

21st March 2011

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

Dear Seán,

RE: Price Discrimination and Customer Protection in the De-Regulated Electricity Market

Bord Gáis Energy (BG Energy) welcomes the Commission for Energy Regulation's (CER) consultation on the price discrimination and how it can be addressed in a deregulated retail market. Appreciating the CER's role in protecting the interests of customers, BG Energy does not believe that the provision of a non-discrimination clause in the market will address the problem which the CER is attempting to fix.

In theory, implementing a non-discrimination clause will curb competition and innovation in the market by impeding free market competition. That is to say, if the CER believes that competition is robust in the Irish market, as is suggested by its decision to deregulate the market, it should have confidence in the ability of the market to ensure the interests of customers are widely met.

Notwithstanding this, the real concern appears to be that certain customers (60% of the market that still remain with Electric Ireland) may be "left behind" because for a number of reasons they may be unwilling or unable to engage in the competitive market and choose between different suppliers, products and prices to suit their needs. Although imposing a non-discrimination clause would not in BG Energy's view address the root cause of the potential problem but it may be a temporary solution until such time as certain barriers to switching remain.

To address the root cause of the issue, the CER must focus on 'liberalising' those customer sub-segments, such as the Free Electricity Allowance customer segment, which are not competitive such that all customers can and are willing to engage in the

competitive market. With this in mind, BG Energy believes that the interests of customers and competition would be best served if the CER concentrated on:

- a) Removing the remaining barriers to switching. The current process for FEA customers is deterring customers and impeding access for suppliers to almost 17% of the domestic market. Similarly the current prepayment solution in the electricity market impedes market entry of independent suppliers. Every effort should be made to improve this process such that these customers can also benefit from competition;
- b) The development of a dedicated customer education campaign targeting particularly the 60% of the market who have not yet engaged in the competitive process and remain with Electric Ireland;

Until such time as these barriers are addressed and removed a non-discrimination clause should be imposed on the incumbent to prevent them from leveraging their inert customer base and abusing its market position to regain market share. Once these barriers are removed and there is evidence of competition across all sub-segments of the market, competition and competitive forces should be sufficient to prevent the incumbent from unduly discriminating between different customers. In such a 'barrier-free' market the non-discrimination clause may be removed, however regulatory sanctions will still be required, such as:

- a) A transparent process and clear trigger for the re-regulation of Electric Ireland is needed, and
- b) A process to monitor the market and the behaviour of the incumbent on an ongoing basis. If it is found that the incumbent is using its market power to thwart competition by aggressively targeting customers and discriminating against certain segments it is clear that competition is not sufficiently robust and it would therefore be more appropriate to re-regulate the incumbent rather than simply restricting the competitive process.

In short, BG Energy would not be in favour of the principle of a non-discrimination clause being placed on any participant in a truly competitive market. However, the domestic market is not truly competitive while certain barriers to switching still remain. To ensure that Electric Ireland cannot leverage its' sticky and dominant customer base to re-acquire market share, the CER should retain the current non-discrimination clause on the incumbent. Simultaneously, the CER should focus on educating and

'liberalising' those segments of the market which have not yet engaged in the competitive process and ensure that they have the knowledge and the choice to avoid any discrimination from any supplier in the market.

I hope you find these comments helpful to your decision. I would very much welcome an opportunity to discuss our proposals with you further. In the meantime, please do not hesitate in contacting me should you have any queries or comments.

Yours sincerely,

Jill Murray
Regulatory Affairs – Commercial
Bord Gáis Energy

c.c. Karen Kavanagh, CER
Pádraig Fleming, Bord Gáis Energy

{by e-mail}