



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Gas Safety Regulatory Framework for Ireland – Proposed Decision
Paper on a Levy Methodology for Licensed LPG undertakings**

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RESPONSES TO:	Tara O'Beirne (tobeirne@cer.ie)

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Abstract

The *Energy (Miscellaneous Provisions) Act 2012* gives the CER the power to impose a levy for the purposes of meeting expenses properly incurred by the CER in the discharge of its regulatory functions over LPG.

On 7th February 2014, the CER published a Consultation Paper on a Levy Methodology for Licensed LPG Undertakings. In light of comments received by the CER to that Consultation Paper, the CER is now publishing a proposed decision.

This Proposed Decision Paper sets out a revised method by which the CER now proposes to calculate the levy for each licensed LPG undertaking. This paper requests further feedback from industry and the public on the revised proposed levy methodology.

Responses to this Proposed Decision Paper should be provided by close of business on 17th April 2014 as outlined in Section 1.4 of this paper.

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1.0 Introduction

1.1 Background

Under the *Energy (Miscellaneous Provisions) Act 2006*, (“the 2006 Act”) the CER was given responsibility to regulate the natural gas industry with respect to safety. The legislation provides for the establishment of a regulatory framework by the CER, against which Natural Gas Undertakings are regulated. The Framework was established after a consultation in 2007, and it operates through a safety case regime.

The *Energy (Miscellaneous Provisions) Act 2012* (“the 2012 Act”) gave the CER powers to also regulate certain LPG activities with respect to safety, through a safety regulatory framework. In order to achieve this, the CER is working to amend the existing Natural Gas Framework (Ref: CER/13/029) to incorporate regulation of LPG undertakings. This work is currently in progress; the CER has, to date, published the following papers on the proposed new regulatory regime for LPG undertakings:

- *Gas Safety Regulatory Framework for Ireland – Consultation Paper (CER/13/029)*
- *Gas Safety Regulatory Framework for Ireland – Consultation Response and Next Steps (CER/13/127)*
- *Safety Case Guidelines for Licensed LPG Undertakings – Decision Paper (CER/13/253)*

Under the 2012 Act, the CER has the power to regulate LPG Undertakings with respect to safety, however, it is only required to license certain LPG undertakings. These undertakings are defined in the 2012 Act.

First, the Act defines¹ an LPG undertaking as:

“any person who imports LPG or purchases LPG directly from a refinery within the State and makes LPG available to individual domestic or commercial final customers by way of LPG cylinder, bulk tank or via a piped LPG distribution network”

The Act then goes on to state that *“a person shall not make available LPG by way of a piped LPG distribution network for use by individual domestic final customers unless a LPG safety licence is in force in respect of the activity”*

This means that the only LPG undertakings that are licensed by the CER can operate piped distribution networks to multiple individual final domestic customers. The 2012 Act gives the CER the power to levy² such licensed LPG undertakings in order to recover costs incurred by the regulation of LPG. The first levy will be applied from

¹ Section 2(1) of the *Electricity Regulation Act 1999*, as amended by the *Energy (Miscellaneous Provisions) Act 2012*

² Schedule 1 Section 16 of the *Electricity Regulation Act 1999* as amended by the *Energy (Miscellaneous Provisions) Act 2012*

April 2014, and the levy amount will be set out in a levy order which will be signed on an annual basis.

A consultation paper on a Levy Methodology for Licensed LPG Undertakings (Ref. CER/14/045) was published on 7th February 2014. One respondent submitted a response to the CER. This response is published on our website alongside this Proposed Decision Paper.

1.2 Scope and Purpose of this Proposed Decision Paper

The purpose of this paper is to propose a revised methodology by which the levy would be divided amongst licensed LPG undertakings. The proposal takes into account the comments received in response to the consultation paper.

1.3 Structure of the Paper

This paper is structured as follows:

- Section 2 describes the proposed revised methodology by which the levy would be apportioned and the class of undertaking that the levy will be applied to;
- Section 3 addresses the administrative considerations for the CER in collecting the levy.

Responses to the consultation paper are covered in each section.

1.4 Responding to this Paper

Responses to this Proposed Decision Paper should be provided by close of business on 17th April 2014. They should be returned by email, post or fax and marked for the attention of Tara O'Beirne at the CER. Contact details are as follows:

The Commission for Energy Regulation
The Exchange
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The CER intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately, or enclose it in an appendix stating the rationale for not publishing this part of their comments.

2.0 Levy Charging Methodology

2.1 Classes of Undertaking Subject to Levy

Under the definitions outlined in the 2012 Act, an LPG undertaking operating a piped distribution network supplying multiple individual domestic final properties requires a safety licence to operate. It is an offence to operate such networks without a licence. The legislation states that the CER may charge a levy on such undertakings, in order to recover costs incurred in regulating the industry.

