## Review of the Natural Gas Shipping Licence

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<td>Dana Paraschiv</td>
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<td><a href="mailto:dparaschiv@cer.ie">dparaschiv@cer.ie</a></td>
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The Commission for Energy Regulation,  
The Exchange,  
Belgard Square North,  
Tallaght,  
Dublin 24.  

www.cer.ie
Abstract: The CER is consulting on proposed modifications to the natural gas shipping licence granted by the CER under Section 16 of the Gas (Interim) (Regulation) Act, 2002. The proposed modifications are discussed in this document and highlighted in the shipping licence published alongside it. These documents should be read in conjunction with one another.

Target Audience:

This consultation paper is for the attention of current holders of a natural gas shipping licence granted by the CER, those intending to apply for such a licence, industry participants, the general public and all interested parties.

Responding to this paper:

Responses to this consultation should be returned by email, post or fax and marked for the attention of Dana Paraschiv at the Commission for Energy Regulation, The Exchange, Belgard Square North, Tallaght, Dublin 24 before close of business on 12th December 2014.

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

Related Documents:

Proposed Decision on Natural Gas Shipping Licence and Natural Gas Supply Licence CER/11/030

Proposed Natural Gas Shipping Licence – Updated CER/11/032

Proposed Natural Gas Shipping Licence CER/10/179

For further information on this Consultation Paper, please contact Dana Paraschiv (dparaschiv@cer.ie) at the CER.
Executive Summary

The CER is responsible for licensing natural gas shipping undertakings under Section 16 of the Gas (Interim) (Regulation) Act, 2002. The last review of the natural gas shipping and supply licences was conducted in 2011 CER/11/030 “Proposed Decision on Natural Gas Shipping Licence and Natural Gas Supply Licence”, where the primary aim was to finalise the separation between natural gas shipping licence and natural gas supply licence. The final updated versions of the proposed gas licences can be viewed through the following links CER/11/031 and CER/11/032.

In its current form, the natural gas shipping licence is split into two sections: Section A, containing 14 conditions applicable to all licence holders and Section B, with an additional 3 conditions that apply only to Bord Gáis Éireann. These are as follows:

i. Condition 15 – Regulatory Accounts,
ii. Condition 16 – Ring-fencing of the shipping and supply business and restriction on use of certain information, and
iii. Condition 17 – Compliance Officer

Legislation by way of the Gas Regulation Act 2013 was enacted to underpin the sale of the energy business and to ensure the retention of networks business in State ownership as a fully ownership unbundled network business. The sale of Bord Gáis Energy is now formally completed and Bord Gáis Éireann has been statutorily renamed Ervia. The Gas Regulation Act 2013 provides for changes in Ministerial ownership and control for Ervia and the establishment of the Gas Networks subsidiary company. Ervia is now working towards the establishment of an independent subsidiary with responsibility for the ownership and operation of the gas transmission system, to be called Gas Networks Ireland, in line with the Full Ownership Unbundling (FOU) model.

In light of this, the CER has reviewed the gas shipping licence and is proposing that the following conditions be removed where Bord Gáis Éireann is certified as having achieved full ownership unbundling:

- Condition 16 - Ring-fencing of the shipping and supply business and restriction on use of certain information) and
- Condition 17 - Compliance Officer)

The CER is further proposing that Condition 15, pertaining to regulatory accounts, become applicable to all gas shippers, to reflect statutory obligations. In addition, in line with Third Package requirements, the CER is minded to introduce a new licence condition to prohibit tariffs that create incentives that may unnecessarily increase the volume of distributed or transmitted energy. In this context, the CER would consider that creating such incentives should account for the carbon intensity of the energy sources available.

With the proposed extent of this alignment it is deemed no longer necessary to split the licence into two sections, i.e. Sections A & B. In addition, Section B as it currently stands only applies to the Board. It is thus proposed to change the licence so it is in one section.

