitate THE CER in monitoring good practice.

Q4. Respondents are invited to comment on the proposal to develop a standard checklist that doorstep sellers would provide to customers, which would facilitate

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the CER in monitoring good practice? Are you in favour of the proposal? What information should be included? Are there alternative options which should be considered? Outline reasons for agreement or disagreement.

Response – Q4

ESB Energy Solutions is not in favour of the development of a separate standard checklist that doorstep sellers should provide customers with. Current obligations under the CER approved Marketing Guidelines, which will be updated shortly, following last years consultation process on Code of Practice Guidelines, are applied by suppliers effectively. These guidelines will be an effective means of ensuring that no significant issues associated with doorstep selling will arise. This has been the experience to date with no significant problems evident. Our view is that the competitive market should be allowed to develop further and be kept under review by the CER. If problems arise the CER has sufficient regulatory powers to intervene and introduce effective remedies.

Proposal 4. Annual statement of price comparison and consumption

The development of an industry standard format for an annual statement to be provided to customers that would include consumption and cost data averaged over the last 12 months (or as long as the consumer has been with the supplier, whichever is shortest). This data should be presented on a kWh and €/kWh, respectively. The cost data should include all standing charges, with a breakdown and explanation of the various elements of the cost. The statement should also include advice to consumers as to how to switch.

Q5. Respondents are invited to comment on the proposal to develop an industry standard annual statement to price and consumption data? Are you in favour of the proposal? Are there alternative options which could facilitate customers to manage their consumption and asses competing offers? Outline reasons for agreement or disagreement.

Response – Q5

The provision of regular i.e. monthly or bi-monthly billing data including consumption information is a feature of the Irish electricity market which is not replicated in many other European Countries. ESB Energy Solutions issues 6 or 12 bills annually to customers which includes all relevant data required and also specified by current the CER's billing guidelines. We recognise that the 3rd Package Energy Services Directive 2009/72/EC states that 'Consumers should also have the right to be properly informed about their energy consumption.' The CER's proposal to provide a separate annual statement to include consumption and cost data averaged over a 12 month period would mean that a number of technical/practical difficulties would need to be addressed and solutions agreed with all suppliers e.g. how to annualise data where no actual start/finish meter readings are available; what to do when customer switches supplier or increases/decreases MIC levels; what to do with estimated readings. Such additional complexity will impose potentially significant additional costs on suppliers which are ultimately borne by customers. The provision of an annual statement could also be too confining. We

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suggest that Smart Meters will ultimately provide customers with the detailed information they may require. In the meantime online billing and enhanced services from suppliers will enable customers to research/review their historical consumption.

Proposal 5. Communications with Customers

The CER is proposing that all licensed suppliers should apply the principles of Universal Design in designing front line services and communications for Customers.

Q6. Respondents are invited to comment on the proposal to require all licensed suppliers to adopt the principles of Universal Design in all communications with customers? Are you in favour of the proposal? Are there alternative options which should be considered? Outline reasons for agreement or disagreement.

Response – Q6

ESB Energy Solutions currently applies the principles of Universal Design to its website services and is compliant with the Web Content Accessibility Guidelines (WCAG) 2.0. We would be in favour of extending the principles in relation to more of our communications with customers. The National Disability Authority (NDA), through its Centre for Excellence in Universal Design, accepts that it is not realistic to meet all expectations at all times for everybody, and that an element of reasonableness has to come into the equation. In order to become more compliant with requirements there would be a need to obtain sufficient advice from relevant experts and assess the implications. We would be happy to participate in an industry forum and work with the NDA to progress this proposal and avail of the free advice offered by them at last Monday's workshop (31st January 2011).

Proposal 6. Expanded Definition of Vulnerable Customers

The CER is proposing the definition of vulnerable customers be extended along the following lines:

"Vulnerable Customers" means people who are:

- (a) critically dependent on electrically powered equipment which shall include but is not limited to life protecting devices, assistive technologies to support independent living and medical equipment, and
- (b) likely to be particularly vulnerable to disconnection during winter months for reasons of advanced age or physical, sensory, intellectual or mental health disability.

