



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**CER National Smart Metering Programme  
Regulating the Transition Activities of Market Participants**

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**Abstract:**

The National Smart Metering Programme (NSMP) is a plan for transforming how electricity and gas retail markets operate. The new systems and processes will provide customers with more accurate bills, better and more accessible information about energy consumption, and access to new tariffs and services. Consistent with maintaining a focus on delivering benefits for customers, the CER is reviewing and updating consumer policy in order to be ready for these new developments.

This document focuses on what role, specifically, regulation should have in shaping and influencing the plans of industry participants in the transition to the NSMP. This is important as all customers will be affected by this transition and the appropriate regulatory framework can ensure customer protection. This document sets out the CER's Final Decision in the context of planning for the rollout of meters and new services, in the testing and trialling of systems and processes, and readiness activities to be undertaken by market participants. This document provides a high level framework for these activities, with a requirement for significant further detail on each individual transition activity to be developed in due course.

These Decisions complete the set of decisions that the CER has scheduled for this phase of work on the NSMP. The next stage in the process is for all Decisions made in this phase to be transposed into the existing regulatory framework. Under current plans, this process will be progressed during 2017 – as part of the integrated plan for the NSMP as a whole.

**Target Audience:**

This paper is for the attention of members of the public, the energy industry, customers and all interested parties.

**Related Documents:**

- NSMP documentation is available on the CER ([www.cer.ie](http://www.cer.ie))

## Executive Summary

### Regulating the Transition Activities of Market Participants

The National Smart Metering Programme (NSMP) is a plan for transforming how electricity and gas retail markets will work. New systems and processes will provide customers with access to new tariffs and services, better and more accessible information about their energy consumption and more accurate bills.

These reforms are facilitated by ESB Networks (ESBN) and Gas Networks Ireland (GNI) rolling out new meters and a supporting communications infrastructure, to all domestic and smaller business customers. This creates a technical platform for collecting detailed, accurate data, and for automating activities that currently require manual intervention and site visits.

The programme will involve the nation-wide replacement of over two million electricity meters and approximately seven hundred thousand gas meters. As such, the rollout phase will need to be appropriately scoped to ensure it delivers best value for money. It is also the phase of the programme requiring significant cooperation and coordination between the Network Companies and energy supply companies as it will be a critical milestone in the customer's journey to adopting new services.

### The CER's Decision

The roles and responsibilities of the various industry stakeholders are set out in the regulatory framework for the electricity and natural gas industries in Ireland which is underpinned by legislation, licences and codes. These documents provide a clear framework for how the two Network Companies should operate in an efficient and non-discriminatory manner, and how energy supply companies should interact with various customer segments in offering products and services. This existing regulatory framework has been established and enhanced over the course of the last 16 years since the market de-regulation process commenced.

The transition to the NSMP will require a period of greater cooperation and coordination between industry stakeholders in order to deliver a positive customer experience as well as a national programme of engagement with customers. The CER through public consultation has therefore considered whether changes to the existing regulatory framework should be introduced in order to underpin these transitional activities. Consultation has also highlighted the need to introduce a new workstream within the NSMP programme governance in order to manage and coordinate the wide range of activities that will shape the delivery phase of the programme.

In this context, the CER's Final Decision has the following core components:

**Rollout**

A successful rollout of new meters and communications infrastructure will be shaped by a number of important and competing factors. These will include factors associated with consumer readiness, cost, technology choices and organisational and logistical constraints. Given the range of material factors to be considered in developing a rollout plan it is not clear that an optimal plan will naturally emerge without guidance, as there are likely to be different views and priorities from the various stakeholders.

The CER considers that ESB Networks and Gas Networks Ireland are best placed to jointly develop an optimal plan for the national rollout of smart meters and consider that the best opportunity for this plan to emerge is to give responsibility to the Network Companies via transitional licence obligations.

These transitional obligations would give responsibility to the Network Companies to jointly develop and maintain an integrated smart metering rollout plan. In developing the plan there will undoubtedly have to be trade-offs between competing factors. Accordingly, the Network Companies should consider a wide range of options and factors when developing their plan and provide objective, customer focussed reasoning for their preferences.

The Network Companies are also required to fully engage with industry stakeholders and to consider their views in developing the rollout plan providing sufficient time both for industry stakeholders to consider roll-out options and for the Network Companies to fully consider feedback and provide justifications / reasoning back to stakeholders.

Responses to the draft decision document stressed the importance of this being progressed promptly in order to de-risk rollout and to provide adequate time for each participant to plan their own activities.

A successful and smooth transition to the NSMP will rely upon an industry wide consumer engagement strategy and significant cooperation and coordination amongst industry participants. As such these changes to the regulatory framework will be further supported by accompanying development of the programme governance arrangements. Specifically, this will include the establishment of a Transition Workstream within the programme governance arrangements.

The Transition Workstream will be established in early Q2 2016 and led by the CER, who will chair and provide the secretariat. The workstream will be responsible for facilitating and coordinating the timely development of plans, managing interaction, risks and issues between the various transition activities such as rollout, testing & trialling and readiness monitoring. The CER has already requested the Network Companies to begin working on some of these issues and anticipates that an initial suite of NSMP roll-out options and criteria for weighing

different options will be delivered by the Network Companies for discussion at this workstream no later than mid-June 2016.

### ***Revenue Recovery & Incentive Approach***

In parallel with the development of the rollout plan, a revenue recovery and incentivisation approach will be developed by the CER to complement the objectives of the programme and the joint obligations placed on the Network Companies. Incentive arrangements are already included within the separate revenue recovery arrangements of both ESB Networks and Gas Networks Ireland. However, given the integrated nature of the NSMP, the CER will consider both separate and joint incentives to ensure that the companies are appropriately incentivised within the overall approach.

