



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

## Compressed Natural Gas for transport – Licensing arrangements

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## CER – Information Page

There are a number of compressed natural gas (CNG) projects nearing readiness which would allow for CNG use as a transport fuel. Before these projects can operate, the licensing arrangements at such sites requires clarification. This consultation seeks the views of stakeholders on what licensing regime is appropriate for CNG supply in the context of the existing Natural Gas Supply license.

### Target Audience:

This paper is for the attention of potential CNG suppliers and their customers, members of the public, the energy industry and all other interested parties.

### Related Documents:

- Compressed Natural Gas for transport – Regulatory Issues
- CER Supply License

**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.

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## 1.0 Introduction

### ***1.1 Purpose of this paper***

The purpose of this paper is to seek the views of the gas industry, potential users and suppliers of CNG and any other interested parties on the optimal approach to licensing CNG supply undertakings. The CER presents its initial view on a number of issues relating to the licensing of CNG suppliers, but welcomes comments on any relevant issues not raised in this paper. The CER intends to make a decision on CNG licensing matters in light of the comments received in response to this consultation. The CER proposes an approach to CNG supply that is consistent with, and within the framework of the existing natural gas license. The CER proposes no amendments to the existing license.

### ***1.2 Responding to this paper***

Responses to this paper should be in the format of email, post or fax and marked for the attention of:

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## 2.0 Background

There has been an increased interest in CNG use for transport in recent months, particularly in light of recent Budget decisions in relation to excise duty. Before such refuelling stations can be put in place, the licensing arrangements for the supply of natural gas at these premises must be clarified.

Section 2 of the 2002 Gas (Interim) (Regulation) Act defines supply in relation to natural gas as, *'the delivery or sale of natural gas, including liquefied natural gas, to customers and includes shipping'*.

Under Section 16.1 of the 2002 Act, the CER *'may grant or refuse to grant to a person a licence to undertake in the State all or any of the following activities – a) the supply of natural gas.'* Section 16.2 of the Act states, *'a person who undertakes any of the activities mentioned in subsection 1 without a natural gas licence in respect of the activity is guilty of an offence and shall be liable on summary conviction to a fine not exceeding €3,000 or to imprisonment for a term not exceeding three months'*.

Under the legislation, the CER may grant a supply licence to an undertaking where it is content that an applicant meets certain any eligibility criteria set out by the CER, including issues such the technical and financial qualifications of the applicant. It is the CER's view that suppliers of CNG for transport purposes should hold a supply licence just as those supplying household or the premises of any other type of gas customer.

While the CER's initial thinking is that there should not be any need for amendments to the supply licence, should the CER, after consultation, consider it necessary to carry out modifications to 'the terms, conditions or requirements' of the gas supply licence, there is a series of steps it must follow. In accordance with Sections 20 to 22 of the Electricity Regulation Act of 1999, the first step is that a Notice drawing the public's attention to the proposed modifications, their nature and the reasoning for the amendment must be published in a national newspaper. The notice informs stakeholders that any comments on, or objections to, the modification should be submitted to the CER within 28 days. In accordance with the requirements of Section 20 of the Electricity Regulation Act, a copy of the Notice must also be provided to the Minister for Communications, Energy and Natural Resources. As stated however, these procedures will only be followed should the outcome of the consultation require changes to the existing gas supply licence.

## 3.0 Proposed Approach

There are a number of projects nearing final investment decisions which will allow for CNG use as a transport fuel – including a supply for a captive fleet, and supply of CNG to multiple final customers.

A number of possible ownership\operation options have been identified (see below) including the possible licensing arrangement to reflect this. This list is not exhaustive, but reflects some likely scenarios of CNG supply based on discussions with GNI. The table also gives an initial indication of the safety and customer protection role the CER might play.