Additionally, the CER is proposing to modify the following areas of the Natural Gas Shipping Licence granted by the CER under Section 16(1) (b) of the Gas (Interim) (Regulation) Act 2002, to ensure appropriate safety conditions are included:
- Condition 11 – Safety Framework
- Condition 12 – Compliance with Laws and Directions

The current Natural Gas Shipping Licence was put in place prior to the establishment of the Gas Safety Regulatory Framework (CER/14/296). To date the Natural Gas Shipping Licence has primarily consisted of economic conditions. The proposed modifications take into account legislative developments with respect to safety regulation including the CER’s enforcement powers. The update will bring the licence in line with the CER’s legislative remit and the safety conditions contained in other licences issued by the CER.

All modifications are highlighted through track changes in the natural gas shipping licence published alongside this consultation paper. In line with legislative requirements, the CER has published a notice in the Irish Times on (insert) drawing the publics’ attention to the proposed modifications, their nature and the reasoning for them. This is the first step in the modification process as prescribed in legislation and detailed in section 2.2 of this consultation paper.
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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation (CER) is the independent body responsible for overseeing the regulation of electricity and gas sectors in Ireland. The CER was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act 1999. The enactment of the Gas (Interim) (Regulation) Act 2002 expanded the Commission’s jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the CER powers to regulate electrical contractors with respect to safety, to regulate natural gas undertakings involved in the transmission, distribution, storage, supply and shipping of gas and to regulate natural gas installers with respect to safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the CER’s functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the CER and the Northern Ireland Utility Regulator (UR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

In light of market developments, the CER has reviewed the proposed natural gas shipping licence. This document sets out the proposed changes to the licence and the rationale for them. The main aim is to create a level playing field for all gas shippers and provide clarity to persons / companies wishing to apply for a licence to ship natural gas in Ireland.

1.3. Structure of this paper

Section 2.0 sets out a brief overview of the legislation underpinning the granting of a gas shipping licence and provides information on the Gas Regulation Act 20131 allowing for the sale of Bord Gáis Energy. It also details the process that must be followed for the implementation of the proposed licence changes.

Section 3.0 presents the CER’s review of the natural gas shipping licence and the proposed changes to the licence. It provides the rationale for the proposed changes and seeks respondents’ views on same.

Section 4.0 sets out the next steps.

1.4 Responding to this paper

Interested parties are invited to comment on the issues raised in this consultation paper by close of business on 12th December 2014.

As responses will be published in full on the CER’s website, respondents should include any confidential information in a separate Annex. Submissions to this paper should be forwarded, preferably in an electronic format, to:

Dana Paraschiv,
Electricity and Natural Gas Retail Markets,
Commission for Energy Regulation,
The Exchange,
Tallaght,
Dublin 24.
Email address: dparaschiv@cer.ie
2.0 Background

Any person or company who intends to ship natural gas in Ireland requires a shipping licence from the CER. The CER may grant, or refuse to grant, a natural gas shipping licence under Section 16 of the Gas (Interim) (Regulation) Act, 2002.

The CER first proposed that the existing Natural Gas Shipping / Supply Licence should be modified in a consultation paper published in 2008 CER/08/255. At that time, all licenced gas undertakings were granted a combined Shipping/Supply Licence. In order to provide greater clarity to stakeholders and align the licensing requirements with Section 16 of the 2002 Act as amended, it was proposed that this Licence be separated and amended to reflect a number of CER decisions in relation to the Natural Gas Safety Regulatory Framework, Consumer Protection requirements, Supplier of Last resort and full market opening.

In February 2011, the CER published a Proposed Natural Gas Shipping Licence and a Proposed Natural Gas Supply Licence, reflecting the proposed changes. After having considered the comments received, the CER produced several versions of the revised Shipping Licence, which were subsequently circulated via the Gas Market Arrangements Retail Group and the Code Modification Forum for further comment. A final updated version of the proposed natural gas shipping licence can be viewed through the following link CER/11/032. In its current form, the natural gas shipping licence is split into two sections: Section A, containing 14 conditions applicable to all licence holders and Section B, with an additional 3 conditions that apply only to Bord Gáis Éireann.