### ***Testing & Trialling***

The commissioning of new retail market systems creates interdependency between each of the energy network and supply companies. Significant coordination and cooperation is required in order for each stakeholder to sufficiently test and trial their various systems and processes. Further, a delay by one or more parties has the potential to delay or suspend the introduction of the new market arrangements. The CER is of the view that progress in delivering the NSMP should not be halted or impacted by delays at individual company level, to the extent possible.

The CER has therefore decided to place transitional obligations on both the network companies and suppliers which provide enabling obligations that will underpin cooperation and coordination of testing and trialling activities, whilst also setting an expectation of all reasonable endeavours by each stakeholder.

The CER recognises that the development of a coordinated testing and trialling plan is not a trivial challenge. Each stakeholder has their own systems and processes to prove and therefore have legitimate time and process requirements. The CER therefore acknowledges that it will have a central role, through the Transition Workstream, in facilitating the development of an efficient, coordinated testing and trialling plan that is consistent with good industry practice and adequately balances the needs of each stakeholder, consumers and the overall NSMP programme.

### ***Participant Readiness***

Participant readiness is an essential function of any large change programme. It will assure the CER (and each individual stakeholder) that market participants are ready to operate within the new market arrangements and commence offering new services to customers. Such a process is designed to significantly reduce risks to the programme, which is in itself a benefit for both consumers and for each

individual stakeholder. The CER has considered whether changes should be made to the regulatory framework in order to provide for a Participant Readiness function but concluded that this was unnecessary. Instead, prior to the beginning of integrated testing and trialling, a readiness function will be established that compliments the NSMP programme management and governance arrangements. This provides a formal footing for participant readiness, within a structure which all participants are familiar with.

## **Context and Next Steps**

This Decision is one element of a wider programme of policy development progressed by CER as part of the NSMP. This encompasses improvements to the information about customer energy usage and energy costs, and updates to the framework for customer protection. It also includes the CER's Decision on the move to Time-of-Use tariffs and Smart PAYG, the minimum customer requirement for a new model of prepayment accessible to any customer with a smart meter<sup>1</sup>.

On the specific issues identified in this document, there will be further work to consider how these and other transition issues, such as the introduction of Time-of-Use Tariffs, will be reflected in the respective licences. This is anticipated to follow the normal process and timetable for progressing licence changes and will be scheduled in line with the overall project timeline.

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<sup>1</sup> CER 15/270 and CER 15/271

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## 1.0 Introduction

### 1.1 *The NSMP*

The National Smart Metering Programme (NSMP) is a plan for upgrading how electricity and gas retail markets operate, in order to improve levels of service for all customers. It is similar in nature to the move from analogue to digital in the markets for communications services. It is underpinned by a set of strategic objectives that relate to a wide range of features of the energy market, and how it serves customers. The strategic objectives are set out for reference in Appendix C.

The NSMP will transform the electricity and gas retail markets by providing customers with access to new tariffs and services, better and more accessible information about their energy consumption and more accurate bills.

The CER's decision to rollout electricity and gas smart meters for all residential and smaller business customers was announced in July 2012. This decision was made following comprehensive customer behaviour and technology trials and cost-benefit analyses, and in the context of the European Third Package Directive provisions for the rollout of smart meters in Member States to at least 80% of electricity consumers by 2020 if there is a positive cost benefit analysis. The CER will re-run the cost benefit analysis for the NSMP in late 2016 with revised cost and benefit inputs, including reflecting updated policy settings, in advance of confirming the design to be implemented.

The CER concluded the High Level Design for the NSMP in October 2014. It is now finalising the suite of policy issues required to give practical effect to that High Level Design. This policy work forms one element of an integrated plan for the NSMP, alongside other work-streams led by ESB Networks (ESBN), Gas Networks Ireland (GNI), and by electricity and gas suppliers. There are also CER-led work-streams on Data Protection, Information Security and Customer Engagement.

### 1.2 *This document*

This document communicates the CER's Decisions on regulating the transition activities of market participants related to delivery and implementation of the enabling technical infrastructure. The Decisions are set out in the green boxes in Sections 2 and 3.

This document forms part of a wider plan for the CER's work on policy to support the programme. The objective was to have specified all the key policy settings



required for successful delivery of the NSMP and effective, proportionate regulation **for customers** of the market arrangements that result. The schedule involved four document “releases” – through the course of which issues were identified, options for resolution assessed, and decisions proposed and finalised. April 2016 is the fourth release of documents. The other two documents included in the fourth document release are:

- CER/16/125 - Empowering & Protecting Customers, Final Decision
- CER/16/126 – NSMP Information Paper

## **2 Regulating the Transition Activities of Market Participants: Final Decision**

### **2.1 Summary**

This section sets out the CER's Decision on the approach that should be adopted in regulating the transition activities of market participants associated with the delivery and commissioning of the technical platform, underpinning the NSMP i.e. the IT, metering and communications infrastructure required to facilitate the NSMP.

The existing regulatory framework for the retail electricity and natural gas markets in Ireland has developed incrementally over the past 16 years, since the process of market deregulation commenced. It is a model based on a high standard of customer protection, whilst facilitating efficient competition in the retail markets. The Electricity Regulation Act 1999 and The Gas Act 2002 (as amended), network operator licences, energy supplier licences and industry codes and handbooks largely set out the existing regulatory framework for the retail markets. Whilst the existing regulatory framework defines obligations, responsibilities and processes for the normal day-to-day operation of the gas and electricity markets, it may not best serve a period of fundamental market reform. In other words, it has been designed to protect customers in a steady state situation, rather than to be appropriate for the fundamental transition envisaged by the NSMP.

