Review of Electricity and Natural Gas Supply Licences

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Abstract:
The CER is consulting on modifications to the electricity and natural gas supply licences granted by the CER under the Electricity Regulation, 1999 and the interim Act Gas (Interim) (Regulation) Act 2002, respectively. The modifications reflect new legislation, regulatory decisions, and market developments in both the electricity and gas retail markets.

Target Audience:
This paper is for the attention of current holders of electricity or natural gas supply licences granted by the CER, those intending to apply for such licences to facilitate the supply of electricity or natural gas to final customers and any interested parties.

Related Documents:
- Proposed Decision on Natural Gas Shipping Licence and Natural Gas Supply Licence CER/11/179 11030 Published on 18th February 2011.
- CER Proposed Revision of the Natural Gas Shipping and Supply Licence CER/08/255 Published on the 11th December 2008.
Executive Summary

The CER is responsible for licensing the supply electricity or natural gas to final customers under Section 14 of the Electricity Regulation Act, 1999 and for natural gas under Section 16 of the Gas (Interim) (Regulation) Act 2002. The last major review of the electricity supply licences was conducted in September 2007 and was focused on changes required for the introduction of the SEM (AIP-SEM-07-564). The natural gas supply licence has been recently reviewed and modified (CER/11/179_11030). The primary aim of that work was to create distinct licences for shipping and supply activities – previously both activities were licensed under a single licence. It did however also consider legislation up to 2009.

In light of the recent transposition of the consumer protection measures of the 3rd Package and the deregulation of the retail markets (full deregulation on the electricity side and publication of the roadmap for gas) it is necessary to review both the electricity and natural gas licences. This is to ensure that they reflect the current legislative and regulatory frameworks and market developments in general. Additionally, some modifications are proposed to the electricity supply licence which relate to bringing definitions and references up to date and do not introduce new conditions nor require extensive modifications to existing ones. Furthermore, it was deemed prudent to align the conditions in both licences where appropriate. The key proposed modifications emanating from the review of relevant legislation and regulatory and market developments are set out below.

Legislative Changes

1. 3rd Package - SI No. 463 of 2011
   - Requirement to comply customer protection measures as specified in the CER Codes Practice

   - Obligation on suppliers not to offer terms that may drive unnecessary electricity consumption

Regulatory & Market Developments

3. Deregulation of the electricity market (Role of the PES and the SoLR)
   - a duty to offer supply for domestic and small business (DG5) customers, where the supplier is active in those markets.
   - a requirement to act as the SoLR if so designated by the CER

4. SEM
   - The deletion of Section B of the Electricity Supply licence referring to conditions up to SEM Go-Live and the deletion of Section A, condition 2
   - Deletion of conditions 7 & 8 of the electricity supply licence to remove the Duty to offer terms for meter provision
- New electricity supply licence condition introducing an obligation on demand site units to adhere to the Bidding Code of Practice

All modifications are highlighted (through track changes) in the modified supply licences published alongside this consultation paper. In line with legislative requirements the CER has published a notice in the Irish Times on 10th October drawing the publics’ attention to the proposed modifications, their nature and the reasoning for them. This is the first step in the modification process.

In relation to future market monitoring activities as required under the 3rd Package, the CER is reviewing its current market monitoring framework and will publish a consultation paper on the topic shortly. It should also be noted that the current licence conditions regarding the provision of information to the CER, in both electricity and natural gas licences, are deemed sufficient to accommodate all data requirements placed on suppliers under the current and any future CER market monitoring frameworks. It was, however, deemed prudent to align the conditions in both licences, which would see an explicit obligation being introduced in the licence condition of the electricity supply licence to publish information, as and when required by the CER.
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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation (‘the CER’) is the independent body responsible for overseeing the regulation of Ireland’s electricity and gas sectors. The CER was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act 1999. The enactment of the Gas (Interim) (Regulation) Act 2002 expanded the CER’s jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the CER powers to regulate electrical contractors with respect to safety, to regulate to natural gas undertakings involved in the transmission, distribution, storage, supply and shipping of gas and to regulate natural gas installers with respect to safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the CER’s functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the CER and the Northern Ireland Authority for Utility Regulation (NIÅUR). The CER is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

The CER has conducted a review of the electricity and natural gas supply licences. The review aimed to identify any modifications that are necessary to reflect the current regulatory and legislative frameworks and recent market developments. The purpose of this paper is to detail that review and set out and seek comment on the CER’s proposed modifications to the supply licences. This paper also provides information on the process that must be followed for the implementation of any of the proposed modifications.

