



An Coimisiún
um Rialáil Fóntas
**Commission for
Regulation of Utilities**

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ESBN Electric Vehicle Pilot & Associated Assets

Decision Paper

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Executive Summary

In March 2014, following a public consultation¹ on a proposal by ESB Networks (ESBN), the Commission for Energy Regulation (CRU) published a Decision Paper entitled “Decision on ESB Networks Electric Vehicle Pilot” (CER/14/057) (the Decision Paper). The Decision Paper set out the CRU’s approval for ESBN’s proposed pilot project on Electric Vehicles (EVs) and to recover the associated costs of the pilot project through Distribution Use of System (DUoS) charges. As part of this approval the CRU required ESBN to prepare a report on the findings of the EV pilot, along with any recommendations to address the effects of EVs on the distribution system. The Decision Paper stated that the EV charging infrastructure installed as part of the pilot would not be put on ESBN’s Regulatory Asset Base (RAB) and that the ownership of the infrastructure would be decided by the CRU after the pilot had concluded. ESB eCars conducted this pilot on behalf of ESBN. The purpose of the trial was to assess the impact of EV’s on the distribution network.

In October 2016, the CRU published ESB eCar’s Report on the Pilot and a consultation paper (CER/16/286) requesting views on the ownership of the assets and other issues arising from the Pilot. This Decision Paper sets out the CRU’s decisions on the issues set out in the consultation following review of the responses to the consultation and the views expressed at the Low Emission Vehicle Task Force².

As per CER/14/057, the CRU remains of its position that the infrastructure should not be added to the ESBN RAB and the assets should either be sold or maintained by ESBN on a commercial basis.³ Given the current financial value of the EV assets is likely minimal, the CRU considers that, at the current time, the assets should remain in ESBN’s ownership for a transitional period. Moreover, the CRU has decided that there will be no further funding of the assets through network charges (DUoS). Therefore any further funding required would have to come from other sources such as, for example, subsidies or from fees recovered from the users of EVs.

The CRU expects ESBN to arrange the sale of the assets to maximise the value that can be recovered from the Research and Development (R&D) expenditure made by the DUoS customer on the EV infrastructure during the trial. The CRU notes that ESBN will need to establish a transparent process to determine the appropriate allocation between the DUoS customers’ investment (€25m) and other parties who have contributed capital to this EV charging

¹ 22 of the 23 respondents to the consultation supported ESBN’s proposal

² Low Emission Vehicle Task Force is chaired by the Department of Communications, Climate Action and the Environment, and the Department of Transport Tourism and Sport (DTTAS) and is attended by relevant stakeholders.

³ CER/14/057 page 6

infrastructure. Given the importance of the EV charging infrastructure both to EV users and to Government policy, it is important that the assets continue to be operated and maintained to an appropriate level. The CRU expects that until the sale is ready, ESNB will ensure that the assets are adequately operated and maintained. The CRU expects ESNB will submit quarterly reports to the CRU for publication. The reports will cover the use of the assets, the general operation and condition of the assets, and any additions to the charging network.

Public/ Customer Impact Statement

In March 2014 the Commission for Regulation of Utilities (CRU) approved ESB Networks' (ESBN) proposed pilot project on Electric Vehicles (EV) and allowed ESBN to recover the associated costs of the pilot project through network charges. These network charges are reflected in residential customer's bills. At the time of this decision it was considered that the connection of EVs in Ireland was likely to have a significant impact on the Irish distribution network. The purpose of the trial was to generate a report assessing this impact. The trial has now concluded and the report was published in October 2016. In October 2016 the CRU also published a consultation asking for views on what should happen to the EV charging infrastructure now that the trial had been completed.

The CRU notes that the trial has given Ireland one of the first nationwide charging systems in the world, which gives the country a unique network of almost 1,000 chargers (75 fast DC chargers and 840 AC charge points) that enable EV Drivers to travel nationwide.

EVs can bring a number of benefits to the energy industry. Sometimes on very windy days, generators can make more renewable electricity than the system can use. EVs can recharge their batteries during these peak times. In this way EVs can help to make the best use of the renewable resources available. EVs also are a key part of the Government's plans to increase the use of renewable energy in the transport sector.