During a period of fundamental change to the market arrangements the obligations and prohibitions within the existing framework may serve to act as an obstacle to a smooth and efficient transition. This may be because certain prohibitions prevent licensees taking on additional roles and responsibilities, or that existing change management and dispute resolution processes are inappropriate for a project environment. Therefore, while CER is acting on a principle of only making changes to market rules or processes where it is necessary in an NSMP context, it is appropriate that this includes the required changes to the underlying regulatory framework in order to support transition. The Final Decision sets out an approach to the regulatory framework which provides a combination of obligations and incentives so as to best realise the benefits of the NSMP.

The Final Decision also reflects ongoing best practice regulation and ensures that all stakeholders are aware of the roles and responsibilities of the licenced entities. It has been developed over an 18-month period and has involved extensive consultation, workshops, bi-lateral meetings, research into what has worked on other programmes and taken on board the views of stakeholders.

A successful and smooth transition to the NSMP will rely upon an industry wide consumer engagement strategy and significant cooperation and coordination amongst industry participants. As such the changes to the regulatory framework

will be further supported by accompanying development of the programme governance arrangements. Specifically, this will include the establishment of a Transition Workstream within the programme governance arrangements.

The Transition Workstream will be established in Q2 2016 and led by the CER who will chair and provide the secretariat. The workstream will be responsible for facilitating and coordinating the timely development of plans, managing interaction, risks and issues between the various transition activities such as rollout, testing & trialling and readiness monitoring. The workstream will facilitate stakeholder engagement on transition issues and recognises the difficulty of requiring the network companies to make judgements and trade-offs amongst a wide range of competing factors. The workstream will function within the programme governance arrangements which place final decision making responsibilities with the CER.

The supporting reasoning for this Final Decision is set out in Section 3. In developing this Final Decision, the CER has given careful regard to the consultation responses received in January 2016. An overview of the consultation responses is available in Appendix A.

## **2.2 Final Decision**

The CER's Final Decision in relation to regulating the transition activities of market participants is set out below.

### **Rollout**

1. The CER shall place transitional licence obligations on ESB Networks and Gas Networks Ireland to:
  - a. Jointly develop and maintain an integrated rollout plan, to be approved by the CER and to be incorporated within the overall NSMP programme plan and governance arrangements
  - b. Engage with industry stakeholders and consider fully their views in developing the integrated rollout plan
2. The CER will develop a revenue recovery and incentivisation approach to complement the objectives of the programme<sup>2</sup> and the transitional obligations placed on the Network Companies. The approach will be consistent with the CER's wider revenue controls for the electricity and gas networks businesses.

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<sup>2</sup> Appendix C

### **Testing & Trialling**

3. The CER shall place transitional licence obligations on ESB Networks and Gas Networks Ireland to:
  - a. Jointly develop and maintain a Coordinated Testing & Trialling plan to be approved by the CER and to be incorporated within the overall NSMP programme plan
  - b. Engage with industry stakeholders and consider fully their views in developing the Coordinated Testing & Trialling plan
4. The CER will take a role in overseeing and monitoring the timely and efficient development of the Coordinated Testing & Trialling plan. This recognises the difficulty of requiring the network companies to make judgements and trade-offs amongst a wide range of competing factors.
5. The CER shall place transitional licence obligations on the Network Companies and Suppliers to:
  - a. To use all reasonable endeavours to comply with the Coordinated Testing & Trialling plan developed as part of the overall NSMP programme plan

### **Participant Readiness**

6. CER will be responsible for assessing participant readiness prior to go-live.

### **Transition Workstream**

7. The CER will establish a Transition Workstream within the programme governance arrangements which, amongst other things, will facilitate the timely and efficient development of the joint integrated rollout plan, coordinated testing & trialling plan and the development of participant readiness criteria.

## **2.3 Commentary**

The CER's Final Decision is designed to put the interests of the electricity and gas customer first. While there are important system-wide and societal benefits to be realised by making electricity demand more responsive to costs and prices by

switching to Time-of-Use Tariffs<sup>3</sup>, these benefits will only be fully realised if the customer experience of this change is a positive one, customers see the advantages of this change and the overall cost of implementation is efficient.

Consistent with this theme, this Final Decision is designed to play an important role in the context of a wider set of measures that support, protect and empower consumers impacted by the transition to the NSMP. These measures complement the transition to Time-of-Use Tariffs<sup>4</sup> and the document considering policy changes to protect and empower consumers<sup>5</sup>.

Further, the Final Decision reflects the significance of the NSMP rollout; the implementation of the technical platform will impact every household and small business in the nation, will impact on each energy supplier and the Network Companies and a significant capital investment. As such, recognition of each stakeholder's contribution to the rollout of the technical infrastructure within the regulatory framework is considered appropriate and proportionate. In addition, given the scale and significance of this roll-out, it is considered reasonable that risks to the customer experience of NSMP are minimised through the development of a robust regulatory framework for the transition.

Finally, the Final Decision recognises the role and responsibility of each NSMP participant and consistent with the existing programme governance arrangements places ownership for deliverables with those best placed to deliver<sup>6</sup>.

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<sup>3</sup> A tariff under which the amount paid by a customer for each unit of electricity or gas consumed varies by time of day, week or year and are considered in CER/15/270

<sup>4</sup> CER/15/270

<sup>5</sup> CER/16/125

<sup>6</sup> <http://www.cer.ie/docs/000023/cer12213.pdf>

## 3 Regulating the Transition Activities of Market Participants: Reasoning for Final Decision

### 3.1 Summary

In this Section we summarise the reasoning used by the CER in forming its Final Decision, informed by a range of considerations including points raised by respondents to the December 2015 Proposed Decision. The material is structured using the five component parts of the Proposed Decision in turn.