1.3 Background Information

The CER grants licences to supply electricity under Section 14 of the Electricity Regulation Act, 1999 and for natural gas under Section 16 of the Gas (Interim) (Regulation) Act 2002. Any person or company wishing to supply electricity or natural gas to final customers must be granted a licence to do such by the CER. In light of transposition of the consumer protection provisions of the 3rd Package and deregulation, it is necessary to review these licences. The review focused on changes in the legislative and regulatory framework, but also on market developments in general.

Electricity

The electricity supply licence was last reviewed in 2007 with the introduction of the SEM. The review focused on the transition to the SEM. The review saw the licences being separated into three sections - Section A Transition Conditions, Section B Conditions to Apply from SEM Go-Active to SEM Go-Live, Section C Conditions to Apply from SEM Go-Live. This structure required licensees, pre
SEM Go-Live, to operate under their previous licence conditions and transition-specific conditions requiring them to generally do what was within their power to give full and timely effect to the SEM arrangement (some enduring conditions were also included). Then, from Go-Live, effect was given to Section C and the enduring SEM licence conditions. The RAs considered that this approach provided regulatory certainty for licensees as well as the least risk during the Go-Active phase.

Gas
The gas supply licence was recently reviewed (the modified licence being published this year). Although the review did consider changes in legislation up to 2009, its primary focus was on separating the combined supplier / shipper licence into distinct licences for each activity. The separation of the licences reflects the definition of ‘shipping’ and ‘supply’ as two separate activities in the Gas (Interim) (Regulation) Act 2002, as amended by SI No. 760 of 2005.

This review looks at the wider legislative and regulatory framework and table 2 lists the legislation which was that was incorporated into the review of the electricity and natural gas supply licences.

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<th>Electricity Legislation</th>
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<td>SI No 280 of 2008 - Unbundling of the DSO</td>
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<td>SI No 226 of 2009 - Contestable generator connections</td>
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<td>SI No. 542 of 2009 - Enhance end-use energy efficiency across the EU by providing consumers with information on price and consumption in the context of managing their energy consumption</td>
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<td>S.I. No. 450 of 2010 – Market monitoring</td>
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<td>SI No. 147 of 2011 - Guarantees of origin and repeal and replacement of electricity supply licenses under 14 (c) &amp; (d)</td>
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The review also considered regulatory decisions in particular those in relation to deregulation and market development. The decision papers of note were identified as:

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<td>Review of the Regulatory Framework for the Retail Electricity Market, Roadmap to Deregulation (CER/10/058)</td>
<td>Roadmap for Deregulation in the Non-Daily Metered Retail Gas market (CER/11/071)</td>
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<td>Role of the PES and the SoLR in the Deregulated Electricity Market (CER/11/060)</td>
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The review also considered the structure of the electricity supply licence, which is based around the transition to the SEM. The conditions within the electricity and natural gas supply licences were also compared to determine whether there was opportunity and merit for further alignment. Finally, with new electricity licences (pertaining to distribution and the Interconnector) introduced since the last review of the electricity supply licence, the definitions contained in all electricity licences were compared.

1.4 Licence Modification: Legislative Requirements

The CER is required to carry out modifications to ‘the terms, conditions or requirements’ of electricity and natural gas supply licences in accordance with sections 20 to 22 of the Electricity Regulation Act of 1999’. Pursuant to Section 20, the CER is commencing the licence modification procedure with the publication of a Notice drawing the public’s attention to the proposed modification, their nature and the reasoning for them.