Given the importance of the EV charging infrastructure both to EV users and to Government policy, it is important that the EV infrastructure that was installed as part of the trial, continues to be operated and maintained to an appropriate level. However, the CRU has decided that there will be no further funding of the assets through network charges. Therefore funding will have to come from other sources such as, for example subsidy or from fees recovered from the users of EVs.

Some key impacts on consumers as a result of this decision are:

- EV users should continue to be able to use the assets;
- There is the possibility that in order to fund the continuing operation of the assets that there may be charges for using these assets (it is currently free of charge to the user);
- No further charges should be made to the general electricity customer;
- In the event that the assets are sold (not expected for a number of years) the general electricity customer will receive a share of proceeds of sale proportionate to their investment in the infrastructure. It should be noted that this may, or may not, be greater than €25m depending on how the market conditions develop.

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Glossary of Terms and Abbreviations

Abbreviation or Term	Definition or Meaning
CRU	Commission for Regulation of Utilities
DSO	Distribution System Operator
EV	Electric Vehicle
DUoS	Distribution Use of System
RAB	Regulatory Asset Base
CPMS	Charge Point Management System
CPPS	Charge Point Payment System
DCCAIE	Department of Communications, Climate Action and the Environment
DTTAS	Department of Transport Tourism and Sport
PR	Price Review
R&D	Research and Development

1. Introduction

1.1 Commission for Regulation of Utilities

The Commission for Regulation of Utilities (CRU) is Ireland's independent energy and water regulator. The CRU's mission is to regulate water, energy and energy safety in the public interest. Further information on the CRU's role and relevant legislation can be found in [here](#).

1.2 Background

In March 2014, following a public consultation on a proposal by ESB Networks (ESBN), the CRU published a Decision Paper entitled "Decision on ESB Networks Electric Vehicle Pilot" (CER/14/057) (the Decision Paper). The Decision Paper set out the CRU's approval for ESBN's proposed pilot project on Electric Vehicles (EVs) and to recover the associated costs of the pilot project of €25 million through Distribution Use of System charges (DUoS). As part of this approval the CRU required ESBN to prepare a report on the findings of the EV pilot, along with any recommendations to address the effects of EVs on the distribution system. The Decision paper stated that the EV charging infrastructure installed as part of the pilot would not be put on ESBN's Regulatory Asset Base (RAB) and that the ownership of the infrastructure would be decided by the CRU after the pilot had concluded. ESB eCars conducted this pilot on behalf of ESBN.

ESB eCars developed an EV pilot project and submitted a report on the findings of the EV pilot to the CRU. ESB eCars also provided a discussion paper setting out some discussion of EV networks and the main options available for disposition of the assets.

In October 2016, the CRU published ESB eCar's Report on the EV Pilot, their discussion paper and a CRU consultation paper (CER/16/286) requesting views on the ownership of the assets and other issues arising from the Pilot. Following the close of the consultation period, the CRU has also engaged with both the Department of Communications, Climate Action and the Environment (DCCA) and Department of Transport Tourism and Sport (DTTAS) on the wider issues related to EVs which may be impacted by this Decision. In addition the CRU has participated in the Low Emission Vehicle Task Force, which is chaired by DCCA and DTTAS.

1.3 Purpose of this Paper

This Decision Paper sets out the CRU's decisions on the issues set out in the Consultation Paper CER/16/286.

1.4 Legal Background

Under Section 35 of the Electricity Regulation Act 1999 (the Act), the CRU may direct the Distribution System Operator (DSO) on the basis for charges for connection to and use of the distribution system. In accordance with Section 35 of the Act, the CRU sets the revenue that the DSO will be allowed to recover from its customers, normally over five year periods called Price Review (PR) periods. During the period from 2011 to 2015 (called PR3), ESBN made a submission to the CRU proposing to undertake a pilot on EVs. In CER/14/057 the CRU decided to approve the proposal from ESBN for the pilot project on EVs and to recover the associated costs of the pilot project, to a maximum of €25 million from DUoS over the remainder of the PR3 period. The decision included a requirement to minimise costs and to allow for the assets to be sold once the trial was complete.

In this regard it is worth recalling that in CER/13/240 the CRU stated that the infrastructure developed over the course of the pilot would not be added to the ESBN RAB and that in CER/14/057 the CRU stated that once the pilot was completed, the CRU would discuss the future use of or sale of the infrastructure developed, taking into account the DUoS customer investment and the results of the trial.