With continued developments in the gas retail markets, the CER has reviewed the shipping licence and how the obligations contained thereunder are to be discharged in the future. Changes are proposed, some removing requirements and others spreading them across the industry, with a view to developing a more level playing field for competition to progress further. Before the individual proposals are discussed in Section 3.2, this section sets the scene by providing a brief overview of the Gas Regulation Act 2013 and the expected unbundling of Bord Gáis Éireann, as well as the process that must be followed for the implementation of any modifications to the natural gas shipping licence.

Given the CER’s increased legislative remit with respect to safety, the CER has reviewed the shipping licence and proposes to modify conditions 11 and 12 of that licence. The proposed modifications will bring the licence in line with legislative developments with respect to safety regulation and the CER’s enforcement powers.

2.1 Gas Regulation Act 2013

The Gas Regulation Act, published in December 2013, provides for the restructuring of Bord Gáis Éireann by establishing a gas networks subsidiary company consistent with the requirements of the 3rd Package and that will remain in State ownership. It also underpins the sale of Bord Gáis Energy, as part of the Government’s State asset disposal programme, by allowing for the transfer of Bord Gáis Éireann’s “energy business” to a separate subsidiary. The bill defines the “energy business” as the:

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2 See in particular SI No. 760 of 2005, where “shipping” and “supply” are defined as two separate activities. Also, SI No 428 of 2003, SI No 452 of 2004, SI No 377, 691 and 697 of 2007
“energy business owned and operated by BGÉ [Bord Gáis Éireann] and its subsidiaries and includes the functions, business activities, assets and licences of BGÉ [Bord Gáis Éireann] and its subsidiaries that relate to—

(a) the supply of natural gas,
(b) the generation of electricity,
(c) the supply of electricity, and
(d) the operations of the subsidiary of BGÉ registered under the laws of the United Kingdom of Great Britain and Northern Ireland as firmus energy (Distribution) Limited under company registration number 05375370”;

2.2 Legislative Requirements for Modifications to the Natural Gas Shipping Licence

The CER is required to carry out modifications to ‘the terms, conditions or requirements’ of natural gas shipping licences in accordance with sections 20 to 22 of the Electricity Regulation Act, 1999. Pursuant to Section 20, the CER is commencing the licence modification procedure with the publication of a notice drawing the public’s attention to the proposed modification, their nature and the reasoning for them.

The notice is being published today in the Irish Times and a copy of the notice has been provided to all licensed shippers of natural gas. The notice informs that any comments on / objections to the modification should be submitted to the CER before close of business on 12th December 2014. This provides 28 days for comment. In accordance with the requirements of section 20 of the Electricity Regulation Act, 1999 a copy of the Notice has also been furnished to the Minister for Communications, Energy and Natural Resources. A copy of the proposed modified licence is published alongside this consultation paper (changes are highlighted).
3.0 Proposed Changes to the Natural Gas Shipping Licence

3.1 Introduction
This section presents the proposed changes to the natural gas shipping licence.
Currently, the natural gas shipping licence is divided into two sections: section A that applies to all licence holders and section B that applies only to Bord Gáis Éireann. The additional conditions contained in section B are listed below:

- Condition 15 - Regulatory Accounts
- Condition 16 - Ring-fencing of the Shipping and Supply Business and Restriction on Use of Certain Information
- Condition 17 - Compliance Officer

The CER has reviewed the gas shipping licence and is proposing changes to the conditions contained thereunder. This section discusses the proposed changes and presents the CER’s proposals, providing the rationale for them and seeking comments in relation to same. All proposed modifications are highlighted in the shipping licence published alongside this paper. The proposals detailed in this document should be read alongside this licence.

3.2 Changes to the natural gas shipping licence

3.2.1 Condition 15 – Regulatory Accounts
The requirements of this condition impose certain obligations on Bord Gáis Energy to hold separate financial accounts for its shipping and supply business from those of its affiliates. Under the Gas (Interim) (Regulation) Act 2002, as amended by Section 11(2) (i) of the S.I. No. 452 of 2004⁴, this is a requirement placed on all natural gas undertakings, except those engaged in the production of natural gas and no other natural gas activity.