**Table 1 – Example CNG licensing arrangements<sup>1</sup>**

	<b>Business Model A – CNG Forecourt</b>	<b>Business Model B – CNG forecourt</b>	<b>Business Model C – CNG for single user</b>
<b>Examples in practice</b>	Forecourt Co sells CNG to final customers on its own account. ForecourtCo is the registered supplier at the site	Forecourt Co <u>hosts</u> a GasCo CNG pump on its premises. GasCo is the registered supplier at the site	GasCo has a contract with a single CNG final customer for a fleet of trucks and vans
<b>CER Interactions – envisaged licensing, safety and customer protection role</b>	<p>The CNG supplier would apply for a CER supply licence. As they do not intend on supplying domestic or I\C customers, a number of the conditions in the existing licence are redundant or rendered moot.</p> <p>The CNG supplier (ForecourtCo) would require a Safety Case in respect of their supply activity.</p> <p>The full extent of the CER's customer protection role will be considered as part of a separate consultation process</p>	<p>The CNG supplier is an already licenced entity in this instance. The supply of CNG would be captured by their licence. Any derogations identified as part of this consultation process may apply, but solely in respect of the suppliers CNG-activities.</p> <p>The CNG supplier (GasCo), as a holder of an existing supply licence would also be in possession of a safety case. It is expected that the safety case would require updating to reflect the CNG supply activity.</p> <p>The full extent of the CER's customer protection role will be considered as part of a separate consultation process</p>	<p>The CNG supplier (GasCo) is an already licenced entity in this instance. The supply of CNG would be captured by their existing licence (without any derogations or modifications to the existing licence).</p> <p>The CER's safety role at this site would relate solely to GNI's activities connecting the site.</p> <p>The customer protection at this site would be the same as for any fixed site in line with the existing Codes of Practice.</p>

<sup>1</sup> In Table 1, ForecourtCo refers to a forecourt operator; GasCo refers to an existing gas supply company, and TransportCo refers to large transport company

The CER considers that the appropriate route for facilitating CNG supply for transport is to allow a number of derogations from certain licence conditions for CNG suppliers, as provided for under Condition 3, clause 3. Clause 3.3 states –

*'Where the Licensee does not intend to supply certain classes of Final customers, the Licensee may request derogations from obligations arising from Conditions in this Licence, including obligations from this Condition, which pertain specifically to those classes of Final customers'.*

The CER also considers the issuing of derogations in respect of a number of parts of the existing licence preferable to creating additional licence categories. This approach also ensures a degree of consistency between the treatment of applications for the supply of fixed customers (at a premises) and for supply of mobile\non-fixed, CNG customers.

The CER therefore proposes to draw up a list of agreed Conditions and\or specific Condition clauses that the CER would grant derogations for in respect of the supply of CNG to mobile\non-fixed customers in a forecourt setting

The CER has a statutory responsibility to provide a dispute resolution service to final customers of all energy undertakings under SI 463 of 2011. The CER invites comments on the appropriate scope of this customer protection role, most notably in relation to the requirements of Condition 21 – Customer Protection.

### **3.1 Interaction between existing supply licence and proposed derogations**

Under Business Model B detailed in Table 1, above, the CER notes that there is the possibility that existing holders of supply licences may seek to enter the CNG supply market via hosted CNG-pumps. For simplicity, in this paper, suppliers to both fixed and non-fixed\mobile customers shall be referred to as dual-sector suppliers.

In this model, it is envisaged that an existing supplier might seek to have a forecourt operator host a CNG pump on their premises. In this instance, the existing supplier, referred to as Gas Co in the Table above, would be the responsible body. In this model, the CER's initial thinking is that all licence requirements relating to CNG supply would rest with the existing supplier and not the entity hosting the pump.

An issue which might arise in such a case is to whether the conditions identified for derogation in this consultation process remain active or not in the case of dual-sector suppliers. The CER's initial thinking on this matter is that the derogations proposed in this consultation document would only apply to a natural gas supplier's CNG-related activities.

Furthermore, as a number of the derogations are granted solely on the basis that they are redundant in the case of a supplier of CNG to mobile\non-fixed customers, as opposed to fixed customers, these derogations would be clearly not deactivated in the case of an

existing supplier of fixed customers. Conditions for which derogations are proposed that would still apply in full for existing suppliers who wish to supply fixed and non-fixed customers are identified in the text. This is the CER's initial thinking. The CER welcomes comments on this concept in the case where a supplier supplies fixed customers and mobile, transport customers.

