

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

10th February 2012

Re: Market Monitoring in the Electricity & Gas Retail Markets (CER 11/221)

Dear James,

Electric Ireland welcomes the opportunity to respond to CER (11/221) consultation relating to Market Monitoring in the Electricity & Gas Retail Markets.

Detailed responses in respect of the 25 questions are provided in the attached document. The following comments represent a summary of key themes captured within the response document.

Electric Ireland acknowledges the obligation on CER to deliver market monitoring in the retail Irish Energy supply market deriving from the Third Directive and transposed into Irish law via statutory instrument. We further acknowledge the challenges presented in implementing such directions. In this respect the additional workshop in Tallaght to supplement the detail in the consultation was useful.

We have a number of key concerns with the monitoring proposals as presented in this paper which we hope can be addressed in further interaction between CER and other industry participants before a final decision paper is issued. These issues are summarised as -

1. The scale of data sought - in its fullest sense (Option 3) we believe it would not be possible to provide the level of data granularity sought.

At a slightly narrower level the consultation proposes the Eurostat model as the basis for data capture and reporting. While somewhat less onerous than the proposed Option 3 the resource and cost implications are likely to be huge as we would need to substantially amend existing processes and systems and build new ones to cater for data that is essentially not currently captured and / or designed into our systems. Our existing processes and systems are built around the DG groupings proposed in Option 1 and we strongly support reviewing this option as a primary means of delivering any necessary and justifiable additional reporting into the market. To our knowledge this reporting mechanism has worked well to date and should be the primary focus area for any changes to be made.

We cannot see the justification for extending the reporting requirement in such a way as to generate massive additional outputs that will require significant resources both to produce, to review and validate (including at CER) and with no identifiable or tangible customer benefits. Has a cost benefit analysis of the proposals been considered.?

We expect that the scale of data provided will require significant oversight and review prior to publication and believe that a high level of scarce resources will be required to fulfil this task.

2. Nature of data sought - we wish to focus our comments in this summary in particular on the requirement to provide detailed information in relation to Retail Margins and supplier arrears position.

We believe firstly that the effort required to deliver the Retail margin information at the levels proposed would require major expense to effectively overhaul how we collect, record, store, allocate and account for costs within Electric Ireland. Specific items that come to mind include shared corporate costs and contract hedging costs. We have cited the most recent ofgem report on financial reporting in the UK market which indicates that comparisons at this level are extremely difficult because of differing approaches to transfer pricing and accounting standards being applied. We have highlighted how, as a ring fenced stand alone company, we could face greater challenges in this regard than would apply in vertically integrated companies. And finally we have been unable to establish where similarly detailed information has been justified or is being provided in any other European energy markets or indeed in any other market governed by a Regulator.

In relation to arrears we have also made the point, inter alia, that this level of information is not being sought in any equivalent European energy market; that the monetary value of arrears is commercially sensitive data; and that publication of arrears values at supplier level or below could compromise suppliers in relation to borrowing costs from already nervous credit providers.

3. Commercial Sensitivity of data sought - much of the information sought is information with high value in the marketplace and as a result is guarded by suppliers. This data is, by its nature (contracts between suppliers and business customers, for example) commercially sensitive and confidential. Disclosure could infringe both customer rights and supplier legal obligations and responsibilities.

In addition, publication of such commercially sensitive data could expose, for example, the commercial strategies of suppliers, undermining competition within the market itself. The NI regulator has recognised this whereby suppliers currently provide some commercially sensitive information each quarter but not for publication. Where suppliers are now operating in both jurisdictions, e.g. through SEM, consistency of approach by Regulators is critical.

4. The legal basis – the stated justifications, particularly in relation to areas not covered explicitly by the 18 ERGEG indicators or by the relevant statutory instruments, appear to exceed the spirit and intent of the enabling legislation and without cause. No convincing arguments have been put forward in the consultation to support this extension of authority and indeed, as stated above, we are unaware of any EU country where such extended authority has been

sought or activated to the extent now being consulted on.

Finally we would question whether such an extension of authority will impose any barriers in respect of the RA's strategic intent to align the retail markets in Republic Of Ireland and Northern Ireland over time or indeed act as a barrier as Market Integration progresses.

5. Resource allocations - we have highlighted in our responses the significant additional resourcing that will be needed to implement changes which are a departure from the existing reporting framework, based as it is around existing stable systems and processes. We are requesting minimal variation in terms of the groupings under which the majority of industry reporting is done currently but which we feel can be usefully exploited to achieve reasonable, fair and affordable additional market monitoring objectives. Crucially it could deliver improved choices and price benefits to customers while at the same time preserving and developing the openness and transparency required to enhance competition and choice within the market.

Conclusion - Electric Ireland asks for CER to commit to further dialogue with ourselves and the industry to further address and understand in depth the very real concerns with the proposals and as a means to developing an industry agreed process to facilitate delivery of CER'S obligations under the Third Package which is proportionate and fair.

Yours sincerely ,

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