The Notice is being published today in the Irish Times and a copy of the notice has been provided to all licensed electricity suppliers. The notice informs that any comments on /objections to the modification should be submitted to the CER before 8th November (this provides 28 days for comment). In accordance with the requirements of section 20 of the Electricity Regulation Act, a copy of the Notice has also been furnished to the Minister for Communications, Energy and Natural Resources, Mr. Pat Rabbitte. A copy of the proposed modified licence is published alongside this consultation paper (changes are highlighted).
2.0 Legislative Changes

2.1 Introduction
Any person or company who is planning to supply electricity to final customers requires a supply licence from the CER. The CER may grant or refuse to grant a supply licence to any person under Section 14 of the Electricity Regulation Act, 1999. Until recently suppliers could be granted one, or more, of the supply licences issued under paragraphs (b), (c), (d) or (h) of Section 14 of the Electricity Regulation Act, 1999. The following sections provide the rationale for the proposed modifications to licences granted under section (b) and the Public Electricity Supplier (PES) licence issued under section (h). The modifications themselves are not presented in this document but are highlighted in the modified supply licences published alongside this document. This document should be read in conjunction with the modified PES and generic (b) supply licences.

2.2 3rd Package & Customer Protection
The 3rd Package significantly expands the roles and responsibilities of national regulatory authorities with regards to customer protection. The customer protection measures are to assist customers in benefiting from competition. These requirements have been recently transposed for both the electricity and gas markets into Irish law by SI. No. 463 of 2011. In light of the 3rd Package requirements and the developments in competition, the CER reviewed its customer protection framework (CER/11/057). The review introduced additional customer protection measures to ensure that customers were empowered to effectively engage with the market and benefit from that engagement. The 3rd Package also introduces specific market monitoring obligations. These requirements were transposed into Irish law for the electricity markets in SI. No. 450 of 2010. SI 450 of 2010, sets out explicit requirements on the CER to monitor the retail market across a range of indicators and to take actions where it determines it to be necessary to;

(i) prevent a distortion or restriction of competition in the supply of electricity to final customers, or
(ii) ensure that final customers are benefiting from competition in the supply of electricity,

The CER must also report annually to the Minister on its monitoring programme and any actions taken as a result of that monitoring. The market monitoring requirements for the gas markets have as of yet not been transposed into Irish law being are currently been drafted by the Department of Communications, Energy and Natural Resources (DCENR).

2.2.1 Codes of Practice
Since 2004 the CER has required that suppliers must implement specific Codes of Practice relating to key areas of consumer protection; Marketing, Billing, Pre-
payment, Disconnection and Vulnerable Customers. These codes must be in line with guidelines produced by the CER. The CER now proposes to modify the electricity supply licence to formally incorporate compliance with the Codes of Practice obligations as a condition of the electricity supply licence to discharge the requirements of the 3rd Package. This reflects the position in gas, where licence condition 21 of the gas supply licence already obligates licensees to comply with the Codes of Practice.

The CER proposes to delete condition 20 of the electricity supply licence, which pertains to additional conditions relating to customers with an annual consumption figure to be or likely to be less than 100,000 kWh (a very large domestic customer or a small business). These additional conditions cover the requirements for

- standard Terms and Conditions for supply, which are subject to prior approval by the CER
- an efficient and effective complaints handling process
- the provision of assistance to customers who are having difficulty in paying their bills

These requirements are covered under the relevant Code of Practice, which have been in force since 2004. Indeed the Codes of Practice are more extensive (for both domestic and business customers) than those obligations. Condition 20 will be replaced with a proposed modification will tie suppliers to the Codes of Practice. Within these conditions it is also proposed to update the Vulnerable Customer definition to align with that of SI No. 463 of 2011, which transposed the consumer protection measures of the third package.

In January 2010, the CER proposed to consolidate the guidelines for Codes of Practice into a single Supplier Handbook. While compiling the Supplier Handbook, the CER took the opportunity to review all the Codes and revise them where necessary. This saw the proposal of numerous additional steps for consumer protection, which were consulted upon. A further consultation has now been published that incorporates the additional measures introduced by the customer protection decision paper (CER/11/057).

**Proposal 1. Codes of Practice**

The CER is proposing to incorporate an obligation on suppliers in their electricity supply licence to adhere to the Codes of Practice. It is proposed that this would be conducted by replacing condition 20 (additional conditions of licences supplying low usage final customers) of the electricity supply licence (condition 24 of the PES licence) with the wording of condition 21 of the natural gas supply licence (Consumer Protection).