## 4.0 Proposed Changes and Derogations

### 4.1 Proposed Derogations under Condition 3 Clause 3

The CER is of the view that only conditions that would have a material but unnecessary impact on CNG suppliers should be deactivated. Conditions that would have no material impact on suppliers of CNG are proposed to be left as they are. Below, the licence conditions are examined in sequence. The CER's initial thinking is set out in relation to each one. The CER welcomes comment on the impact of any Condition in the supply licence. The Supply Licence is appended to this document; proposed derogations for supply activities relating to CNG supply are indicated by grey highlighting.

### 4.2 CER Natural Gas Supply Licence

#### Condition 1 - Definitions and Interpretation – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

#### Condition 2 – Requirement to hold a shipping licence – No change

The CER proposes no change to this condition. While it might be argued that CNG suppliers might not engage in shipping activities and therefore this requirement is redundant, as the Code of Operations refers only to shippers, it is important to maintain the requirement that all holders of supply licences also hold shipping licences.

#### Condition 3 – Capability to supply – No change

This Condition refers to CER/08/261, 'Gas Retail Market Assurance Decision'. This decision sets out the competencies which a supplier must have prior to a licence being issued. These include – knowledge of GTMS and Gasmap; IT systems and procedures in place to accommodate customer base; requirement to notify Gaslink of significant system changes. The CER recognises that if a Licensee sought a licence only to supply CNG at a forecourt, a number of these competencies would be redundant.

The CER proposes no change to the text of this licence condition. As stated, the CER will rely on the CER's flexibility to provide for derogations where requested by the CNG suppliers.

This said, it is proposed that CNG suppliers would be granted a derogation from some of the required competencies set out in CER\08\261. The requirements for market assurance under this Condition will be detailed in the decision paper subsequent to this consultation process. The CER welcomes comment on the required competencies for CNG suppliers.

This Condition would continue to apply in full for existing suppliers who intend to enter the CNG supply market.

Condition 4 – Provision of Information to the Commission – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

Condition 5 – Payment of levy – No change

The CER proposes no change to this licence condition. The CER Levy is paid by gas shippers, not by gas suppliers. This ensures that there is no possibility of double-payment as gas can only be shipped to a customer once. The CER would not support a situation where gas that has already had the CER levy applied attracting a second levy and the current arrangement ensures this will not occur. While this Condition in relation to the CER Levy is in the supply licence, it is not active at present for any supplier. The CER would consult on any proposed changes to the existing CER Levy approach.

As CNG suppliers are unlikely to pay the CER Levy, a one-off administrative charge is proposed for the processing of the application file.

Condition 6 – Assignment of Licence and Transfer of Supply Business – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

Condition 7 – Change in control of Licensee – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

Condition 8 – Revenue Protection – Proposed derogations

The CER proposes to deactivate paragraph 3 of this condition. The Condition states ‘*The Licensee shall, comply with the Code of Practice for Revenue Protection and the relevant provisions of the Code of Operations*’.

The Code of Practice in relation to Revenue Protection has not yet been drafted and there are no portions of the Code of Operations that relates to revenue protection at present. When this Code of Practice is finalised, it is envisaged that it will only relate to activities associated with supply to fixed premises. Leaving the requirement may place redundant requirements on CNG suppliers. The requirement to ‘take reasonable steps’ and to report suspected theft or loss (paragraphs 1 & 2 of the Condition) is still active.

As outlined in Section 3.1, the CER initial thinking is that this Condition would apply in full for existing holders of supply licences.

Condition 9 – Cooperation with the Gas Point Register Office – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

Condition 10 – Prohibition on tying – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

Condition 11 – Prohibition of anti-competitive behaviour – No change

The CER proposes no change to, or derogations from, the requirements of this condition.

Condition 12 – Marketing of the Licensees products and services – Proposed derogation

The CER proposes to deactivate paragraph 5 of this Condition in regard to CNG supply. The condition states, ‘*In addition to complying with this Condition 12, the Licensee is required to produce and submit to the Commission for approval a Code of Practice in relation to its marketing activities in accordance with Condition 21 of this licence*’.

It is assumed that CNG suppliers in a forecourt context will already comply with existing consumer protection legislation. Providing a derogation from the requirement to produce a Code of Practice on Marketing for CNG suppliers will ensure that consumers of all fuels provided at a forecourt are treated equally.

In the case of dual-sector supplier, the supplier will already have drafted and submitted a Marketing Code of Practice. In this instance, the CER's thinking is that the existing Code of Practice would need to be amended to reflect the marketing of CNG supply.