CER's statutory duties and the strategic objectives of the NSMP, have informed the Final Decision – and the reasoning presented below makes direct reference to them, where relevant.

### 3.2 Smart Meter and Communications Infrastructure Rollout

The first component on the Final Decision is as follows:

To place transitional licence obligations on ESB Networks and Gas Networks Ireland to:

- a. Jointly develop and maintain an integrated rollout plan, to be approved by the CER and to be incorporated within the overall NSMP programme plan and governance arrangements
- b. Engage with industry stakeholders and consider their views in developing the integrated rollout plan

#### Overview

The Final Decision is closely aligned with the December 2015 Proposed Decision<sup>7</sup> which had recognised a wide range of factors stakeholders considered would shape the approach to rollout. These included factors associated with customer engagement, coordination between the Network Companies, deployment profiles, early benefits realisation, utilising “adopter communities” to showcase the benefits of smart meters and ensuring equity of the rollout across each supplier's customer base.

The CER's view is that the factors set out in the December 2015 Proposed Decision and others likely to emerge as the project progresses must be considered in the development and refinement of the rollout plan.

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<sup>7</sup> CER 15/138 Regulatory Framework for Transition

### 3.2.1 Integrated Rollout Plan

The December 2015 Proposed Decision considered that given the range of material factors to be considered in developing a rollout plan it was not clear that an optimal plan would naturally emerge as there would likely be different views and priorities from the various stakeholders.

CER is of the view that ESB Networks and Gas Networks Ireland are best placed to develop an optimal plan and that the best opportunity for this to emerge is to give responsibility to the Network Companies through transitional licence obligations. CER notes that all respondents considered coordination and cooperation between the Network Companies and suppliers to be critical to the success of the rollout. The majority of respondents agreed that ESB Networks and Gas Networks Ireland are best placed to develop the rollout plan.

However, it is essential that there is coordination across all stakeholders in developing the roll-out plan and a number of respondents highlighted the difficulty of requiring the network companies to make judgements and trade-offs amongst a wide range of competing factors. In particular Suppliers highlighted the risk of poor decisions being made regarding rollout that would have a financial implication on their businesses and processes. CER acknowledges these issues and risks, and therefore considers it appropriate to further support the changes to the regulatory framework with the establishment of a new Transition Workstream within the programme governance arrangements.

The Transition Workstream will be established in Q2 2016 and led by the CER who will chair and provide the secretariat. The workstream will be responsible for facilitating and coordinating the timely development of plans, managing interaction, risks and issues between the various transition activities such as rollout, testing & trialling and readiness monitoring. The workstream will also ensure other cross workstream interactions are managed such as with Consumer Engagement and Information Security.

The rationale for this element of the Final Decision, having regard to CER's statutory duties and the strategic objectives of the NSMP can be summarised as follows:

- Rollout is likely to be one of the most costly elements of the programme and it is important that opportunities for synergies or efficiency gains are not allowed to be missed. The Final Decision ensures that ESB Networks and Gas Networks Ireland jointly consider the rollout programme and gives such benefits the best chance of being realised. It also clearly recognises the clear role of Suppliers in delivery of the plan and the CER in ultimately assessing and approving it.

- The Final Decision also recognises the importance of integrating engagement between the Network Companies and energy suppliers as a central part of transition planning. Establishing the Transition Workstream will ensure sufficient time is allowed for each stakeholder to consider the range of issues that must be planned and managed during transition. However, it will also depend on open engagement, cooperation and coordination between each participant.
- The existing regulatory framework governing the activities of ESBN and GNI does not contemplate ESBN and GNI jointly optimising their activities in a joint programme of work. Both organisations are regulated in such a way as to be economic, efficient and coordinated within either the electricity or gas sector. Given the integrated nature of the NSMP it is appropriate to reflect the joint objectives within the licences of each organisation.
- Rollout is a critical milestone in the customer's journey to adopting new services and therefore requires significant coordination and cooperation between the Network Companies and Suppliers. The Final Decision ensures that the rollout programme is developed in consultation with Suppliers and in full consideration of views raised. As such it minimises the risk of issues not being considered while also provides Suppliers with sufficient time and information to plan their own resources, transition and implementation of necessary changes to their systems.
- Given the materiality of the rollout programme in terms of its overall cost and potential impact on the consumer it is appropriate that roles and responsibilities are reflected in the regulatory framework as it reflects ongoing best practice regulation and ensures that all stakeholders are aware of the roles and responsibilities of the Network Companies and, amongst other things, ensures the best possible experience for customers.
- An approach enshrined in the regulatory framework provides a very clear statement of the joint approach to be taken to planning the rollout and provides transparency to all stakeholders, interested parties and potential new entrants to the Irish retail market.

A number of respondents suggested that transitional licence conditions were unnecessary as the existing licence framework provided sufficient flexibility, or, in any case CER could issue Directions to the same effect. CER remains of the view that the existing licences do not contemplate ESB Networks and Gas Networks Ireland jointly developing and optimising a programme of this scale. Whilst a Direction could be issued to the same effect these are generally used in a more "reactive" context and it is considered appropriate and good regulatory practice to set out these critical roles in the relevant licences. Licence changes also provide a degree of regulatory certainty and transparency as there is a defined process for consultation and incorporating changes which does not apply to a Direction.



Further, licence obligations will ensure the NSMP is a core priority of each organisation and part of their monitoring and compliance requirements.