**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 the proposal? Outline reasons for agreement or disagreement.
2.2.2 Market Monitoring

SI No. 450 of 2010, transposed the requirements of the 3rd package regarding market monitoring requirements for electricity markets into Irish law. It sets out explicit requirements on the CER to monitor the retail market across a range of indicators and to take action where necessary to prevent distortion or restriction of competition in the supply of electricity to final customers, or to ensure that final customers are benefiting from competition in the supply of electricity. The market monitoring requirements specified in the 3rd Package for natural gas markets have as of yet not been transposed into national law. However, the requirements of the 3rd Package for gas markets are the same as that for the electricity markets.

The CER will consult with industry on an enhanced retail market monitoring framework for both the gas and electricity markets in line with the requirements of the 3rd Package. The review will be based on ERGEG Guidelines of Good Practice on retail market monitoring and will monitor the behaviour of all suppliers in the market, looking at a broad range of indicators which consider market structures, retail market outcomes and customer satisfaction. If market monitoring were to indicate that customers were not benefiting from competition or that a supplier was engaging in either predatory behaviour or excessive pricing, the CER would identify and implement appropriate remedies.

The CER considers the current requirements under condition 12 of the electricity and condition 4 of the natural gas supply licences (pertaining to the provision of information to the CER) sufficient in capturing all obligations placed on suppliers to submit data under the CER’s current and future market monitoring frameworks. The CER does not see any explicit need for amendments to the licences to capture such requirements. The CER is, however, proposing to align the conditions in both gas and electricity licences. This proposal would see the condition in the natural gas licence remaining unchanged, while that in the electricity supply licence being expanded to place an explicit obligation on the supplier to publish information where required.

Proposal 2. Provision of information to the Commission
It is proposed that condition 12 (Provision of information to the Commission) of the electricity supply licence (condition 16 of the PES licence) be modified to include an obligation to publish information under the CER’s market monitoring framework if, and when, the CER deems to be necessary. This will align the condition with that of the natural gas supply licence (condition 4).

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.
2.2 **Energy Services Directive**

The Energy Services Directive came into force on 17th May 2006, as a means to enhance end-use energy efficiency across the EU. This was transposed into Irish legislation by SI 542 of 2009. SI 542 requires that consumers are provided with information on price and consumption in the context of managing their energy consumption.

In the context of energy efficiency, SI No. 542 of 2009 prohibits suppliers from offering tariffs that incentivise unnecessary use (and in turn distribution or transmission) of electricity or natural gas. Regulation 19 of the SI requires that suppliers be bound by this through their supply licences. In adherence to this, the CER is proposing to introduce a new licence condition.

**Proposal 3. Prohibition of tariffs incentivising unnecessary consumption**

It is proposed that a new condition (condition 22 of the generic electricity supply licence, condition 26 of the PES licence and condition 22 of the natural gas supply licence) be introduced into both the licence to supply electricity and the licence to supply natural gas to prevent suppliers from offering tariffs that may incentivise unnecessary use (and in turn distribution or transmission) of electricity or natural gas.

**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 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.

**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.
3.0 Regulatory & Market Developments

3.1 Introduction

The following sections provide the rationale for the proposed licence modifications arising from relevant market developments. The modifications themselves are not presented in this document but are highlighted in the modified supply licences published alongside this document. This document should be read in conjunction with the modified PES and generic (b) supply licences.

3.2 Retail Market Deregulation

The Roadmap for Deregulation (CER/10/058) of the electricity retail market was published in April 2010. The criteria for deregulation set out in that document have since been met and all retail electricity markets are now deregulated. The Roadmap for Deregulation (CER/11/071) in the Non-Daily Metered (NDM) retail gas market was also published in June of this year (the daily metered market had been previously deregulated). It defines three markets: the Fuel Variation Tariff (FVT) market, the NDM Industrial and Commercial (I&C) market and the NDM Residential market. The criteria for deregulation set out for the FVT and NDM I&C market sectors have been met and these markets were deregulated as of 1st October 2011. In contrast, the domestic market remains regulated for the moment, and the CER considers it prudent to await future market developments, including the setting up of the Independent Transmission Operator (ITO) before making any final decision on deregulation.