#### Condition 13 – Emergency Response Service – Proposed derogations

The CER proposes to deactivate Clauses 2, 3 & 4 of this Condition.

Under these Clauses, suppliers are required to inform customers upon first entering their supply contract of the contact details the Emergency Response Services (ERS). They are then obliged to provide these details again at regular intervals through the year. This requirement does not seem to be practical in the case of CNG suppliers.

Clause 3 states, '*The Licensee shall inform the Final Customer of the contact details of the Emergency Response details referred to in Paragraph 1 if so requested*'. The CER is unsure what impact this requirement would have on CNG suppliers.

Providing the ERS' contact details at a CNG pump, either through signage or the point of sale receipt does not seem useful. A requirement for some other type of safety publicity may be more useful and this can be captured by *Condition 15 – Safety Case*.

Clause 4 refers to the requirement on Suppliers to inform their customers of any changes to the contact details of the ERS. Accepting that Clauses 2 & 3 are not required, Clause 4 is made redundant, and therefore should also be made inactive by the CER by providing a derogation in respect of it.

As noted in Section 3.1, the CER's view is that in the case of an dual-sector natural gas supplier supplying CNG via a hosted pump, these Clauses are deactivated solely in respect of their CNG-related activities. These clauses would remain in force in respect of supply to other categories of final customer.

#### Condition 14 – Security and Emergency Arrangements – Proposed derogations

In the event of a gas supply shortage, the licensee will be required to 'accept and comply with directions from the Natural Gas Emergency Manager' under Clause 1 of this Condition. This would involve ceasing supply of CNG at the forecourt. Clause 2 appears reasonable insofar as there is a requirement to put in place procedures to ensure that Final Customers are informed of any possible interruptions to CNG supply. Such a possible measure could be published on the Internet and communicated via signage at CNG forecourts for example.

Clause 3 includes a requirement on Suppliers to include in its supply contracts for the supplier to discontinue supply; and that the customer will 'refrain from using natural gas

immediately upon request'. The CER proposes providing a derogation in relation to this requirement.

Placing a requirement on CNG suppliers to include in its contract (which will take the form of a single transaction) a requirement to obey directions of the Natural Gas Emergency Manager appears irrelevant as the gas has already exited the system once it is stored in the tanks of the CNG vehicle.

In the case of an dual-sector gas supplier supplying CNG for transport via a hosted pump, the CER's initial thinking on the matter is that these clauses are deactivated solely in respect of their CNG-related activities. These clauses would remain in force in respect of supply to other categories of final customer.

#### Condition 15 – Safety Case – No change

The CER proposes no amendments or derogations from the requirements of this Condition. The Safety Case for CNG suppliers will need to capture the distinct activities involved in CNG supply, and therefore, existing suppliers may require updating of their Gas Safety Framework Safety Case if they choose to offer a hosted supply at a forecourt, as per Business Model B. New suppliers, solely of CNG, will require a Safety Case. The safety requirements for CNG supply are under consideration by the CER's Gas Safety Division.

#### Condition 16 – Compliance with Laws and Directives – No change

The CER proposes no amendments to, or derogations from, the requirements of this Condition.

#### Condition 17 – Supplier of Last Resort – No change

The CER proposes no amendments to, or derogations from, the requirements of this Condition.

While on first examination, the idea of Supplier of Last resort event impacting CNG suppliers appears unlikely, there is no pressing reason to allow a derogation in respect of this Condition.

The CER notes that the text of Clause 1 of the Condition states – '*If so designated by the Commission the Licensee shall undertake the duties of the Supplier of Last Resort*'. The designation of a CNG supplier as a supplier of last resort is unlikely.

Condition 18 – Provision for Termination Upon Direction – No change

The CER proposes no amendments to, or derogations from, the requirements of this Condition.

Condition 19 – Information in respect of customers – No change

The CER proposes no amendments to, or derogations from, the requirements of this Condition. While it appears redundant in the case of CNG supply, it has no material impact and therefore no derogation is proposed.

Condition 20 – Meter and Data Services – No change

The CER proposes no amendments or derogations from the requirements of this Condition.

The CER notes that Clause 2 of the license states that Licensees shall not, without the prior approval of the Commission, procure in relation to a Final Customer of the supply business metering equipment.