Other issues were raised in the responses to the December 2015 Proposed Decision. Concern was expressed that the proposed approach would undermine the CER's role and responsibility with regard to overall programme management. CER acknowledges the concerns raised by respondents but considers the proposed approach, to establish a Transition Workstream, would minimise these risks and be consistent with the principles of the programme. This approach recognises the roles and responsibilities of each stakeholder and seeks to give accountability for key deliverables to those best placed to deliver. However, ownership and responsibility also involves the requirement to be held to account for decisions, actions and progress, and the possibility of consequence for failure or poor decisions. CER is of the view that the proposed approach complements its existing role and responsibilities, and will provide certainty to stakeholders around the governance of this critical phase.

Respondents also raised the potential benefits of dual fuel meter installations and single fuel approaches. The CER has formed no view on which approach should prevail in Ireland but considers that all options should be assessed by the Network Companies and discussed with stakeholders in preparing the rollout plan. The CER has requested the Network Companies begin this process which will be facilitated through the Transition Workstream.

### **3.3.2 Revenue Recovery and Incentivisation Approach**

The second component of the Final Decision is as follows:

The CER will develop a revenue recovery and incentivisation approach to complement the objectives of the programme<sup>8</sup> and the transitional obligations placed on the Network Companies. This approach will be consistent with the CER's wider revenue controls for the electricity and gas networks businesses.

The Final Decision is closely aligned with the December 2015 Proposed Decision which considered that a revenue recovery and incentivisation approach that complemented the obligations placed on the Network Companies was appropriate.

The rationale for this element of the Final Decision, having regard to CER's statutory duties and the strategic objectives of the NSMP can be summarised as follows:

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<sup>8</sup> Appendix D

- CER is of the view that given the scale of the programme and interaction between the Network Companies that a separate revenue recovery and incentives approach is appropriate and best serves the interests of consumers.
- CER is conscious that this approach must “fit-in” with the CER’s wider 5-year revenue reviews for the two Network Companies, PR4 for electricity (2016 – 2020) and PC4 for gas (October 2017 – 2022). However, CER is of the view that the NSMP warrants separate consideration outside of the normal revenue control processes.
- Incentive arrangements are a well-established part of the existing revenue recovery arrangements for ESB Networks and Gas Networks Ireland. However, these arrangements are separate and focused on specific aspects of the existing businesses. Given the integrated nature of the NSMP it may be considered appropriate to develop arrangements targeted specifically for the NSMP (remaining consistent with the over-arching regulatory framework). The CER is open to considering separate incentives for each company, joint incentives or a combination of both.
- Given the significant costs of the NSMP, which will be apportioned between gas and electricity consumers, it is considered appropriate to treat these costs separately and transparently so that any potential confusion, double accounting or cross-subsidy is avoided.
- Well-designed incentives could potentially drive significant cost savings for consumers, and improve the timeliness and quality of services provided to market participants – for example, by creating incentives for ESB Networks and Gas Networks Ireland to co-ordinate installation activities in order to reduce overall costs and/or improve the overall customer experience.
- CER considers that the Final Decision provides the best opportunity for these benefits to be realised.

CER notes that the majority of respondents supported the approach and suggested factors that should be considered for incentives. These included openness and cooperation, timeliness, fairness, effectiveness and quality management. CER notes these issues and will consider them in the development of the approach.

### **3.4 Testing and Trialling**

#### **3.4.1 Coordinated Testing & Trialling Plan**

The third component of the Final Decision is as follows:

ESB Networks and Gas Networks Ireland to:

- a. Jointly develop a Coordinated Testing & Trialling plan to be approved by the CER and to be incorporated within the overall NSMP programme plan
- b. Engage with industry stakeholders and consider fully their views in developing the Coordinated Testing & Trialling plan

The Final Decision differs from the December 2015 Proposed Decision which did not consider that responsibility for developing a coordinated testing & trialling plan be placed on ESB Networks and Gas Networks Ireland through transitional licence obligations.

The Final Decision reflects the further consideration of this issue by the CER and the views of respondents who considered it appropriate to have transitional licence conditions on the two Network Companies.

The rationale for this element of the Final Decision and having regard to CER's statutory duties can be summarised as follows:

- While the December 2015 Proposed Decision described a potential low risk associated with the coordination of testing and trialling plans, the majority of respondents considered that transitional licence obligations were appropriate for this critical element of the programme.
- Given further consideration and the views of respondents, CER considers it proportionate to introduce transitional licence obligations to underpin the development of the Coordinated Testing & Trialling Plan.
- In developing the plan ESB Networks and Gas Networks Ireland would engage with industry stakeholders and consider fully their views prior to it being approved by the CER and incorporated into the overall NSMP programme plan. It is critical that sufficient time both for industry stakeholders to consider options and for the Network Companies to fully consider feedback and provide justifications/ reasoning back to stakeholders.

- The CER recognises the difficulty of requiring the Network Companies to make judgements and trade-offs amongst a wide range of competing factors and therefore will take a central role in facilitating the timely and efficient development of the Coordinated Testing & Trialling plan through the Transition Workstream.

### 3.4.2 Complying with the Coordinated Testing & Trialling Plan

The fourth component of the Final Decision is as follows:

To place transitional licence obligations on the Network Companies and Suppliers to:

- a. To use all reasonable endeavours to comply with the Coordinated Testing & Trialling plan developed as part of the overall NSMP programme plan

The Final Decision is closely aligned with the December 2015 Proposed Decision which considered that given the critical nature of testing and trialling activities that it was appropriate to place a licence obligation on Suppliers and Shippers, for the purposes of transition to the NSMP, to use reasonable endeavours to comply with the approved testing and trialling plan. CER notes that the majority of respondents supported this proposal and that only two respondents considered licence obligations unnecessary.