Now that the Research and Development (R&D) Pilot has concluded, the CRU considers that the future funding of the EV transport infrastructure is not within the vires of the CRU. The CRU cannot impose cross-subsidies from electricity customers to the transport sector. The CRU has statutory duty to protect the interest of the electricity consumer. As specified by Section 9 of the Act, the CRU has an obligation to protect the interests of final customers:

(3) “It shall be the duty of the Minister and the Commission to carry out their functions and exercise the powers conferred on them under this Act in a manner which —

(b) The Minister or the Commission, as the case may be, considers protects the interests of final customers.”

As specified by Section 34 of the Act, the CRU shall not discriminate unfairly as between any persons or classes of persons:

(8) “Where providing for use of the transmission or distribution system or where offering terms for the carrying out of works for the purpose of connection to the transmission or distribution system of the Board, the Board shall not discriminate unfairly as between any persons or classes of persons.”

1.5 Policy and Targets

Integration of the energy and transport sectors is expected to increase over the coming decades through the integration of electric vehicles and alternative fuels into the transport sector. This move is expected to be particularly strong in Europe due to the leading role the EU has taken in relation to areas such as energy efficiency, promotion of renewable energy and climate change.

Arising from policy objectives to decarbonise transport, reduce reliance on oil and promote the use of cleaner fuels, the European Commission developed and published the “Clean Power for Transport: A European Alternative Fuels Strategy”⁴ in 2013. The aim of this document was to establish a long-term policy framework to guide technological development and investment in the deployment of alternative fuels and to give confidence to consumers.

Based on the 2013 Strategy, in November 2014 the Alternative Fuels Infrastructure Directive 2014/94/EU of the European Parliament and of the Council (the “Directive”) was published. The Directive required Member States to develop national policy frameworks (NPFs) for the market development of alternative fuels and related infrastructure. The intent of the Directive is to support greater uptake of alternative fuels through the establishment of targets for supporting infrastructure and through common technical standards for such infrastructure across all EU Member States.

In May 2017 the Minister for Transport, Tourism and Sport has published the National Policy Framework on Alternative Fuels Infrastructure for Transport in Ireland - 2017 to 2030. The framework sets an ambitious target that by 2030 all new cars and vans sold in Ireland will be zero emissions (or zero emissions capable) with the use of fossil fuels vehicles rapidly receding. This national policy will increase EV ownership in Ireland and increase the demand for publicly accessible charging infrastructure. Therefore it is necessary that the regulatory approach regarding EVs is sufficiently flexible in order to allow the market to develop and facilitate the growth of the EV industry in Ireland. Additionally the CRU’s approach must be cost-effective and seek to avoid any cross-subsidies between EV owners and electricity customers generally.

1.6 Overview of EV R&D Pilot Infrastructure

As a result of this EV pilot, funded by the electricity customer, established in CER/14/057, there is now a nationwide network of EV charge points. The assets developed over the course of the pilot fall into three main categories:

⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0017:FIN:EN:PDF>

1. The software and intellectual property developed within the pilot to create and operate a national EV charging infrastructure - assets include the databases and communications systems to manage the operation of the EV charging infrastructure, EV charging infrastructure customers, EV charging infrastructure billing and EV charging infrastructure communications network.
 - Charge Point Management System (CPMS); and
 - Charge Point Payment System (CPPS).
2. The charging hardware acquired and constructed during the pilot:
 - 75 fast DC chargers; and
 - 840 AC chargers.
3. Other items such as:
 - Charging assets in ESNB premises;
 - EVs bought as part of the trial; and
 - Home charging units installed for free in the houses of private EV drivers.

1.7 Related Documents

- [CER/16/286](#): Consultation on ESNB Electric Vehicle Pilot & Associated Assets
 - [ESB eCars proposal regarding the Future of the Assets developed during the ESB Electric Vehicle Pilot](#)
 - [ESB eCars Pilot Project Report](#)
- [CER/14/057](#): Decision on ESB Networks Electric Vehicle Pilot
 - [CER/13/240](#): Consultation on ESB Networks Proposed Electric Vehicle Pilot
 - ESB Networks, Preparation for EV's on the Distribution System – [Pilot Project Implementation Document](#)
 - ESB Networks Electric Vehicle Pilot – [R&D Project Submission Summary](#)
- [National Policy Framework on Alternative Fuels Infrastructure for Transport in Ireland - 2017 to 2030](#)
- Directive [2014/94/EU](#) of the European Parliament and of the Council

1.8 Structure of this Paper

This decision paper is structured as follows:

- **Section 1**, provides an introduction to the CRU and provides background information to this decision paper.
- **Section 2**, provides a summary of the responses received and the CRU's position.
- **Section 3**, provides an overview of the considerations which the CRU has taken into account when arriving at this decision.
- **Section 4**, outlines the CRU's decision.
- **Section 5**, provides the next steps with regards to the ownership of the assets.