2.2 Annual LPG Levy

The CER will recover its operational costs for the regulation of LPG through the annual LPG levy. In calculating the levy amount required the CER takes into account internal costs, such as resources, time spent on LPG regulatory activities, technical, licensing and legal costs. Costs will also include activities such as audit and inspection, assessment of applications for safety licences, LPG safety promotion, review of LPG Safety Cases, policy work and consultations with Stakeholders. CER has endeavoured to minimise these costs by accessing relevant work already completed by CER and using in-house expertise to the greatest extent possible.

In operating the LPG Regulatory Framework, it is estimated that the following costs will be incurred by the CER in 2014:

Set up and Regulatory Cost for 2014	€86,220
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2.3 Methodology of Charging Costs

In its Consultation Paper, the CER proposed calculating the percentage of the overall levy payable by each undertaking based on either the number of domestic customers that were connected to piped distribution networks for a single undertaking in the preceding year; or the volume of LPG the undertaking sold through piped distribution networks to final domestic customers.

Respondent's Comment

A respondent to this consultation stated that an LPG undertaking would not be able to provide the above data due to competition and market share reasons and that therefore the levy should be divided in equal proportions amongst the licensees.

CER Response

The CER understands that this concern is due to the fact the proposal outlined in the consultation paper could have resulted in third parties being able to calculate information relating to the market share of licensed undertakings. The below proposed decision allows for this point.

CER Proposed Decision

Taking the above into consideration, the CER proposes the following solution:

- For 2014 the CER proposes dividing the levy in equal proportions amongst the licensees. This proposal is put forward for 2014 given that the levy amount is already in the public domain.
- From 2015, the CER proposes that the levy will be calculated based on customer numbers (at June of the preceding year) based on information provided confidentially to the CER. The CER will not publish the total levy amount but will publish the amount that is payable on a per customer basis. This will avoid any possible indirect disclosure of commercially sensitive information.

The CER considers that this is the most equitable and fair method of proportioning the levy while addressing the concerns that were raised. While it is proposed to divide the levy in equal proportions in 2014, operating on a per customer basis in future years will reduce any potential barrier for new entrants to this area.

Respondents did not put forward a preference between customer number or volume basis. Customer numbers is now proposed as from an administrative perspective it may be easier to calculate the levy on this basis.

Q1. The CER requests respondent's views on its proposed decision on the method of calculating an undertaking's proportion of the levy payable for both 2014 and going forward.

3.0 Administrative Considerations

In its Consultation Paper (Ref. CER/14/045), the CER detailed how the levy will operate.

Respondent's Comment

A respondent to the consultation asked whether the levy would be reduced in the future as the amount for 2014 took into account set up costs. The respondent further sought an indication of what future levy amounts would be. Finally, the respondent states that the levy should be divided equally between the licensees in order to avoid the issue of having to release confidential information.

CER response

There are a number of points worth highlighting when responding to this comment. It should be noted that this levy is calculated on the basis of costs incurred for two-thirds of the year (from May to December) while from 2015, the levy will be calculated based on a full year (January to December). It is also worth noting that in order to reduce the costs faced by LPG undertakings, the CER also leveraged heavily on work that was previously completed for natural gas. Therefore, there may not be a significant reduction in the future. However, the CER is not in a position at this time to provide guidance on the amount of the levy for next year or any other subsequent years.

The comment regarding division of the levy is covered in Section 2.3 of this paper.

CER proposed decision

The CER's proposed decision on this matter has not changed relative to that outlined in the consultation paper, but it has been repeated here for completeness.

Levy orders will be made in the December in advance of the levy year. For example, the levy order for 2015 will be made in December 2014. From 2015, the levy will be issued on an annual basis and collected quarterly in advance.

The CER intends to commence licensing of LPG undertakings from April 2014. The CER proposes that the LPG levy will be applied from April 2014 onwards.

Where there is underpayment in a year, the CER will recover these additional expenses in subsequent years through the levy. Conversely, where an excess in revenue is collected by the CER in a particular year, it can be accounted for in the Levy calculation the following year.

Q2. The CER requests respondent's views on the proposed ongoing operation of the annual levy as outlined above.

Appendix 1: Questions in Tabular Format

The aim of this appendix is to allow for a “short-cut” option for respondents to submit their comments to the CER.

Please note that respondents are in no way obliged to respond to the questionnaire provided and are welcome to submit comments in their preferred format. However when preparing responses respondents should indicate which section or proposal their text refers to. It should be noted that the CER intends to publish all responses received. Respondents who do not wish parts of their submission to be published should mark this area clearly and separately, or enclose it in an appendix stating their rationale for not publishing this part of their comments.

Questions/Proposals		Comments
1	The CER requests respondent's views on its proposed decision on the method of calculating an undertaking's proportion of the levy payable for both 2014 and going forward.	
2	The CER requests respondent's views on the proposed ongoing operation of the annual levy as outlined above.	