Given that there is a statutory obligation on all natural gas shippers to maintain regulatory accounts, the CER considers it prudent to reflect this in the natural gas shipping licence – this would follow the same approach as on the gas supply side, where it is proposed that a condition requiring the licensee to retain regulatory accounts be placed on all gas suppliers.

Proposal 1 Condition 15 – Regulatory Accounts
The CER is proposing to introduce a licence condition in all natural gas shipping licence to reflect the statutory obligation on shippers to maintain regulatory accounts.

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⁴ SI No. 452 of 2004
Question 1
Respondents are invited to comment on the proposal that a licence condition be introduced in all natural gas shipping licences to reflect shippers’ obligations to maintain regulatory accounts. Are you in favour of this proposal? Outline reasons for agreement or disagreement.

3.2.2 Condition 16 – Ring-fencing of the Shipping and Supply Business and Restriction on Use of Certain Information

Under Condition 16 of the natural gas shipping licence, Bord Gáis Éireann is required to designate one division to exercise the functions of both the Shipping Business and the Supply Business. This division, referred to as the “Shipping and Supply Business”, is Bord Gáis Energy. Additionally, this condition requires:

- full managerial and operational independence of the Shipping and Supply Business from other businesses of Bord Gáis Éireann and of its affiliates and related undertakings
- no information relating to, or derived from, the Shipping and Supply Business, be disclosed for the benefit of, or used for the purposes of, any other Separate Business - subject to specific exemptions.

Legislation by way of the Gas Regulation Act 2013 was enacted to underpin the sale of the energy business and to ensure the retention of networks business in State ownership as a fully ownership unbundled network business. The sale of Bord Gáis Energy is now formally completed and Bord Gáis Éireann has been statutorily renamed Ervia. The Gas Regulation Act 2013 provides for changes in Ministerial ownership and control for Ervia and the establishment of the Gas Networks subsidiary company. Ervia is now working towards the establishment of an independent subsidiary with responsibility for the ownership and operation of the gas transmission system, to be called Gas Networks Ireland, in line with the Full Ownership Unbundling (FOU) model.

With FOU, the incumbent (i.e. Bord Gáis Energy) will be in the same position as any other shipper and as such the requirement for placing additional ring-fencing requirements on it falls away. Therefore, it is proposed to remove the additional ring-fencing requirements by deleting Condition 16 of the natural gas shipping licence when the networks business is certified as having unbundled on the FOU model.

Proposal 2 Condition 16 – Ring-fencing of the shipping and supply business and restriction on use of certain information

Where Bord Gáis Éireann’s networks business is certified under the Full Ownership Unbundled provision of the 3rd Package, the CER is proposing that Condition 16, pertaining to ring-fencing requirements, be removed from the natural gas shipping licence.
**Question 2**

Respondents are invited to comment on the proposal that Condition 1 be removed from the natural gas shipping licence, where Bord Gáis Éireann’s networks business is certified under the Full Ownership Unbundled provision of the 3rd Package. Are you in favour of this proposal? Outline reasons for agreement or disagreement.

**3.2.3 Condition 17 – Compliance Officer**

Under this condition, the CER may direct Bord Gáis Éireann to appoint a Compliance Officer for the purpose of ensuring compliance with the relevant duties. The condition includes details in relation to the duties of the Compliance Officer and the relevant reporting arrangements.

The purpose of this condition is to ensure that Bord Gáis Éireann is compliant with all its duties and obligations under the natural gas shipping licence. As we are aware, these duties and obligations have extended beyond those placed on all other suppliers. However, with the anticipated certification of Bord Gáis Éireann as a fully ownership unbundled networks company, it is proposed that these additional duties and obligations be in some instances removed or spread across shippers to provide for a more even playing field to allow for effective competition to be fostered. These proposals, which are detailed in this consultation paper, see the obligations of the incumbent being aligned more with other suppliers. As such, and with no other shipper required to provide for a Compliance Officer, the CER proposes to remove this licence condition where Bord Gáis Éireann’s networks companies have been certified as fully ownership unbundled.