2. Summary of Responses Received

On 14 October 2016 the CRU published a consultation on ESB eCars' proposal on the ownership of the Electric Vehicle Charging assets installed as part of a Pilot Study approved by the CRU in 2014, and the Report on the completed EV Pilot Study paper. The CRU received thirty one responses to the consultation paper, of which two were confidential. The main points made by respondents are summarised below. The non-confidential submissions are published on the CRU's website alongside this Decision Paper.

2.1 Additional Expenditure on the EV Trial

In CER/16/286 the CRU requested respondents' views on the ESB eCars proposal regarding the recovery of €6.1m in funding in addition to the €25m approved in CER/14/057.

The majority of responses received were in favour of the recovery of the additional €6.1m in funding. However, the respondents noted that the CRU should seek further information regarding the additional costs and an audit of the ESBN accounts on this project should be carried out and a decision made on that basis.

A number of respondents registered strong disagreement with the proposal to allow to recover the additional €6.1m through DUoS tariffs. The respondents noted that the CRU made a clear decision in its decision paper CER/14/057 that €25m will be the absolute maximum recoverable to ESBN through the DUoS tariffs over the course of this project. Some of the respondents noted that ESB Group benefitted through involvement in the EV project and gained valuable experience and that the overspending should not be allowed on that basis.

CRU Position

The CRU considered the points made by all respondents regarding the recovery of the additional €6.1m in funding. The CRU notes that in CER/14/057 the CRU clearly stated that "€25m will be the absolute maximum recoverable to ESBN through the DUoS tariffs over the course of this project. Any overrun cost of the pilot beyond €25m would be carried by ESBN". On this basis, as discussed further in section 3, the CRU has not approved recovery of the additional expenditure.

2.2 Supply Licensing Considerations

In CER/16/286 the CRU outlined its view of the legislation as it applies to the operators of EV charging points. The CRU's view was that use of the charging infrastructure cannot be considered as the supply of electricity as defined in the Act. Accordingly, this is a service that operators are free to provide to EV owners. The CRU requested respondents' opinions on the

CRU's view relating to the legislation relating to the supply of electricity to the operators of EV charging point.

The majority of responses received agreed with the CRU's interpretation of the legislation. The respondents noted that the legislation relating to the supply of electricity should not put any barriers in place for others to provide charging services, and it could deter providers from installing chargers. One respondent stated that "the market should remain open to allow competition and ensure that other EV providers want to enter the market in time and provide choice for customers".

However, some respondents disagreed with the CRU's outlined view in relation to the legislation relating to the supply of electricity to the operators of EV charging point. One respondent, Irish Electric Vehicles Owners Association (IEVOA), noted that operators supplying public charging should be licensed and should sell by unit of electricity. EV users should pay kWh (Unit) of charge used in their vehicles. Without the necessary licence the operators of EV charging point would sell electricity by "time". In IEVOA view this could lead to EV users with different battery sizes or less efficient or old batteries receiving the same electrical amount but paying different rates.

One respondent requested that the CRU should consider ensuring that the operators of an EV charging point are licensed in under the Act when electricity is supplied from infrastructure not located on single premises.

Furthermore, the same responded noted that the CRU should consider Article 4(10) of the Directive 2014/94EU:

"Member States shall ensure that prices charged by the operators of recharging points accessible to the public are reasonable, easily and clearly comparable, transparent and non-discriminatory."

CRU Position

The CRU notes the views submitted regarding the current legislation relating to the supply of electricity to the operators of EV charging points, the majority of respondents agreed with the CRU's reading of the legislation. The CRU's interpretation of the legislation remains that EV charging point operators do not require a supply licence to operate and that third parties are free to offer and provide charging services. Furthermore, the CRU notes that one of the grounds on which some respondents did not agree with the CRU's interpretation of the legislation, was on the basis that this would prevent prices being based on a kWh metric. However, as the operation of a charging point is not a licensed activity there is no restriction on the metric an operator may wish to base their pricing structure on; whether this is by time, kWh, or some other metric.

