



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

PUBLIC SERVICE OBLIGATION LEVY 2011/2012

DOCUMENT TYPE:	Proposed Decision Paper
DATE PUBLISHED:	3rd June 2011
CLOSING DATE:	24th June 2011
REFERENCE:	CER/11/097
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

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 CER') 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 €85.53m for the period 1st October 2011 – 30th September 2012.

A final decision on the PSO levy will be published by the CER by 1st August 2011 in accordance with statutory timelines. The level of the PSO levy may change between this proposed PSO decision and the final PSO decision. This is due to the potential change in a number of inputs to the calculation of the levy, in particular the potential for fossil fuel prices and the resultant SEM market price forecast to change.

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/es/2008/B26313.pdf>

- S.I. No. 444 of 2009 – Amending S.I. No. 217 of 2002 for REFIT
<http://www.attorneygeneral.ie/esi/2009/B27208.pdf>
- S.I. No. 532 of 2010 – Amending S.I. No. 217 of 2002 for REFIT
<http://www.attorneygeneral.ie/esi/2009/B27208.pdf>
- PSO Benchmark Price Setting Methodology AIP-SEM-07-431 PSO Decision Paper : Published July 31st 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>
- November 2000 Notification to the EU of PSO obligations to be imposed on ESB [Link](#)
- Relevant EU State Aid Clearance Decisions

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 (jmcsherry@cer.ie).

Executive Summary

This paper outlines the proposed PSO levy to apply from 1st October 2011 to 30th September 2012. A final decision on the PSO levy will issue before the 1st August 2011. The final PSO levy decision will likely change from that proposed in this paper due to updated inputs, mainly an updated forecast of the SEM market price derived from updated fossil fuel forward prices. If fossil fuel prices and the resultant SEM market price forecast remain similar between this proposed PSO decision and the final PSO decision, a significant change in the PSO levy between this proposed and the actual final PSO decision is not anticipated.

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 the use renewable energy sources in electricity generation, as set out in legislation. The proceeds of the levy are used to recoup, *inter alia* the additional costs incurred by the ESB Electric Ireland and other suppliers in sourcing, and ESB Power Generation producing, a proportion of their electricity from such generators.

The policy and terms and conditions associated with PSO levy supported generation are mandated by Government and approved by the European Commission. The CER does not set the policy and terms associated with PSO levy supported plant and, as such, has no control over the level of the PSO levy that arises from the policy and terms associated with PSO levy supported plant. The levy is calculated by the CER in accordance with the relevant legislation Electricity Regulation Act 1999 (Public Service Obligations) Order 2002 (SI No. 217 of 2002) and particular terms of the various PSO schemes. As part of its calculation and certification of the PSO levy, the CER only allows costs to ensure that the scheme is administered efficiently.

For the 2011/2012 PSO levy period the proposed PSO levy amounts to €85.53m. This is a reduction of approximately €71.19m on the PSO levy determined for 2010/11, which has been brought about primarily by rising fossil fuel prices and resultant higher forecast SEM market price. The CER has been advised that the Department of Communications, Energy & Natural Resources (DCENR), as the body responsible for the policy of the PSO schemes, is reviewing the operation of the peat PSO. The figures included in this paper do not include any potential results of such a review. Any relevant changes arising from this review which are decided upon before the final decision regarding the 2011/12 PSO levy will be factored into that decision as appropriate.

Table of Contents

1.0	Introduction	1
1.1	Purpose of this Paper	1
1.2	Legislation.....	1
1.2.1	The Benchmark Price	2
1.2.2	R-Factor.....	2
1.3	PSO Items	3
1.4	Responding to this Paper.....	5
2.0	PSO Levy 2009/10 – Key Considerations	6
2.1	Benchmark Price	6
2.2	Capacity.....	6
2.3	PSO Levy Apportionment Model.....	6
2.4	2009/10 R-factor	7
3.0	PSO Levy 2011/12.....	8
	Appendix A – Glossary of Terms	9
	Appendix B - Demand Allocation & Components of PSO Levy.....	10

1.0 Introduction

1.1 Purpose of this Paper

The purpose of this paper is to outline the CER's proposed decision with regard to the PSO benchmark price and resulting PSO levy for the upcoming PSO period of the 1st of October 2011 to the 30th of September 2012.