**Proposal 3 Condition 17 – Compliance Officer**

The CER is proposing that Condition 17, pertaining to the requirement for Bord Gáis Energy to provide for a compliance officer, be removed from the natural gas shipping licence where Bord Gáis Éireann’s networks companies have been certified as fully ownership unbundled.

**Question 3**

Respondents are invited to comment on the proposal that Condition 17 be removed from the natural gas shipping licence where Bord Gáis Éireann’s networks companies have been certified as fully ownership unbundled. Are you in favour of this proposal? Outline reasons for agreement or disagreement.

**3.2.4 Additional Proposals**

The Energy Services Directive came into force on 17th May 2006, as a means to enhance end-use energy efficiency across the EU. This was transposed into Irish legislation by SI 542 of 2009. Regulation 19 of SI 542, which amends Section 14 of the Electricity Regulation Act, 1999, states:

“The Commission shall, through licence conditions, place a requirement on energy undertakings to ensure that their tariffs do not create incentives that may
unnecessarily increase the volume of distributed or transmitted energy”. In adherence to this, the CER is proposing to introduce a new licence condition to prohibit natural gas shippers from offering tariffs that may unnecessarily drive the level of distributed or transmitted energy. In this context, the CER would consider that creating such incentives should account for the carbon intensity of the energy sources available.

**Proposal 4 – Prohibition of tariffs that create incentives that may unnecessarily increase the volume of distributed or transmitted energy**

The CER is proposing to introduce a licence condition to prohibit tariffs that create incentives that may increase the volume of transmitted or distributed energy. This condition will apply to all licence holders.

**Question 4**

Respondents are invited to comment on the proposal that a licence condition prohibiting tariffs that create incentives that may unnecessarily increase the volume of distributed or transmitted energy should be introduced in all natural gas shipping licences. Do you agree with this proposal? Outline reasons for agreement or disagreement.

3.2.5 Change in the structure of the natural gas shipping licence

The proposals put forth in this document see certain duties being spread across suppliers in the interest of providing an even as possible playing field for effective competition to be fostered. Other requirements are being deleted due to market developments and the anticipated certification of Bord Gáis Éireann as a fully ownership unbundled networks company. These proposals see the conditions applied to the incumbent being further aligned with those of all other shippers. With the proposed extent of this alignment it is deemed no longer necessary to split the licence into two sections. In addition, section B as it currently stands only applies to the Board. However, under the FOU model, Bord Gáis Energy, which is the natural gas shipping and supply arm of Bord Gáis Éireann, will be no different than any other shipper operating on the gas market. It is thus proposed (and the modified licences published alongside this document reflect such) to change the licence so it is in one section.

**Proposal 5 - Change in the structure of the shipping licence**

With the proposed changes to the shipping licence, which align to a high degree the licence conditions of the incumbent to those of other shippers, the CER is proposing that the structure of the licence be changed so that conditions are presented in a single section – hence removing the section only applicable to the Board.

**Question 5**

Respondents are invited to comment on the proposal to change the structure of the natural gas supply licence so it only has one section. Do you agree with this proposal? Do you agree that the additional licence obligation placed on the incumbent would only be included in the natural gas supply licence granted to them? Outline reasons for agreement or disagreement.

3.2.6 Modification of Safety Conditions in shipping licence
The CER is proposing to modify condition 11 and 12 of the Natural Gas Shipping Licence. Legislative developments have extended the CER’s remit with regard to the safety regulation, and the enforcement powers available to the CER with regard to natural gas undertakings, including shipping. These powers are not currently reflected in the conditions of the Natural Gas Shipping licence.

The proposed changes will update the licence to include safety and enforcement conditions.

Proposal 6 – Modification of Safety Conditions in shipping licence
The CER is proposing to modify conditions 11 and 12 of the Natural Gas Shipping. The conditions cover Safety Framework and Compliance respectively. The update will bring the licence up to date with legislative developments with respect to safety regulation and the CER’s enforcement powers.