The transition to a deregulated market does not signal the end of retail market regulation but will see a change in the regulatory framework from one of ex-ante to ex-post regulation. This new ex-post regime will see a much stronger role for market monitoring and this is underpinned by European legislation in the 3rd Package (discussed in section 2.1). Notwithstanding an enhanced monitoring framework, an open competitive market also requires more active engagement on behalf of the customer to benefit from competition. While deregulation can deliver real benefits for consumers, driving further price and service innovation in the market, consumers must be empowered to effectively engage with the market to enjoy these benefits. Mindful of potential changes in an increasingly competitive market, which could cause customer confusion with increased tariff and product complexity, the CER reviewed and, after consultation, introduced a number of new proposals to ensure that appropriate consumer information, market tools and protection mechanisms were available in both in electricity and gas markets. These requirements are dealt with in the Codes of Practice. In light of deregulation of the electricity retail markets and changing market dynamics, the CER also reviewed the roles of the PES and Supplier of Last (SoLR) which are discussed in the following sections
3.2.1 Role of the Public Electricity Supplier and Supplier of Last Resort

The review explored how the PES and SoLR obligations will continue to be met in parallel with the former price regulated electricity incumbent Electric Ireland’s operation as an unregulated supplier in a fully deregulated electricity market. With the natural gas markets still transitioning towards full deregulation, a similar review has not yet been conducted on the gas side. Currently, Bord Gáis Energy is the designated Supplier of Last Resort, while also having a duty to offer supply.

The roles of the PES and the SoLR were established in legislation to ensure that customers enjoy universal service. This has not changed. However taking account of the need to establish a fairer method of ensuring universal service provision for consumers in a deregulated electricity retail market than the sole designation of Electric Ireland, the CER decided that:

- all supply licences will include a duty to supply for domestic and small business (DG5) customers
- the role of the SoLR be offered to the market and where no supplier is forthcoming the CER may direct a chosen supplier(s) to undertake the role

The decision stipulated that the duty to supply and ability to direct a supplier to undertake the role of the SoLR would be incorporated into the supply licence. Re the latter the decision stipulated that the CER would further consult on the circumstances under which such a direction may be issued. This will be conducted in Q4 2011.

To incorporate the above into the electricity supply licence, two new licence conditions, conditions 23 and 24, are proposed (one re the duty to offer supply and another re SoLR). The conditions are constructed so that:

- the duty to offer supply only applies where the supplier is actively supplying in the relevant market, and
- the obligation to act as a SoLR is limited to those markets in which the supplier is active.

A duty to offer supply is already in the PES licence and as such only a new condition re the SoLR will be added (condition 27). The current duties and obligations of the SoLR in the electricity market and the processes supporting a SoLR event, they are detailed in CER/06/006. In line with the CER’s decision CER/11/060 the tariff charged by the SoLR in the electricity market will be equal to its day-to-day supply tariff for the customer’s chosen payment mechanism and that additional costs (subject to ex-ante approval) will be socialised.

Proposal 4. Universal Service
Further to the CER’s decision on the roles of the Public Electricity Supplier (PES) and Supplier of Last (SoLR) in the deregulated electricity market, it is proposed to introduce the following text into the electricity supply licence:

1) a duty to offer supply for domestic and small business (DG5) customers
2) an obligation to act as the SoLR if designated by the Cer as such

The duty to offer supply only applies where the supplier is actively supplying in the relevant market, and the obligation to act as a SoLR is limited to those markets in which the supplier is active.

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.

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.

3.3 Generic, Green and CHP Licences

As mentioned in section 3.1, until recently suppliers could be granted one or more of three supply licences were issued under sections (b), (c) and (d) of Section 14 of the Electricity Regulation Act, 1999. The different licences pertained to different sources for the power generated i.e. whether the electricity was produced from renewable / green sources. Specifically, c and d refer to green and combined heat and power (CHP) respectively, where (b) is non exclusive and covers any source including electricity from coal, gas and oil plant. This licensing regime is a legacy from:

- the balancing rules of the old market, which, since the implementation of the SEM, are no longer in place, and
- the method, prior to fuel mix disclosure, in which suppliers informed their customers as to whether they were sourcing their electricity from renewable fuels or CHP via their licence type (e.g. informing their customers that they are a licensed green supplier)

These mechanisms are no longer in place as in the SEM, customers are informed of the contribution of energy sources and the associated environmental impact of the electricity they are supplied through fuel mix disclosure. Fuel mix disclosure sees all suppliers providing the same level of detailed information on customer bills.
Secondary legislation was enacted (SI No. 147 of 2011) which repealed paragraphs (c) & (d) of section 14 (1) of the Electricity Regulation Act, 1999. The SI deemed any holder of licence previously granted under sections (c) or (d) to be deemed to hold a generic supply licence granted under paragraph (b) of section 14 (1). In light of these legislative changes electricity supply licences are now granted under section (b) only.

