

8th November, 2011

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

ESB Electric Ireland response to CER Consultation CER/11/817: Review of Electricity and Natural Gas Supply Licenses

Dear Sean,

ESB Electric Ireland welcomes the opportunity to respond to this consultation. Our detailed responses are attached below.

The proposals represent positive changes to the license conditions. We have proposed, in our detailed responses some amendments with a view to a practical strengthening of the proposals (see below) mainly focused on providing added clarity for suppliers in interpretation and for ongoing implementation.

ESB Electric Ireland supports such changes in the context of a managed deregulated market whilst also allowing for market participants to innovate and compete to the benefit of all customers. In general there is a need to provide clarity in interpretation for some aspects of the proposals and the Commission should be minded to balance competing requirements in terms of (i) appropriate customer protection, (ii) the ongoing development of retail competition, (iii) the extent of the regulatory burden on suppliers, and (iv) the costs of compliance which are ultimately borne by customers.

ESB Electric Ireland welcomes the adjustments to the PES license in line with the changes to the revised Electricity and Natural Gas Supply licenses.

Yours sincerely ,

Sean Doolin,
ESB Electric Ireland

Detailed Consultation Questions and responses from ESB Electric Ireland.

Proposal 1. Codes of Practice

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 license? Are you in favour of the proposal? Outline reasons for agreement or disagreement.

Response – Q1.

ESB Electric Ireland is in agreement with this proposal.

In relation to the definition of Vulnerable Customers ESB Electric Ireland requests CER to follow through with the decision made in CER /11/059 to provide suppliers with interpretive guidance notes to enable clear and consistent interpretation of a customer's eligibility under the definition. We further request that CER consult with industry on these interpretative guidance notes.

Proposal 2. Provision of information to the Commission

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

Response – Q2.

ESB Electric Ireland is in agreement with this proposal.

Proposal 3. Prohibition of tariffs incentivising unnecessary consumption

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

Response – Q3

ESB Electric Ireland is in agreement with this proposal

However, we note that the word “unnecessary” is used in the CER proposal whereas the relevant EU Directive 2006/32/EC wording – in requiring suppliers to make tariffs more conducive to energy efficient end-use - sought the removal of “unjustifiable volume – driven incentives”. The alternative wording used may lead to confusion in interpreting the intent of the licence obligation.

*It would be helpful if the Commission clarified that the only objective in this License condition is to deliver the intent of the directive (i.e. tariffs with **volume-driven** incentives) and avoid any situations where other non-volume tariff incentives may be interpreted by the Commission as being in contravention of this License condition on the grounds that they “may incentivise unnecessary use”.*

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

Response – Q4

As for Q3.

Proposal 4. Universal Service

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 the proposal? Do you agree with the drafting of the condition? Outline reasons for agreement or disagreement.

Response – Q5

ESB Electric Ireland is in agreement with this proposal.

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? Outline reasons for agreement or disagreement.

Response – Q6

In principal ESB Electric Ireland welcomes the proposed text and the obligation in relation to licensees active in those market segments identified.

ESB Electric Ireland recommends that the Commission should adopt the following process when assigning a supplier to the role of SoLR:

- *where no supplier is forthcoming in taking the role of SoLR and CER directs a chosen supplier to undertake the role we propose that such a direction should be for a fixed time period of not greater than 24 months.*
- *Before the end of this fixed time period the role should again be offered to the market and, if once more no supplier is forthcoming, then the CER should exempt the initial chosen supplier from a subsequent direction.*

This will ensure that all active suppliers in the market sector will, over time, share the licence obligation of providing the duty of SoLR for the customers served in those market sectors.

In relation to cost recovery, while CER / 11/ 060 decided that cost recovery would be from all customers in the market, it also undertook to consult further on the detail of the cost recovery mechanism and ESB Electric Ireland requests that this consultation is done without further delay.

Proposal 5. Additional conditions for holders of green licences

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

Response – Q7

ESB Electric Ireland is in agreement with this proposal.

Proposal 6. Metering Provisions

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

Response – Q8

ESB Electric Ireland is in agreement with this proposal.

Proposal 7. Demand Side Units (DSU's)

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 the proposal? Do you agree with the drafting of the condition? Outline reasons for agreement or disagreement.

Response – Q9

ESB Electric Ireland is in agreement with this proposal.

In the case of generators this is generally clear. However, for DSUs it is not clear how this would be implemented. Each customer's circumstances would be different and it could be quite complex to administer. Implementation issues should be considered by CER and resolved before any decision is made.

Proposal 8. Compliance with all applicable laws

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 the proposal? Outline reasons for agreement or disagreement.

Response – Q10

ESB Electric Ireland is in agreement with this proposal.

Proposal 9. Update of Definitions

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 the proposal? Do you agree with the drafting of the definitions? Outline reasons for agreement or disagreement.

Response – Q11

ESB Electric Ireland is in agreement with this proposal.

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 – Q12

ESB Electric Ireland is in agreement with this proposal.