



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

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

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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 published a Proposed Decision Paper on 3rd April 2014. The CER is now publishing its decision.

No responses were received in respect of the Proposed Decision Paper and the CER is now stating its final decision on the method by which the CER proposes to calculate the levy for each licensed LPG undertaking.

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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

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

Act gives the CER the power to levy² such licensed LPG undertakings in order to recover costs incurred by the regulation of LPG.

A Consultation Paper on a Levy Methodology for Licensed LPG Undertakings (Ref. CER/14/045) was published on 7th February 2014. This was followed by a Proposed Decision (Ref. CER/14/079) which took into account responses to the consultation on this matter and gave interested parties a further opportunity to respond.

No responses were submitted to the CER in respect of the Proposed Decision Paper and the CER is therefore now publishing its Decision on this matter.

1.2 Scope and Purpose of this Proposed Decision Paper

The purpose of this paper is to set out the CER's final decision on the Levy Methodology for Licensed LPG Undertakings.

1.3 Structure of the Paper

This paper is structured as follows:

- Section 2 describes the methodology by which the levy will 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.

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

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 response to the Consultation Paper, a respondent raised the issue of commercial sensitivity and stated that for competition reasons, they could not allow their customer numbers or volume of piped LPG to be released into the public domain.

For that reason, the CER will calculate the levy payable by each LPG undertaking by the following means:

- 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 and commercially sensitive information could indirectly be disclosed.
- 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 during the consultation period. 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.

3.0 Administrative Considerations

In its Consultation Paper (Ref. CER/14/045), the CER detailed how the levy will operate. The CER did not change its approach to this issue as the comments received in response to the Consultation Paper were not relevant to the administrative considerations but rather the levy methodology.

Therefore, it remains the CER's intention that the levy will operate in the following manner described below.

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 30 April 2014. Undertakings that become licensed during the calendar year from 30 April 2014 onwards will be subject to 2014 LPG levy.

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.