



REVIEW OF THE NATURAL GAS SUPPLY LICENCE

AIRTRICITY RESPONSE TO

THE CER

NOVEMBER 2013

INTRODUCTION

Airtricity welcomes the opportunity to comment on the CER's paper "review of the Natural Gas Supply Licence".

Airtricity is the largest independent supplier operating in Ireland with over 800,000 customers served across both electricity and natural gas markets. Airtricity is committed to the development of competition in energy markets in Ireland and to presenting its customers with choice and quality customer services. Airtricity believes the supply licence is a fundamental tool to regulate and ensure that competition is developing appropriately in the energy markets. It should provide minimum requirements for operation and govern industry practice at a high level.

It is important, however that amendments to the supply licence are always within the remit of the functions of the CER and do not inappropriately restrict commercial practices or the development of competition.

GENERAL COMMENTS

While Airtricity believes it is appropriate to review the supply licence in the context of the evolving gas market, we are concerned that the proposed amendments could be seen as over reaching the remit of the CER. While the CER has based some of its proposals with respect to competition and re-regulation on the Gas Regulation Bill 2103, until such time as this Bill becomes an Act and the final content and provisions are known, it is inappropriate to amend or consult on these aspects of the supply licence. At this time the powers referenced in the consultation have not been bestowed on the CER. While it is clear that the Bill will become an Act in the near future, premature adoption of items set out in a Bill could lead to conflicts once the final Act is published.

With respect to the consultation questions asked, leaving aside the issue of whether the CER currently has the power to apply these amendments, Airtricity makes the following comments.

1. Airtricity recognises that it is a primary function of the CER to ensure that competition is effective and working for both consumers and suppliers. With this in mind the CER is proposing to interpret Section 16 of the licence as providing the ability to impose measures on suppliers up to and including the re-regulation of tariff to support this function. While there may be a place for the re-regulation of tariffs where a dominant supplier is clearly shown to be exerting inappropriate influence over the market, Airtricity does not believe the broad range of reasons why this outcome would be arrived at presented in the paper is appropriate or intended by the proposed legislation. One of the

fundamental tenets of a competitive market is the ability of a supplier to set its price. The consultation appears to imply that this action could be taken with respect to a range of activities. Airtricity believes clearly defined parameters should accompany this aspect of licence interpretation with the CER only being able to take this action should it be appropriate.

2. Airtricity recognises the CER's concerns with respect to the absence of a duty to supply in the competitive markets. Airtricity requests that the term defined in the licence as 'I&C' is removed and replaced with a more appropriate descriptor for the customers this clause is intended to cover. The use of the term 'I&C' is widespread and generally taken to include all commercial customers including large industrial customers. Airtricity is concerned that the CER is defining a commonly used term to reflect something that it is not usually used to describe. We would suggest amending the term to Small Business, Micro Business or a descriptor that reflects the CER's intention to provide for smaller commercial customers. This will assist in avoiding customer confusion and unintended interpretation of the term I&C in future.

Separately, while a duty of supply is appropriate in a deregulated market, this requirement should not place additional cost or risk on a supplier in supplying. Recognition is needed in the decision paper that the terms of supply associated with this duty are a commercial decision for a supplier.

3. Airtricity supports the exclusion of the duty of non-discrimination at this time.