Bord Gáis Energy Response

Review of Electricity and Natural Gas Supply Licences
CER Consultation Paper
CER/11/817

1.0 Introduction

Bord Gáis Energy welcomes the revision of the Electricity and Gas Supply Licences to update them in line with new legislation and industry changes. We also welcome the alignment of both Licences in so far as is possible. We are in agreement with the majority of changes made to both Licences but would ask the CER to consider the issues we set in response to Question 1 in particular. There is a real lack of clarity around consumer protection regulation and the Supply Licences should be used to clarify this for Suppliers.

2.0 Comments in Response to CER Questions in CER/11/817

Q1. Respondents are invited to comment on the proposal to align Condition 20 of the electricity supply licence with Condition 21 of the natural gas supply licence? Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Response: We are in favour of the proposal to align the electricity licence condition with that of the current Gas licence condition. However, we note that the CER has amended the definition of “customer charter” to remove its applicability to small enterprises (to bring it into line with SI 463 of 2011). We also note that in Condition 2 a) ii) of the Licence Condition that the Customer Charter “shall be in line with any guidelines issued by the Commission from time to time”. We would ask the CER to clarify what is intended by a Customer Charter in both Licences. This is as a result of the language that now appears in SI 463 of 2011 which sets out what must be contained in a “Customer Charter”. The SI sets out an extensive list of what are effectively terms and conditions of supply and it says that these must be contained in a “Customer Charter”. This is completely contrary to practice to date as Suppliers’ Customer Charters currently contain guaranteed standards of service and compensation levels if these are not met. This is also the approach taken recently by CER in its “Consultation on a Supplier Handbook” (CER
11168). This issue must be clarified for Suppliers as the legislation (SI 463) appears to be in conflict with current practice. We would argue that the definition of Customer Charter be clarified in the new Supply Licences as the definition that is currently employed by CER i.e. a Charter with guaranteed standards and set compensation levels if these are not met.

We also note that the definition of “vulnerable customer” has also changed in both Licences and that this reflects wording in SI 463 of 2011. The CER recently consulted on this definition and whether it was appropriate (CER 11168 – “Consultation on a Supplier Handbook”). Bord Gáis Energy responded to this consultation and stated that we believed the definition (as now proposed in the Supply Licences) is more limited than in the current Gas Supply Licence. In the proposed new definition, there is no reference to customers who have “special needs” in relation to their energy supply only customers who are “vulnerable to disconnection in winter”. This is a more limited definition than Suppliers have been working to in the past 4 years as our Codes of Practice are about customers with special needs in relation to their energy usage as well as being vulnerable to disconnection. We note that no CER Decision has yet been issued in the “Supplier Handbook” but the draft Supply Licences would seem to pre-empt this. We would ask that the definition is widened in the Supply Licences to include the aspect of customer having “special needs” in relation to their energy usage to bring consistency with current practice.

Q2. Respondents are invited to comment on the proposal to align the conditions in the electricity and natural gas supply licences pertaining to the provision of information to the commission (conditions 12 and 4 respectively)? Are you in favour of this requirement? Outline reasons for your agreement or disagreement.

Response: We are in favour of the proposal to align the electricity licence condition with that of the current Gas licence condition. However, the Electricity Licence Condition 12 does not mirror Gas Licence Condition 4. We would draw the CER’s attention to the differences in clauses 1 and 2.

Furthermore, in Electricity Licence Condition 12, clause 2, it says “the Commission may call for the furnishing of accounting information which is more extensive than or differs from that required to be prepared and supplied to the Commission under Condition 2”. Condition 2 relates to “Separate
accounts for the Supply Business”. Condition 2 should be the definitive condition relating to the provision of accounting information for Suppliers in order to provide regulatory certainty. It is not reasonable in Condition 12 for the CER to be able to ask for any additional and unspecified accounting/financial information beyond what is required to be provided in Condition 2. There is no such similar requirement in the recently updated Gas Licence and we would argue that this language be removed from the Electricity Licence.

Q3. Respondents are invited to comment on the text of condition 22 of the generic supply licence and condition 26 of the PES licence prohibiting suppliers from offering tariffs that may incentivise unnecessary use (and in turn distribution) of electricity? Are you in favour of this proposal? Do you agree with the drafting of the condition? Outline reasons for agreement or disagreement.

Response:- We are in favour of this proposal and note that it is necessary as a result of the Energy Services Directive. However, we believe the wording could be made clearer for Suppliers and would suggest the following:

“Condition 22: Prohibition of charges that incentivise unnecessary consumption

Suppliers may not offer tariffs or make charges to customers for the supply of electricity which incentivise unnecessary electricity consumption by the customer and thereby increase the volume of distributed or transmitted electricity.”

Q4. Respondents are invited to comment on the text of condition 22 of prohibiting suppliers from offering tariffs that may incentivise unnecessary use (and in turn distribution) of natural gas? Are you in favour of this proposal? Do you agree with the drafting of the condition? Outline reasons for agreement or disagreement.

Response: We are in favour of this proposal and note that it is necessary as a result of the Energy Services Directive. However, we believe the wording could be made clearer for Suppliers and would suggest the following:

“Condition 22: Prohibition of charges that incentivise unnecessary consumption

Suppliers may not offer tariffs or make charges to customers for the supply of natural gas which incentivise unnecessary natural gas consumption by the customer and thereby increase the volume of distributed or transmitted natural gas.”
Suppliers may not offer tariffs or make charges to customers for the supply of natural gas which incentivise unnecessary natural gas consumption by the customer and thereby increase the volume of distributed or transmitted natural gas.”