Finally, the CER is now proposing to remove condition 21 of the generic supply licence which places additional Conditions on holders of licences under Section 14(1)(c).

Proposal 5. Additional conditions for holders of green licences
With green and CHP licences been automatically deemed generic supply licences by (SI No. 147 of 2011), it is proposed to remove condition 21 of the generic supply licence and condition 27 of the PES licence which place additional conditions on holders of green and CHP supply 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.

3.3 Transitional Conditions for Launch of the SEM
In 2007 the CER reviewed and modified all the electricity supply licences in light of the introduction of the SEM. Those modifications were made pursuant to the power to modify licence conditions contained in section 14A of the Electricity Regulation Act 1999 (to be inserted by section 13 of the Electricity Regulation (Amendment) (Single Electricity Market) Act 2007). Supply licences were modified in two stages. Stage one related to Go-Active (3rd July 2007) where licensees were operating under their previous licence conditions, with the addition of transition-specific conditions requiring them to generally do what was within their power to give full and timely effect to the SEM arrangement along with some enduring conditions that were considered necessary pre Go-Live (Go live date: 1st November 2007).

The second stage saw further amendments that took effect from Go-Live (or immediately prior thereto) to give effect to the enduring SEM licence conditions. The Regulatory Authorities (RAs) considered that the two-stage approach provided regulatory certainty for licensees as well as the least risk during the Go-Active phase. As a legacy of these modifications arrangements the supply licence remains split into different sections:

Section A Transition Conditions

Section B Conditions to Apply from SEM Go-Active to SEM Go-Live
Section C Conditions to Apply from SEM Go-Live

The licence deems condition 2 of Section A and Sections B in its entirety as having been deleted since 3 months after SEM Go-Live in case of the former and since Go-Live for the later. To reflect this, the CER proposes to remove these conditions / sections from any electricity supply licences it grants as a procedural formality.

3.4 Metering Provisions

Conditions 7 and 8 of the electricity supply licence pertain to the situation where the supplier is the owner of the metering equipment of record (which generates billing) at a site. The supplier must offer terms for the use of the metering equipment to allow for another supplier to supply a customer at that site. Such a scenario is not applicable in the Irish market, suppliers do not provide the metering equipment. This regulated activity is conducted by ESB Networks in its function as the licensed Distribution System Operator. Therefore the CER proposes to delete these licence conditions.


It is proposed that conditions 7 and 8 (conditions 13 and 14) of the electricity supply licence are removed as they relate to the ownership of meters (meters of record) by suppliers – something that is not supported in the Irish electricity supply market model.

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.

3.5 Demand Side Vision

Demand side participation can deliver a number of benefits to electricity markets, including increased security of supply (or a reduced cost of delivering the same level security of supply), greater efficiency in consumption and increased competition both in the wholesale and retail markets. In 2010 the CER, in conjunction with the Northern Ireland Utility Regulator, published a Demand Side Vision for the island for 2020. The 2020 Demand Side Vision sets out a world in which electricity consumers make informed choices about their use of electricity in the short term and their selection of appliances in the longer term. Under the Vision the prices they face would reflect the cost of supply at those times, and would provide appropriate rewards for reductions in total consumption and changes in the profile of consumption.

In the context of the Demand Side Vision the Regulatory Authorities are considering a Modification (Mod_36_10) to the Trading and Settlement Code (T&SC), which sought to facilitate the participation of Demand Side Units (DSUs) in the SEM. The modification proposed the removal of the obligation on a party
operating as a DSU to be the supplier unit for the demand sites to which it is associated.

In developing the modification, the Modifications Committee established a working group to consider the potential impact of DSUs on the market. It was found that although the T&SC requires that a DSU must hold a Supply Licence and are thus bound by the conditions of its Supply Licence conditions a licensed supplier currently has no requirement to comply with the Bidding Code of Practice (BCOP).