In the case of CNG suppliers, the metering equipment and data services referred to would be for all the CNG suppliers' final customers (those attending the supplier's forecourt). If a CNG supplier seeks to procure metering and data services other than from the Transporter, the CER would be in a position to consider and approve or otherwise such a request.

It should be noted that were the CER to provide such an approval for the use of metering\data services, the CNG suppliers systems would still need to meet the requirement to interact fully and as necessary with the GPRO (as required in Condition 9).

Condition 21 – Consumer Protection – No change

The CER proposes no amendments or derogations from the requirement of this Condition. The CER notes Clause 3.b.i, which states – *Unless the Commission consents otherwise the Licensee shall prepare and submit to the Commission for its approval Codes of Practice*'.

The Codes of Practice, '*means the Billing and Disconnection Codes of Practice, Marketing Code of Practice, Complaints Code of Practice, Prepayment Metering Code of Practice, Vulnerable Customers Code of Practice and any additional code of practice that the Commission may advise the Licensee that it is required to produce*'.

It is noted that the first paragraph of this Condition is automatically deactivated as it relates solely to Household customers. The second paragraph of the Condition relates to the preparation of a customer charter, the CER envisages no derogation from the requirement to produce a customer charter.

The CER will be reviewing the Supplier Handbook in Q4 of 2015. The potential impact of CNG supply will be captured in this review.

*Condition 22 – Prohibition of tariffs that create incentives that may unnecessarily increase the volume of distributed or transmitted energy – No change*

The CER proposes no change to, or derogations from, the requirements of this condition. In this context, the CER would consider that creating such incentives should account for the carbon intensity of the energy sources available.

*Condition 23 – Regulatory Accounts – Proposed derogations*

The Condition relates to the requirement on natural gas undertakings to maintain separate accounts for its supply business. Under the Gas (Interim) (Regulation) Act 2002, as amended by Section 11(2) (i) of the S.I. No. 452 of 2004, 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. Energy undertakings which are provided economic licences by the CER, (gas supply, electricity supply, power generation), must comply with this requirement to ensure there is transparency in interactions between different parts of the same parent company.

Therefore, the CER considers it prudent to reflect this in the licence. As the supply of CNG will likely be one of a wide range of other products and services that the CNG supplier will likely provide, the CER proposes that in place of Regulatory Accounts, CNG suppliers will commit to include, with their annual statutory accounts, an explanatory note on income and expenditure associated with the CNG business activity. This requirement is in line with the powers of the CER provided by Condition 4 of the Licence – *Provision of Information to the Commission*, specifically paragraphs 2 and 4 which state –

2. Without prejudice to the generality of paragraph 1, the Commission may call for the furnishing of accounting information

4. In this Condition “information” shall include any documents, records, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Commission) of any description, whether oral or written, and in any format specified by the Commission

In the case of dual-sector suppliers, the CER's initial thinking is that suppliers should capture their CNG-related activities in their regulatory accounts.

Condition 24 – Duty to Offer Supply – No change

Clause 1 of this condition states, 'This condition shall apply to holders of licences supplying natural gas to final customers in the domestic and to Industrial and Commercial (IC) business markets'. This clause makes the condition inactive for suppliers not serving fixed premises and therefore, the CER proposes no amendments to, or derogations from, the requirements of this condition where the supply licence is sought solely to supply non-fixed CNG customers.

In the case of dual-sector suppliers, the CER's initial thinking is that this condition applies only to activities relating to fixed customers, and not the supply of CNG to non-fixed customers in a forecourt setting.

## 5.0 Conclusion and next steps

As stated, the CER does not propose any amendments to the supply licence. This paper outlines an approach to the licensing of CNG supply on which industry and other stakeholders may have comments. The CER invites comments on its proposed approach to CNG licensing, on issues raised in this paper, and any other comments respondents feel are relevant to the supply of CNG for transport use. The CER especially invites comments in relation to the extent of the CER's customer protection role.

This consultation will last 6 weeks. Comments are invited by close of business Friday, May 8<sup>th</sup> 2015.

Responses in electronic format are preferred and may be sent to [bhussey@cer.ie](mailto:bhussey@cer.ie)

Alternatively, responses can be sent to

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