Q5. Respondents are invited to comment on the text of condition 23 requiring the licensee to offer supply for domestic or small business (DG5) customers if the licensee is actively supplying in those market segments? Are you in favour of this proposal? Do you agree with the drafting of the condition? Outline reasons for agreement or disagreement.

Response:- We note that this new licence condition arises following the CER’s Decision on the role of the PES in the de-regulated electricity market. We are in favour of this proposal being inserted into the generic Electricity Supply Licence and that it applies to all Suppliers. We note that the equivalent Licence Condition in the Gas Supply Licence only applies to Bord Gáis Energy. We assume this Licence Condition will be revised and apply to all Gas Suppliers upon gas market de-regulation in the residential sector.

Q6. Respondents are invited to comment on the text of condition 24 (27 of the PES) requiring the licensee to act as the SOLR if so designated by the CER? Are you in favour of the proposal? Do you agree with the drafting of the condition? Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Response:- We are in favour of this proposal and note that this new licence condition arises following the CER’s Decision on the role of the SOLR in the de-regulated electricity market. We agree with the drafting of the Condition and note that it is aligned with the equivalent Gas Supply licence condition.

Q7. Respondents are invited to comment on the proposal to remove condition 21 of the generic supply licence and condition 27 of the PES Licence? Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Response:- While we understand that there is no longer a need for a separate “Green” Licence as a result of SI No 147 of 2011, we believe this was a useful condition as it meant Suppliers had to certify that they were not supplying...
more green electricity than they had bought. We believe that the intent of this clause should remain in the license, but the references to production of the “certificate” should be deleted as there is no independent means of producing such a certificate. Instead, we believe the intent should be reworded to take account of the potential for SEMO to issue a Green SUID to each participant. The sale of any Green supplies could thereafter be registered against this ID. The aggregate volumes sold in this manner would be compared (at year-end) with the aggregate Guarantees of Origin held by that Supplier. A reasonable tolerance would be applied (for wind variance etc.). A Condition worded to take account of this potential process would result in a tracking process for Green energy akin to that available in the previous bi-lateral market. This would only serve to promote renewable energy and instil confidence among the general public.

Q8. Respondents are invited to comment on the proposal to delete conditions 7 and 8 of the electricity supply licence? Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Response:- We are in favour of the proposal to remove Licence Conditions 7 and 8 as we note this is not how the Irish electricity supply market model operates. We would ask the CER to note that these Conditions still appear (i.e. are not struck through) at pages 52 and 53 of the generic Electricity Supply Licence.

Q9. Respondents are invited to comment on the proposal to introduce a new condition into the electricity supply licence to bind any Demand Side Units to the Bidding Code of Practice? Are you in favour of this proposal? Do you agree with the drafting of the condition? Outline reasons for agreement or disagreement.

Response:- We agree with this proposal and note that the Regulatory Authorities have decided to bind DSUs to compliance with the Bidding Code of Practice via the Supply Licence. We agree with the wording of the proposed Licence Condition and would ask the CER to note the following typographical errors:-

Clause 1 – there should be a full stop at the end of the first sentence.
Clause 4 – the wording in the first line does not read correctly.
Q10. Respondents are invited to comment on the proposal to align condition 17 of the electricity supply licence (condition 21 of the PES licence) with condition 16 of the natural gas supply licence? Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Response: We agree with the proposal to align these conditions but would ask the CER to note that they are not fully aligned in respect of clause 2. Reference is made in the Electricity Licence in clause 2 to “such directions, determinations and court orders”. This should be replaced with “applicable laws”.

Q11. Respondents are invited to comment on the proposal to modify the definitions in the electricity supply licence to introduce reference to the licensed transmission or distribution activity rather than maintaining a reference to the “Board”? Are you in favour of this proposal? Do you agree with the drafting of the definitions? Outline reasons for agreement or disagreement.

Response: We agree with the proposal to remove references to the “Board” and replace it with references to the licensed transmission or distribution activity. This will bring greater clarity with legal unbundling. We note that “Board” is still defined in Section C, Condition 1 (p.38) (i.e. it has not been struck through). We would question whether this definition is still required if reference is only being made to the licensed transmission or distribution activity.

Q12. Respondents are invited to comment on the proposal to modify the definitions in the electricity supply licence to align with other relevant electricity licences? Are you in favour of the proposal? Do you agree with the drafting of the definitions? Outline reasons for agreement or disagreement.

Response: We are in favour of aligning the definitions in the Electricity Supply Licence with other relevant electricity licences and we agree with the drafting. This will bring clarity for participants in the market.

3.0 General Comments in Response to CER 11/817

1. Licence Condition 10 of Electricity Supply Licence (Procedures for the detection and prevention of theft, damage and meter interference)
- We believe this Licence Condition should be aligned with Gas Supply Licence Condition 8 (Revenue Protection).
- The Gas Supply Licence Condition has recently been updated to reflect new industry procedures for revenue protection i.e. while a Supplier has to take reasonable steps “in the normal course of its business” to detect the theft of Natural Gas or metering errors, it only has a duty to report these to the Transporter who is ultimately responsible for Revenue Protection. This position is reflected in the draft Energy (Misc. Provisions) Bill 2011. Electricity Supply Licence Condition 10 currently goes further in imposing obligations on Suppliers to “detect and prevent” the theft of electricity. It is extremely difficult for Suppliers to “prevent” the theft of electricity when it has no ownership or control over the assets or powers of entry to premises (these powers are conferred upon the networks business in the Energy (Misc. Provisions) Bill 2011).