The definition should recognise that for some customers this may be on a temporary (episodic or periodic) or permanent basis. This may include, but is not limited to elderly and disabled customers.

Q7. Respondents are invited to comment on the proposal to expand the definition of vulnerable customers? Are you in favour of the proposal? Are there alternative options which should be considered? Outline reasons for agreement or disagreement.

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Response – Q7

The current definition of vulnerable customers as outlined in the CER's decision paper CER/05/248 is very specific and clear. Even with such a specific definition we have experienced difficulties with some customers who apply for vulnerable status but when checked do not fall under any of the criteria outlined. The proposed new definition is quite broad and not so clear-cut. Ambiguity will create difficulties in implementing it fairly. Suppliers may interpret the definition in different ways which could result in unintended outcomes where customers switch suppliers. Whilst up to now we reserved the right to seek medical evidence to validate claims we did not need to do this in the vast majority of cases. With the proposed new definition this is likely to change.

It is very important that suppliers obtain clarification as to how the terms 'critical' and 'independent living' are to be understood, so that qualifying customers are required to meet reasonable and objective criteria. Specifically on the very broad issue of independent living, the following excerpt from the National Disability Authority-commissioned Report below illustrates the difficulties in such 'broad-brush' terminology:

'Independent living is a multidimensional and dynamic construct, which describes both an objective reality and a subjective view of this reality. It incorporates the life conditions and circumstances, which make up a person's life, and the perceptions of those conditions by the person who is living independently. Accordingly, to improve the quality of life for people with disabilities, it is necessary to improve both the objective living conditions of people and their perceptions of these conditions. The findings from the present study confirm that independent living can mean different things to different people, depending on their disability and circumstances. Independent living is, for example, very different for someone with a moderate and a profound disability. It can also vary by a person's age and social background. Yet, the underlying principle of independent living is relatively constant. It involves personal choice, alternatives, rights, and control. It is about knowing what you want and having sufficient support and resources to ensure it happens. It is about living a normal life, within the constraints of a person's disability.'

Independent and Community Living - the views of people with disabilities families and frontline staff: Focus Group Consultation Report John A. Weafer - Weafer Research Associates July 2010 (Chapter 8.1, Paragraph 2)

We aim to serve all of our customers equally and fairly and with this in mind are agreeable to the expansion of the definition as outlined but have concerns regarding the evidentiary aspect for 'vulnerable' status eligibility.

We are also aware of the potential stigma associated with the word 'vulnerable' but see difficulties associated with changing this term as it now emanates from EU sourced documentation. In agreement with the CER in 2007, we changed the wording in our Code of Practice for Vulnerable Customers to Code of Practice for Special Services. We intend to continue with this revised wording into the future as we believe that it has less stigma potential.

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Proposal 7. Additional Protections for Vulnerable Customers

The CER is proposing to require all licensed suppliers to offer registered Vulnerable Customers a tariff which is no higher than the standard tariff available from that supplier for that domestic customer category.

Q8. Respondents are invited to comment on the proposal to require all licensed suppliers to offer registered Vulnerable Customers a tariff which is no higher than the standard tariff available from that supplier for that domestic customer category. Are you in favour of the proposal? Are there alternative options that might be appropriate? Outline reasons for agreement or disagreement.

Response – Q8

In our response to question 7 we highlight difficulties associated with the revised vulnerable customer definition. In a competitive market where there is no longer a 'regulated tariff' benchmark there is also a difficulty in defining what is a 'standard tariff'. In an open competitive market there will be continuous tariff changes and innovation with a range of varied tariffs on offer to specifically targeted groups of customers. It is our view that the CER should let the market develop and mature for the moment and monitor supplier behaviour. As already stated the CER have sufficient powers to intervene where a clear need arises to protect specific customer categories resulting from Supplier behaviour.