However, the obligation to use all reasonable endeavours to comply with the approved testing and trialling plan has been extended to the network companies as they have as critical a role in the successful delivery of the testing and trialling plan as any other party.

The rationale for this element of the Final Decision, having regard to CER's statutory duties and the strategic objectives of the NSMP can be summarised as follows:

- Unlike previous changes to the retail markets, the NSMP creates interdependence between all implementing stakeholders. Failure of one party to meet the coordinated plan could lead to a suspension of the programme and a delay to the introduction of new customer services.
- Whilst the programme will seek to minimise the impact of any individual party's delay, any such issue may have implications for the reputation of the programme and could also impose unnecessary costs on other parties.

- Given the potential impact of this risk the CER considers it appropriate and proportionate to place a licence obligation on the Network Companies, Suppliers and Shippers, for the purposes of transition to the NSMP, to use all reasonable endeavours to comply with the approved testing and trialling plan.
- An approach reflected in the licences of Network Companies, Suppliers and Shippers provides transparency to interested parties and potential new entrants to the Irish retail market.

A number of respondents considered it unnecessary to introduce transitional licence obligations and instead pointed to the use of a Direction as a means of achieving the same outcome. The CER agrees that Directions could be used to achieve the same outcome however Directions are often participant specific and typically used to address detailed and specific issues as opposed to broader market or programme issues. In this case the CER considers the use of transitional licence obligations to provide appropriate transparency for interest parties and potential new entrants to the retail market. In addition, it provides clarity to all participants on their roles, responsibilities and the expectations of other stakeholders.

### ***3.5 Participant Readiness***

The fifth component of the Final Decision is as follows:

CER will be responsible for assessing participant readiness prior to go-live.

The December 2015 Proposed Decision considered whether changes should be made to the regulatory framework in order to provide for a Participant Readiness function but concluded that this was unnecessary. Instead it would be established within the established NSMP programme management and governance arrangements.

CER notes that respondents considered the proposed approach to be prudent and proportionate.

The rationale for this element of the Final Decision, having regard to CER's statutory duties and the strategic objectives of the NSMP can be summarised as follows:

- Participant readiness is an essential function of any large change programme and has been recognised as an element of the NSMP programme since 2012<sup>9</sup>.
- Existing assurance processes are well established within the industry governance for the gas and electricity retail markets and there is no need to reflect these further within the regulatory framework.
- The existing assurance regimes within the gas and electricity retail markets provide a proven foundation for NSMP readiness. The proposal builds upon these in a proportionate manner.
- Establishing a readiness function that complements the central PMO function ensures that the role is independent of any industry participant and therefore not at risk of being biased or influenced in its reporting.

A number of other issues were raised in the responses to the December 2015 Proposed Decision. For example, there was concern that readiness monitoring should also apply to “Consumer Readiness” and not purely focus on industry systems and processes. The CER notes this point and agrees that “consumer readiness” should be initially progressed as part of the consumer engagement strategy and then tracked by the readiness function. Notwithstanding this, the core responsibility of the “Readiness Function” will be to assess industry participant business systems and processes and the technical readiness of the NSMP system.

Concern was also raised that readiness monitoring should apply to all industry stakeholders, and secondly, that it should not in itself become overly burdensome. CER notes these points and agrees that the monitoring function should monitor all participants and not introduce unnecessary bureaucracy or burden on stakeholders.

The next stage of developing the Readiness Function and metrics will be progressed through the Transition Workstream.

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<sup>9</sup> CER/12/213

## 4 Next Steps

This document concludes the current phase of work on developing policy related to regulating the transition activities of market participants. The next steps are therefore for the CER to focus on the transposition of the Decision into the regulatory framework and to work with industry stakeholders on the successful transition to the new retail market arrangements.

### Wider Policy Context

This document completes this phase of the CER's work on policy to support the NSMP. The objective of which was to have specified all the key policy settings required for successful delivery of the NSMP and effective, proportionate regulation **for customers** of the market arrangements that result.

The schedule involved four document "releases" – through the course of which issues were identified, options for resolution assessed, and decisions proposed and finalised. April 2016 is the fourth release of documents, and comprises the following:

### **Delivered in Document Release 4 – April 2016**

Subject	Document type
Empowering and Protecting Customers	<b>Decision</b>
Regulating the Transition Activities of Market Participants	<b>Decision</b>

## Appendix A – Responses to Proposed Decision

### A.1 Summary

This Appendix presents an overview of the responses to the December 2015 Proposed Decision on Regulating the Transition Activities of Market Participants. The findings are aggregated and the key themes that have arisen from respondents are outlined at a high level. The original responses have been published on the CER website<sup>10</sup>.

The Proposed Decision was published on the 8<sup>th</sup> December 2015 and asked for responses before the deadline of the 22<sup>nd</sup> January 2015. The primary purpose of the Proposed Decision was to seek the view of the public and the CER's stakeholders with regard to the role of regulation in shaping and influencing the transition plans of industry as they affect customers and the operation of the market.

#### A.1.1 Responses Received

The CER would like to thank all 13 respondents to the Proposed Decision.

Responses came in a variety of formats with some respondents addressing the question set out and others choosing to focus on specific issues and/or to submit a cover letter with their more general comments.

The responses to the paper came from a range of different respondents, as shown below:

Category	Respondents
<b>Retail</b>	Electric Ireland, Prepay Power, BGE, SSE Airtricity and Energia
<b>Networks</b>	ESBN, EirGrid and Gas Networks Ireland
<b>Energy Authority</b>	Electricity Association of Ireland
<b>Consumers organisations</b>	CPCC
<b>Third Party Providers</b>	Three Ireland, Energy Elephant
<b>Other</b>	MEGA

<sup>10</sup> <http://www.cer.ie/electricity-gas/smart-metering/cer-papers>



### **A.1.2 Consideration of the Responses**

CER analysed responses by considering each of the topics set out in the Proposed Decision paper.