1.2 Legislation

Under Section 39 of the Electricity Regulation Act 1999 the CER 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 CER 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 the 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. S.I. 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 to security of supply concerns. Most recently, REFIT I¹ has been notified to the EU and received state aid clearance. S.I. No. 217 of 2002 (as amended by S.I. No. 284 of 2008, S.I. No. 444 of 2009 and S.I. No. 532 of 2010) also takes account of suppliers receiving support under the PSO.

¹ <http://www.dcenr.gov.ie/Energy/Sustainable+and+Renewable+Energy+Division/>

1.2.1 The Benchmark Price

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. The higher the benchmark price estimate, the greater the market revenue that will be factored into the ex-ante estimate as forecasted to be earned 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.

Replacement of the Best New Entrant price ('the BNE') is therefore 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 modeled 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 participants².

1.2.2 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 corrected retrospectively ('R-factor') two PSO

² Visit www.allislandproject.org

periods later, once actual, audited costs are verified and the true market price and generation levels are known³.

1.3 *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 November 2000⁴ 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 pool and receive revenues from the SEM for that output. If the market revenues they receive are less than entitled, notified costs incurred, Lough Ree and West Offaly recover monies from the PSO. Similarly, if either plant over-recover from the market monies are returned to the PSO fund.

For Edenderry Power Limited (EPL), the former (pre-SEM) Power Purchase Agreement (PPA) has been transposed in effect to work as a CfD arrangement under SEM. ESB Electric Ireland receives revenues on behalf of EPL from the SEM acting as its data processing agent. EPL then pays the market revenues plus any extra owed to EPL under the PSO. Similarly, if ESB Electric Ireland over-recover from the market monies are returned to the PSO fund.

- **Capacity 2005:** Aughinish Alumina (160MW) and Tynagh (400MW) receive support under the PSO levy. These plant 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 2003⁵.

³ 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>. See also the November 2000 Notification to the EU of PSO obligations to be imposed on ESB [Link](#)

⁴ Notification of 2000 <http://www.dcenr.gov.ie/NR/rdonlyres/7DFE9454-5D02-4DFA-92FF-AA8C279BEBE2/0/PSONotificationtoBx1201100publishedonwebMarch2002.doc>

⁵ See N/475/03 http://ec.europa.eu/community_law/state_aids/comp-2003/n475-03.pdf

Aughinish and Tynagh entered a CfD agreement with ESB Electric Ireland, whereby ESB Electric Ireland recovers or returns additional monies paid under the PSO agreements 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 Electric Ireland, 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 Electric Ireland returns money to the PSO in the event of over-compensation. Since the Programme was launched in 1995, six AER competitions have been held. A number of early AER contracts terminated in 2010 and this is reflected in the estimates for the 2011/12 PSO whereby the volume of AERs is reduced compared to the 2010/11 PSO levy.
- **Renewable Energy Feed-In Tariff (REFIT):** The REFIT Terms and Conditions⁶ as published in 2006 cover five categories of plant. These are Large Wind, Small Wind, Hydro, Biomass 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 Electric Ireland) to contract with renewable generation. There is 1170MW of REFIT renewable generation capacity included in this PSO proposed decision.
- **PSO-related Contracts for Differences (PSO CfDs):** In addition to the ESB's Directed Contract (DC) and Non-Directed Contract (NDC) rounds⁷, additional contracts for differences (CfDs) have been offered out by the ESB on a voluntary basis. These contracts have been offered out to all suppliers in the SEM since 2007 and the negative value arising from their offering was included for the first time in the 2009/10 PSO levy, therefore reducing the PSO levy for the 2009/10 period. The R-factor amount relating to the 2009/10 PSO CfDs is negative and reduces the 2011/12 PSO (see section 2.3). It is noted that the PPB in Northern Ireland also offers out CfDs which are supported by the PSO in Northern Ireland, such CfDs being related to underlying GUAs. The continuation of the offering of PSO supported hedge contracts in the SEM was confirmed by the SEM Committee earlier this year.

⁶ REFIT Terms and Conditions

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

⁷See 2011/12 Contracting Process, including PSO-related CfDs, SEM-11-020

http://www.allislandproject.org/en/project_office_sem_publications.aspx?year=2011§ion=2

1.4 *Responding to this Paper*

Responses to this paper should be forwarded to James Mc Sherry by close of business on Friday 24th of June 2011, preferably in electronic format to:

jmcsherry@cer.ie

or alternatively by post to:

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

2.0 PSO Levy 2009/10 – 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 1st October 2011 to 30th September 2012 is €72.46/MWh. This figure is an annual, average time weighted price calculated using the 2010/11 validated PLEXOS model, updated for the purposes of forecasting the 2011/12 PSO period. In calculating this price, the model was run with ten different outage patterns, using fuel, carbon and exchange rates from the 2nd – 13th May. For the purpose of the final PSO decision and the benchmark price to be used in that decision, a validated (for 2011/12 PSO period) PLEXOS market model will be available. For more information on the validation process see the relevant documents on the AIP website, 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 2011 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 determination of the Annual Capacity Payment Sum for 2011.