Question 6
Respondents are invited to comment on the proposal that the CER modify conditions 11 and 12 in the Natural Gas Shipping Licence in order to bring it up to date with legislative developments with respect to safety regulation and the CER’s enforcement powers. Do you agree with this proposal? Respondents are requested to outline reasons for agreement or disagreement with this proposal.

4.0 Next Steps
The CER invites comments on the proposals presented in this paper from interested parties to be submitted no later than 5.00pm on 12th December 2014. Comments should be sent, preferably in electronic format to:

Dana Paraschiv,
Energy Retail Markets
Commission for Energy Regulation,
The Exchange,
Tallaght,
Dublin 24.
Tel: +353 1 4000800
Fax: +353 1 4000850
Email address: dparaschiv@cer.ie
Appendix I - Consultation Proposals and Questions

Proposal 1 Condition 15 – Regulatory Accounts
The CER is proposing to introduce a licence condition in all natural gas shipping licences to reflect the statutory obligation on shippers to maintain regulatory accounts.

Question 1
Respondents are invited to comment on the proposal that a licence condition be introduced in all natural gas shipping licences to reflect shippers’ obligations to maintain regulatory accounts. Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Proposal 2 Condition 16 – Ring-fencing of the shipping and supply business and restriction on use of certain information
Where Bord Gáis Éireann’s networks business is certified under the Full Ownership Unbundled provision of the 3rd Package, the CER is proposing that Condition 16, pertaining to ring-fencing requirements, be removed from the natural gas shipping licence.

Question 2
Respondents are invited to comment on the proposal that Condition 16 be removed from the natural gas shipping licence, where Bord Gáis Éireann’s networks business is certified under the Full Ownership Unbundled provision of the 3rd Package. Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Proposal 3 Condition 17 – Compliance Officer
The CER is proposing that Condition 17, pertaining to the requirement for Bord Gáis Energy to provide for a compliance officer, be removed from the natural gas shipping licence where Bord Gáis Éireann’s networks companies have been certified as fully ownership unbundled.

Question 3
Respondents are invited to comment on the proposal that Condition 17 be removed from the natural gas shipping licence where Bord Gáis Éireann’s networks companies have been certified as fully ownership unbundled. Are you in favour of this proposal? Outline reasons for agreement or disagreement.

Proposal 4 – Prohibition of tariffs that create incentives that may increase the volume of transmitted or distributed energy
The CER is proposing to introduce a licence condition to prohibit tariffs that create incentives that may increase the volume of transmitted or distributed energy. This condition will apply to all licence holders.

Question 4
Respondents are invited to comment on the proposal to change the structure of the natural gas supply licence so it only has one section. Do you agree with this proposal? Do you agree that the additional licence obligation placed on the incumbent would only be included in the natural gas supply licence granted to them? Outline reasons for agreement or disagreement.

Proposal 5 Change in the structure of the shipping licence
With the proposed changes to the shipping licence, which align to a high degree the licence conditions of the incumbent to those of other shippers, the CER is proposing that the structure of the licence be changed so that conditions are presented in a single section – hence removing the section only applicable to the Board.

Question 5
Respondents are invited to comment on the proposal to change the structure of the natural gas shipping licence so it only has one section. Do you agree with this proposal? Outline reasons for agreement or disagreement.
Proposal 6 – Modification of Safety Conditions in shipping licence

The CER is proposing to modify conditions 11 and 12 of the Natural Gas Shipping. The conditions cover Safety Framework and Compliance respectively. The update will bring the licence up to date with legislative developments with respect to safety regulation and the CER’s enforcement powers.

Question 6

Respondents are invited to comment on the proposal that the CER modify conditions 11 and 12 in the Natural Gas Shipping Licence in order to bring it up to date with legislative developments with respect to safety regulation and the CER’s enforcement powers. Do you agree with this proposal? Respondents are requested to outline reasons for agreement or disagreement with this proposal.