The CRU considers that treating the operator of the infrastructure to be a “final customer” is consistent with current Irish and EU legislation. It is also consistent with international experience. The CRU notes that the operator of the infrastructure (and the owner of the premises it is on) would be considered a “final customer” under the Act.

The Act defines supply as:

“...supply through electric lines to final customers for consumption”

And a final customer as:

“...a person being supplied with electricity at a single premises for consumption on those premises”

And a single premises as:

“...one or more buildings or structures, occupied and used by a person, where each building or structure is adjacent to, or contiguous with, the other building or structure.”

The CRU also notes that Directive 2014/94/EU⁵ is currently being transposed into Irish law and that the implementing legislation may introduce provisions relating to EVs. Article 4(8) of Directive 2014/94/EU states that:

“Member States shall ensure that operators of recharging points accessible to the public are free to purchase electricity from any Union electricity supplier, subject to the supplier’s agreement. The operators of recharging points shall be allowed to provide electric vehicle recharging services to customers on a contractual basis, including in the name and on behalf of other services providers.”

The CRU believes that this appears to introduce a clear distinction between an operator of the infrastructure, who must be free to contract with a supplier, and the supplier, whose customer is the operator.

The CRU considers that the operators of recharging points are free to purchase electricity from suppliers in the same way as any commercial business. Furthermore, the CRU considers that EV owners and the operators of recharging points can enter into separate commercial agreements. The CRU notes that the operators of recharging points can provide charging services to EV users on a contractual basis. This arrangement minimises regulatory barriers and facilitates the development and investment in EV charging infrastructure. This outcome allows businesses to install EV charge points on their premises with relative ease.

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0094&from=EN>

2.3 Ownership of the Charging Infrastructure

The ESB eCars' submission proposed option 4, ESB eCars ownership, as their preferred option. In CER/16/286 the CRU requested views from respondents regarding the current, or future value of the assets and the impact that the options may have on other parties looking to compete to own, operate and develop EV charging infrastructure.

The responses submitted to the consultation paper were split between option 1, putting the assets on the ESN RAB, and option 4, transfer of ownership to ESB eCars. Respondents were generally not in favour of options 2 and 3, the immediate sale of the assets to one or more parties.

The respondents who supported option 1, putting the assets on the ESN RAB, observed that currently the Irish EV market and EV network in Ireland has not yet reached a level of maturity where privatisation is viable. A sale of the EV infrastructure could be bad value for the DUoS customer. A number of respondents noted that the current infrastructure in Ireland will shortly be fully depreciated and will require on-going maintenance and further investment. Several respondents highlighted that option 1 cannot be a permanent solution, as the EV infrastructure should not remain in public ownership and compete with private charging services. Some respondents recommended that in the future, when the Irish EV market fully developed, a public consultation should be carried out again to decide the future of the assets. Moreover, one respondent supported that in the future, when the Irish EV market is fully developed, ESB eCars should own and operate this infrastructure.

The majority of the respondents who supported option 4, ESB eCars ownership, stated that the system should be operated on a competitive and commercial basis. Some respondents highlighted that ESB eCars gained valuable experience about the EV market and technology requirements and has the knowledge required to operate a reliable and safe nationwide EV network. One of these respondents noted that ESB eCars has “the major advantage of having a critical mass of expert knowledge and capabilities, credibility and momentum. This will be crucial in taking the project forward towards meeting both short term and longer term EU and National policy objectives around EV use and decarbonisation of transport”. Another respondent advocated that “to date, significant good work has been carried out by ESB eCars in providing a national charge point infrastructure. They have built up the necessary competencies and knowledge in this area to ensure the success of electric vehicles and the safe and secure installation and operation of charging infrastructure”.

One respondent noted that it would not be appropriate to simply ‘gift’ the infrastructure to ESB eCars. The respondent suggested that a competitive tender process should be used to determine who should ‘win’ or ‘earn’ the right of ownership of the assets.

Two respondents noted that the current infrastructure should be owned and operated by multiple entities. One respondent stated that the charging infrastructure should be privatised, run by the private sector to facilitate innovation. The other respondent noted that “the regulatory environment should uphold the long established principles of a safe, secure and dependable system, while ensuring fairness of costs to the system users. As the electric mobility environment is developing, it is important that the regulation is open enough to facilitate new and innovative business models that offer benefits to the consumer while adhering to the key principles above”.