The paper addressed three topics:

- **Smart Meter and Communications Infrastructure Rollout**
  - Integrated Rollout Plan
  - Revenue Recovery and Incentivisation Approach
- **Testing and Trialling**
  - Complying with the Coordinated Testing and Trialling Plan
- **Participant Readiness**

A single consultation question was asked regarding the contents of the Proposed Decision:

“**Q1:** Do you have comments on the CER’s Proposed Decision for regulating the transition activities of market participants, or further evidence or reasoning that you consider to be relevant to the Proposed Decision?”

## ***A.2 Smart Meter & Communications Infrastructure Rollout***

### **A.2.1 December 2015 Proposed Decision**

The Proposed Decision considered that ESB Networks and GNI are best placed to develop an optimal plan for rollout and consider that the best opportunity for this plan to emerge is to give responsibility to the Network Companies via transitional licence obligations. These transitional obligations would give responsibility to jointly develop and maintain an integrated rollout plan. The plan would be assessed and approved by the CER and integrated into the overall programme plan and managed through the NSMP governance arrangements.

In parallel with the development of the rollout plan, a revenue recovery approach and package of incentives would be developed by the CER to complement the objectives of the programme and the joint obligations placed on the Network Companies. The CER will consider both separate and joint incentives to ensure that the companies are appropriately incentivised within the overall approach.

### **A.2.2 Overview of Response**

Below is a summary of the key themes and points relating to all responses the consultation question:

- There was broad support for the proposed decisions outlined with smaller points of clarification regarding application of licence conditions.
- The development of the rollout plan was requested to include a more formal procedure to incorporate Supplier feedback into the planning process.
- There were mixed responses regarding the introduction of licence obligations for Suppliers and not Network companies regarding Testing & Trialling.
- A strengthening of the PMO role by CER was requested, specifically in relation to the development and approval of the rollout plan.

The CER acknowledges the range of factors and issues raised in response to the December 2015 Proposed Decision and fully expects these and other emerging issues to be considered in the development of the joint integrated plan to be developed by the Network Companies.

### **A.2.3 Overview of Responses – Achieving the optimal plan**

Respondents broadly agreed that the two Network companies are best placed to lead the development of an optimal rollout plan. Some emphasis was placed on the coordination required with Suppliers and that their role for contribution should more formally be incorporated into the overall programme plan. There were mixed views over whether changes to licence conditions were necessary and requests for further detail on what these licence changes would comprise of.

Below is a summary of the key themes and points:

#### **ESB Networks and Gas Networks Ireland are best placed to develop an optimal plan**

Respondents broadly agreed that ESBN and GNI are best placed to lead the development of the rollout plan.

Of the comments which expressed disagreement, the basis for this was a greater role for Suppliers in feeding into the development of the plan as opposed to being involved at the highest level, that their proposed role was insufficient.

#### **Greater coordination and interaction is required between the Network Companies and energy suppliers**

Several respondents agreed that coordination between Network companies and energy suppliers was critical to a successful rollout, and that supplier input to the planning process was crucial given the proximity of their relationship with customers. Comments did not specify that Network companies should agree the rollout plan with industry stakeholders ahead of seeking approval from the CER, but that greater overall engagement and opportunity for participation by Suppliers should be enabled.

Two responses observed a lack of clarity or structure for the engagement between Suppliers and Network companies in the development of the plan and whether there would be opportunity for more direct participation.

### **Approval of the joint plan by CER and incorporation within the overall programme plan**

Respondents agreed that the joint plan should be approved by the CER and integrated into the overall programme plan. Some clarification was sought as to the on-going role of the PMO with most strongly advocating that the role and responsibilities of the PMO be strengthened.

Although a number of key roles are rightly delegated to industry participants the CER is responsible for the PMO and corporate governance arrangements. As such, CER will continue to ensure that the PMO is fit for purpose at each stage of the programme.

Responses indicated that the CER should play a greater role in the decision of whether to complete a dual installation of gas and electricity smart meters in the rollout.

Some respondents stated that a dual installation was critical to the programme and that CER should direct the development of the rollout plan accordingly.

### **Compliance incentivisation and rewards**

Two respondents suggested that penalties and reward systems should be put in place for the roll-out or order to manage the inherent interdependencies associated with the programme if a stakeholder were to miss their deadline. These penalties were advised to be of a proportionate and dissuasive nature.

Additional details regarding the due process of escalation and appeals in the event of non-compliance with the Transitional Licence Obligations were requested. This would follow the normal process for breaches of licences.

One respondent disagreed with the proposition of separate regulatory revenue recovery treatment. They felt the existing regime was sufficiently flexible to accommodate appropriate incentivisation and that a separate cost recovery process would be likely to add further complexity and administration to the regulatory framework. It was suggested for projected capital expenditure, return on capital and depreciation in relation to smart metering should be set within the Network companies' revenue determination.

### **Transitional Licence Obligations**

Respondents broadly agreed that incentives and obligations should be placed on the Network Companies regarding quality management, openness and cooperation, timeliness, fairness and effectiveness.

One respondent felt that further information was required on the transitional licence obligations including whether these are needed and requesting further information on how this would work within the PMO. It was also commented that the licence conditions themselves should not be relied upon to bring about a successful transition.

One respondent requested further information on the scope and impact of the obligations.

One respondent stated that an approach using good programme planning and incentives as opposed to transitional licence obligations would be more effective.

One respondent stated that the CER themselves should also be subject to similar conditions and obligations regarding commitment to the integrated rollout plan as is the case for the other stakeholders.