2.3 PSO Levy Apportionment Model

The PSO apportionment model 2011/12 (see page 10) is calculated using data from the ESRI's Autumn 2010 Economic Commentary⁸. For the final PSO levy decision the model will incorporate the relevant indices from the most up to date ESRI Quarterly Economic Commentary possible.

⁸ http://www.esri.ie/publications/latest_publications/view/index.xml?id=3102

2.4 2009/10 R-factor

An R-factor of (€12.66m) is included in the PSO levy, relating to the 1st October 2009 to 30th September 2010 PSO period. A brief outline of the key elements of the R-factor is given below. The 2009/10 R-factor is broken down as follows:

- ESB Power Generation: West Offaly and Lough Ree Power. Lower income than expected was earned by the ESB's plant, resulting in additional support required under the PSO. This amount was largely offset by an amount owed to the PSO levy from the 2009/10 period, resulting in a net payment to the PSO levy of (€0.55m).
- ESB Electric Ireland, €9.14m. Lower income than expected was earned by ESB Electric Ireland from the market, resulting in more support required to recover its additional costs under the PSO.
- REFIT, (€5.29m), Lower income than forecast was earned by a number of REFIT recipients. This resulted in, on balance, monies being returned to the PSO fund. This figure also contains a small correction of the 2008/09 R-factor relating to estimated Euribor rates.
- PSO CfDs, (€15.97m). Lower market price than expected resulted in ESB returning money to the PSO under the SEM CfD contracts voluntarily entered into by the ESB and supported by the Irish PSO levy.

3.0 PSO Levy 2011/12

This section sets out the proposed PSO levy for 2011/12. The proposed PSO levy is composed as follows:

PSO Item	Totals
<u>Ex-Ante Estimated PSO items for 2011/12</u>	
Lough Ree	€23,538,000
West Offaly	€19,912,000
Edenderry	-€1,853,000
AERs	€491,000
CAP 05 (Aughinish and Tynagh)	€20,739,000
REFIT	€35,210,291
Estimated 2011/12 PSO CfDs	€0
Ex-Ante Sub-Total	€98,047,291
Other ⁹	-€12,506,474
Total PSO	€85,530,818

Therefore, the CER has calculated the proposed payment by customer category for the levy period 1st of October 2011 to the 30th of September 2012 to be as follows:

Customer Category	Levy Amount	Levy Amount/month
Domestic customers	€18.26/customer	€1.52/customer
Small commercial customers (maximum import capacity of less than 30kVA)	€52.71/customer	€4.39/customer
Medium and large customers (maximum import capacity of equal to or greater than 30kVA)	€7.73/kVA	€0.64/kVA

⁹ These costs include the administration costs for all PSO parties, and the associated 2009/10 R-Factor for all PSO parties.

Appendix A – Glossary of Terms

AER	Alternative Energy Requirement
Board	Electricity Supply Board
Commission	Commission for Energy Regulation
DCENR	Department for Communications, Energy and Natural Resources
NIAUR	Northern Ireland Authority for Utility Regulation
PSO	Public Service Obligation
RAs	Regulatory Authorities, being the Commission for Energy Regulation and the Northern Ireland Authority for Utility Regulation
REFIT	Renewable Energy Feed in Tariff
SEM	Single Electricity Market
SI	Statutory Instrument

Appendix B - Demand Allocation & Components of PSO Levy

Allocating 2011/12 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 €	Monthly Charge
						€ per Cust	€/kVA		
Domestic Profile	2,597,815	0.44	37.30	2,042,848		18.26		1.52	€ per Customer
Small & Medium Profile <small>ie. non-domestic (excl PL) <30kVA</small>	654,657	0.11	9.40	178,325		52.71		4.39	€ per Customer
Large Profile	2,704,665	0.45	38.83		5,023,107		7.73	0.64	€/kVA
TOTAL	5,957,138	1.00	€85.53m						

Number of months to recover charge

12