As a DSU, participants will submit bids in to the SEM, and therefore it was deemed to be essential to ensure that parties comply with the BCOP. The modification was recommended for approval at the Modifications Committee meeting on 1st February 2011, subject to the Regulatory Authorities ensuring that DSUs are bound by the BCOP.

The RAs have decided to incorporate this requirement via the supply licence. As such the CER is proposing a new condition in the supply licence, condition 21 (condition 25 of the PES licence), so that where a supplier is acting as a DSU it will be bound to the BCOP.

**Proposal 7. Demand Side Units**
To facilitate the operation of demand side units in the SEM the CER is proposing a new condition, condition 21 of the generic supply licence (condition 25 of the PES licence), to introduce an obligation on any Demand Side Unit to comply with the Bidding Code of Practice.

**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.

### 3.6 Alignments and Definitions

#### 3.6.1 Compliance with all Applicable Laws

Condition 17 of the electricity supply licence refers to Compliance with Directions etc. by the CER. It binds suppliers to any directions or determinations made by the CER pursuant to Sections 23, 24 and 25 of the Act or the Single Market Regulations, and any court orders made pursuant to Section 26 of the Act.

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1 The BCOP sets out how calculations for short run marginal cost and opportunity cost are made and is central to the principles of bidding behaviour for participants in the SEM.
The equivalent condition in the natural gas supply licence (condition 16: Compliance with Laws and Directions) is broader requiring that the licensee must comply with all applicable laws. Applicable laws include such directions and court orders referred to under the electricity supply licence and referenced above but also the wider legal framework including, but not limited to, all relevant natural gas legislation and decisions made by the CER. In effect it captures all the legal obligations placed on natural gas suppliers.

The relevant condition in the electricity supply licence is limited to the obligations of the Licensee under the Electricity Regulation Act and its electricity supply licence (as referred in the relevant sections of the Act listed above). The CER deems it prudent that this condition should be extended to all legal obligations on electricity suppliers. The CER is proposing to align the conditions in both licences, which will see the wording of condition 16 of the natural gas licence being adopted in the electricity supply licence and replacing condition 17.

Proposal 8. Compliance with all applicable laws
The CER is proposing to align condition 17 of the electricity supply licence (Compliance with Directions etc.) and condition 16 of the natural gas supply licence (Compliance with Laws and Directions). This is to extend the condition to 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.

2.6.2 Changes to Definitions

Since the last review of the electricity supply licence in 2007, new licences have been introduced. Specifically, in January 2009 the CER granted, under legal unbundling of the distribution business, separate distribution system operator and distribution asset owner licences. In addition, the CER introduced, in line with the provision of the Energy (Miscellaneous Provisions) Act 2006, an interconnector operator licence. With these new licences, it was deemed prudent to review the definitions used within these new licences and the electricity supply licence to ensure consistency. The licence to generate electricity, the transmission system operator and owner licences were also reviewed.

The review identified some changes, the majority of which relate to the unbundling of the distribution and transmission businesses. Though legal unbundling is already reflected in the electricity supply licence, the ‘Board’ referring to the Electricity Supply Board (ESB), is still referenced throughout the definitions. In line with the other licences, it is proposed to remove such references, where appropriate, and replace them with references to the specific licensed activity – e.g. distribution system operator. The other changes provide for greater consistency in terminology between the licences. These changes, as
Proposal 9. Update of Definitions
It is proposed that the definitions of the electricity supply licence be updated to be generally aligned with those in other electricity licences and to introduce reference to the licensed transmission or distribution activity rather than maintaining a reference to the ‘Board’

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.

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.
4.0 Responding to this Consultation

The CER invites comments on the proposals presented in this paper from interested parties to be submitted no later than 5.00pm on 8th November 2011. Comments should be sent, preferably in electronic format to;

Seán mac an Bhaird  
Commission for Energy Regulation  
The Exchange  
Belgard Square North  
Tallaght  
Dublin 24  
Tel: +353 1 4000800  
Fax: +353 1 4000850  
smacanbhaird@cer.ie

The CER intends to publish all comments received – those respondents wishing for certain sections of their submission to remain confidential
## Appendix A – list of Consultation Questions

**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 the proposal? Outline reasons for agreement or disagreement.

**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.

**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 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.

**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.

**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.

**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.

**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.

**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.
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