

Commission for Energy Regulation  
The Exchange,  
Belgard Square,  
Tallaght,  
Dublin 24  
Ireland

Att: Róisín Cullinan

Dear Róisín,

### **Consultation Paper on Annual Petroleum Safety Levy Order**

Thank you for your letter regarding the above consultation paper. I am responding on behalf of Bluestack Energy Limited, which holds Licence Option 3/11, awarded in October 2011.

Having studied the consultation paper and the Petroleum (Exploration and Extraction) Safety Act 2010, Bluestack is of the opinion that the exploration activities carried out by Bluestack under a Licensing Option (LO) are not covered by the Act for the purposes of collecting an Annual Petroleum Safety Levy (APSL). Our opinion is based on the following:

1. Bluestack's entire work programme consists of desktop studies on existing data, as specified in our application.
2. Bluestack is not a petroleum undertaking that is proposing to carry out a designated petroleum activity.
3. In our opinion, Bluestack is not a petroleum undertaking carrying out established petroleum activity in as far as the term refers to activities leading up to a designated petroleum activity. The term "established petroleum activity" is defined in the Act as "a petroleum activity which, immediately before the coming into operation of this section is being carried on by a petroleum undertaking". Whilst the "Petroleum Activities" are not limited to those specifically defined, it seems clear that the act is intended to cover activities concerned with or leading directly to those activities which require a safety permit. Petroleum exploration activities are defined as "petroleum exploration activities carried on under any one or more of the authorisations referred to in paragraphs (a) to (d) of the definition of 'petroleum authorisation' in section 13A and in respect of which petroleum infrastructure for the drilling of exploration wells in the seabed or subsoil is intended to be established, maintained or operated" [13A (2)(b)(i)]. The remaining definitions of Petroleum Activities cover the development, extraction, storage, transportation and processing of petroleum, and

decommissioning of petroleum infrastructure, none of which are possible under a Licensing Option.

In the Petroleum and Other Minerals Development Act, 1960 [8. (7)] exploration is defined as follows: "In this section "searching for petroleum" means the doing by the licensee under an exploration licence of all such things as are in his opinion necessary or desirable for the purpose of ascertaining the character, extent or value of the petroleum in the area to which the licence extends and, in particular and without prejudice to the generality of the foregoing power, includes exploring for petroleum by using geological, geophysical, geochemical and topographic examination, making borings, sinking pits, removing water from old workings and taking and removing reasonable quantities of petroleum and other minerals for analysis, test, trial or experiment". The exploration work being carried out by Bluestack is a review of existing geological and topographical data and well data. No new field data will be performed and no new field data acquired.

### Comments on the Consultation Paper

#### **Question 1, Evaluation Criteria**

##### **Fairness**

A designated petroleum activity such as drilling an exploration well cannot be carried out under a Licensing Option. There is no possibility of Bluestack requiring a safety permit under our current LO. There is a likelihood of relinquishment at the end of the two-year Option period for all LO holders. Until taking out an Exploration Licence, Bluestack has no potential to impose a safety regulation burden. Therefore it seems fundamentally unfair to impose an APSL on an undertaking which has no possibility of utilising the services being funded by the Levy.

##### **Simplicity**

Bluestack has no comment on the simplicity criteria.

##### **Sustainability**

Imposing a Levy on small companies such as Bluestack could be contrary to the stated CER objective of introducing competition in the energy sector.

Bluestack is a very small company with a limited budget. In our application process we presented our budget for the two-year Option work programme. Our total budget amounted to €220,500, allocated approximately 35% for licence fees, 35% for purchasing licences for released data, 21% for research studies and 9% for costs and administration. No reference was made to an APSL during the application process or at award of the LO so it is not provided for in the budgeted funds. Although it has limited financial resources, Bluestack is owned and run by individuals with an excellent track record of delivering exploration success and of developing offshore oil and gas. Our objective is to attract well-funded, qualified oil companies to invest in exploration drilling, which is the only viable route to a sustainable oil and gas business. CER intends to publish its Decision Paper in November 2012 and Levy from February 2013. If Bluestack either cannot quantify potential exposure to the APSL, or if the APSL is too onerous, Bluestack may have to withdraw from the LO before the first anniversary date, 31<sup>st</sup> October 2012.