### **Other Comments - Cost-Benefit Analysis**

A number of respondents made reference to the subsequent impact of policy decisions on the CBA. The CER will consider these issues as part of the scheduled re-run of the CBA in Q3 2016 and so they are not addressed here.

## ***A.3 Testing and Trialling***

### **A.3.1 December 2015 Proposed Decision**

The commissioning of new retail market systems creates interdependency between each of the energy supply companies meaning that a delay by one or more parties could potentially lead to a delay or suspension of the new market arrangements. The CER is of the view that progress in delivering the NSMP should not be halted or impacted by delays at individual company level, to the extent possible. The Proposed Decision places transitional obligations on suppliers to use reasonable endeavours to comply with an approved testing and trialling plan to be developed by ESB Networks and Gas Networks Ireland and approved by CER. Suppliers will have the opportunity to input into this plan, during its development phase.

### **A.3.2 Overview of Responses**

Respondents generally supported the need for a coordinated testing and trialling plan and most did not consider it necessary to underpin this through the application of transitional obligations on the Network Companies. Most respondents also agreed with the Proposed Decision and considered it appropriate to place obligations on Suppliers to comply with the testing and trialling plan.

Below is a summary of the key themes and points:

#### **Transitional Licence Obligations on Networks**

Two respondents disagreed with the Proposed Decision, stating that in the interest of having balanced obligations that Network companies should be obligated as well given the proposed transitional licence obligations on Suppliers.

#### **Transitional Licence Obligations on Suppliers**

Most respondents agreed that it is appropriate to place obligations on Suppliers to comply with the testing and trialling plan. One respondent requested a stronger position for regulatory enforcement than requesting 'reasonable endeavours' from Suppliers to comply with the testing and trialling plan.

## **Approval of the coordinated plan by CER and incorporation within the overall programme plan**

Two parties proposed the CER should facilitate the development of the Testing & Trialling plan, including the management of the plan itself by a Testing & Trialling Manager who would also be part of the CER PMO.

Two respondents requested that Network companies provide the Testing & Trialling plan with adequate notice, particularly so that it can inform Supplier's submissions to the CBA review in terms of confirming scope and costs.

## **A.4 Participant Readiness**

### **A.4.1 December 2015 Proposed Decision**

Participant readiness will assure the CER (and each individual stakeholder) that market participants are ready to operate within the new market arrangements and commence offering new services to customers. The CER considered whether changes should be made to the regulatory framework in order to provide for a Participant Readiness function but concluded that this was unnecessary. Instead it was proposed that a readiness function is established that complements the NSMP programme management and governance arrangements. This provides a formal footing for participant readiness, within a structure which all participants are familiar with.

### **A.4.2 Overview of Responses**

A number of respondents considered that "consumer readiness" should be monitored as well as the various business readiness metrics for participants, as it is an important factor in the success of the programme. One also requested that ownership for the Consumer readiness workstream should be assigned.

Two respondents requested that the specific readiness criteria are published in the April 2016 Decision paper.

## Appendix B – Glossary of Terms

This appendix sets out the technical terms and acronyms used within this document.

Acronym	Term	Definition
ESBN	ESB Networks	-
-	Existing Regulatory Framework	The current set of regulatory documents that industry participants are required to comply with in order to participate in the market – which includes (but is not limited to) Supply and Network Licences and the Supply Handbook
GNI	Gas Networks Ireland	
-	Network Companies	ESBN and GNI
NSMP	National Smart Metering Programme	-
-	October 2014 Decision	The decisions that CER has already made in relation to the high level design of the Time-of-Use Tariffs – the October 2014 Decision is available on the CER website (CER/14/046).
PAYG	Pay As You Go	A customer who pays for their energy in advance, by purchasing top ups (credit) from a local shop or online
	Time-of-Use Tariffs	A tariff under which the amount paid by a customer for each unit of electricity or gas consumed varies by time of day, week or year

## Appendix C – NSMP strategic objectives

The NSMP has the following strategic objectives (which apply to both electricity and gas unless stated otherwise):

1. **Encourage Energy Efficiency** - encourage end-use energy efficiency via enhanced information and pricing signals, resulting in reductions in overall energy usage and thus reduced emissions of carbon dioxide, nitrogen oxides and sulphur oxides as a measure to combat climate change and reduce pollution.
2. **Facilitate Peak Load Management (electricity only)** - reduce demand for peak electrical power, with consequential electricity generation savings and improved security of supply. This can be achieved via pricing signals such as TOU tariffs, where the price of electricity varies at different times of the day to reflect the changes in the costs of producing electricity. Other options include automated demand side management and direct load control (via aggregators).
3. **Support Renewable and Micro Generation (electricity only)** - assist in achieving of Ireland's stated national targets for renewable electricity generation (40% by 2020) by facilitating demand response solutions that will complement increasing levels of intermittent wind generation on the electricity system. And to facilitate the wider take up of micro generation.
4. **Enhance Competition and Improve Consumer Experience** - support more timely and efficient change of Supplier process for consumers, and promote competition by enabling Suppliers to offer consumers:
  - a) Accurate billing;
  - b) Accurate, detailed and more frequent information on their energy consumption and costs;
  - c) More innovative products to support the efficient use of electricity (balanced by the need to protect consumers from a proliferation of complex tariff products leading to confusion); and
  - d) A more diverse service offering to consumers from Suppliers including in the area of prepayment product offerings.
5. **Improve Network Services** - improve services to consumers, particularly in areas such as meter reading, fault monitoring and electrical power quality. Significantly improve theft prevention and measure losses more accurately.

These objectives have been used as guiding principles in the decision making throughout the programme.