#### **Question 2, Classes of Petroleum Undertakings subject to the APSL**

“It follows that holders of the above authorisations can be subject to the petroleum safety levy”. Bluestack does not agree with this statement. As outlined above, our interpretation is that undertakings which have no possibility of utilising the services of CER should not be subject to APSL. Imposing the levy on all licensed entities may be simpler, but we believe it would be both unfair and unsustainable.

### **Question 3, any other cost recovery arrangements**

Bluestack agrees with the principle of cost recovery for CER. As described in the review of international cost recovery arrangements, cost recovery can be directly levied for specific services such as review and approval of environmental statements, drilling permits and safety cases. Ongoing costs may be collected from the owners of producing and transportation facilities.

Bluestack accepts that holders of exploration licences could potentially impose a safety regulation burden, but for two reasons Bluestack cautions against an across-the-board levy. Firstly, licence holders already pay significant annual licence fees on a per square kilometre basis and should expect regulatory costs to be covered by these fees. Secondly, Bluestack is not aware of any scheme in which the holders of the equivalent of exploration licences or options are subject to a Petroleum Safety Levy, potentially making Ireland look less attractive to exploration funds.

Bluestack recommends a review of the allocation of funds collected from licence fees to see if they could cover ongoing costs of CER, and also a review of the ongoing necessity of mandatory contributions to research funds (PEPPS programme) to see if some of these funds could be allocated to CER.

### **Question 4, aligning with the Australian levy system**

NOPSEMA’s Cost Recovery levies are all tied directly to offshore operations. Costs are recovered for Safety Cases, Environmental Statements, Well Integrity / well activity reviews, with ongoing costs collected from facilities owners. There is no reference to cost recovery across the board from holders of exploration permits.

The Australian model appears to be in-line with the definition of ‘designated petroleum activity’ within the Petroleum Safety Act 2010, i.e. petroleum activity which requires a safety permit under section 13P [Act, 13A (1) (b)].

Bluestack agrees that the Australian model appears to be sound and recommends CER adopt the principle of self-funding by the entities requiring safety regulation services. Bluestack accepts that CER is already running a “tight” organisation. We recognise the importance of safety and protecting the environment, but encourage the regulatory authorities to ensure that the cost of regulation is tailored to the scope of the Irish oil and gas industry.

### **Question 5, minimum annual levy**

As stated under Q3 above, Bluestack would not recommend a minimum annual levy for all petroleum authorisation holders, unless the cost of regulation and administration is not already covered by annual licence fees.

### **Question 6, minimum annual levy only for certain authorisation types**

As stated in page 1 above (1,2,3), Bluestack considers an APSL to be clearly unfair for a company which has no possibility of utilising the services of CER. While we recommend against a minimum annual levy, if it is to be introduced, it should only apply to those entities holding an exploration or production licence.

### **Questions 7, 8 and 9**

Bluestack has no comments on these questions.

### Summary

A LO provides an opportunity for a company with limited funds to apply specialist expertise to evaluate petroleum prospectivity and to persuade a well-funded company to invest in drilling. Bluestack is a small private company, fully funded by six individuals, three of whom have dedicated a large portion of time over the last 18 months to work for the company for no pay. Our budget was clearly presented at the time of application and the possibility of an APSL was not introduced by the authorities.

It is only through exploration drilling that a sustainable, tax-paying oil and gas industry can be continued. Small companies like Bluestack have a role to play, potentially a key role in promoting drilling opportunities directly to major oil companies. Funding for companies like ours is always limited and any additional costs could undermine our sector and reduce this important avenue for growth.

In Bluestack's opinion, the purpose of the Act is to ensure safe regulation of petroleum activities. The definitions of petroleum activities within both the 1960 and 2010 Acts clearly deal with petroleum operations such as drilling wells and producing and transporting petroleum, activities that clearly require regulation and the services of CER. Desk-top research on existing data is an inherently safe activity which cannot impose a safety regulation burden. It is not until we progress into the next phase of holding an exploration licence that there is any possibility of Bluestack even planning activity that could eventually require a safety permit. Therefore we conclude that it would be wrong to impose any safety levy on holders of License Options.

Yours sincerely,

Donal O'Driscoll

Managing Director  
Bluestack Energy Limited