CRU Position

The CRU notes that the responses submitted to the consultation paper were split between putting assets on the ESBN's RAB and a transfer of ownership to ESB eCars. The CRU has considered the views submitted. The CRU notes that the decision paper CER/14/057 stated that the EV charging infrastructure installed as part of the pilot would not be put on ESBN's RAB. The CRU also notes that the direction travel of EU and Government policy is that EV infrastructure should not be owned by a DSO and should be independent from subsidies from electricity customers and should be capable of operating on a commercial basis. Article 33(2) of Directive of the European Parliament And of the Council on common rules for the internal market in electricity states that:

“Member States may allow distribution system operators to own, develop, manage or operate recharging points for electric vehicles only if the following conditions are fulfilled:

(a) Other parties, following an open and transparent tendering procedure, have not expressed their interest to own, develop, manage or operate recharging points for electric vehicles; or

(b) The regulatory authority has granted its approval.”

Also, the National Policy Framework on Alternative Fuels Infrastructure for Transport in Ireland 2017 to 2030 states that:

“It would be preferable if future charging systems were independent from state subsidies and were capable of operating on a commercial basis.”

Taking into account the CRU's functions and duties in addition to the EU and Government Policy⁶ on this issue the CRU is not minded to add the assets to ESBN's RAB. This leaves the options of sale to a third party or parties or transferring ownership to ESB eCars. Furthermore,

⁶ National Policy Framework on Alternative Fuels Infrastructure for Transport in Ireland - 2017 to 2030 page 54

the CRU notes that half of the responses submitted to the consultation paper were in favour of option 4, transfer of ownership to ESB eCars.

Given the current financial value of the EV assets is likely minimal, the CRU has decided that, at the current time, the assets should remain in ESN's ownership for a transitional period. The CRU expects ESN to arrange the sale of the assets at an appropriate time in order to maximise the value that could be recovered. This is discussed further in section 3 of this paper.

2.4 Interoperability

Several respondents highlighted the importance of interoperability of the charging infrastructure within and outside of Ireland to ensure commonality of standards which would support all-island and European interoperability. One respondent noted that common billing systems and common access to these billing systems should be maintained. The respondent noted the “the UK experience of requiring multiple ‘cards’ for the EV infrastructure should be avoided at all costs”. Another respondent highlighted that “maintaining a consistent network with one access control method throughout the country is extremely valuable and avoids the mistakes made in other countries that have ended up with multiple charger networks with different access control methods, requiring users to maintain multiple smart cards, top-up accounts etc.”.

CRU Position

The CRU accepts that interoperability should facilitate greater use of the charging infrastructure and enable greater EV adoption and longer journeys. The CRU agrees that maintaining interoperability and particularly all-island interoperability should maximise any value that might be obtained in a sale and expects ESN to be cognisant of this. Furthermore, ESN will be required to ensure the charging infrastructure meets European standards, as will any other charging operator.

2.5 Further Funding of the Current EV Charging Infrastructure in Ireland

A number of respondents encouraged the CRU to allow for DUoS funding be provided in order to further expand and support the existing EV infrastructure in Ireland. Several respondents noted that further funding would increase the value of the infrastructure. A few respondents noted that an appropriate funding regime is necessary to enable Ireland to realise its EV targets and achieve a low carbon economy by 2050.

CRU Position

The CRU notes the views submitted regarding the future funding of the current EV charging infrastructure. The CRU agrees with the respondents that further funding is needed in the short and medium term, as the current assets will depreciate and will require on-going maintenance and further investment. However, the CRU has statutory duty to protect the interest of the electricity consumers. The CRU approved funds in order to allow an R&D trial to be carried out. As the trial has now concluded and the report has been published, there is no further basis on which the CRU could justify further funds beyond that required by the R&D trial. The CRU cannot impose costs on electricity customers to cross-subsidise the transport sector. Funding will have to come from other sources such as, for example subsidies, equity investment from other parties, or from fees recovered from the users of EVs.

3. Overview

3.1 The CRU's Objectives

Taking into account the CRU's statutory duties, the CRU's Decision to approve the funding of the EV Pilot, and the wider policy context the CRU has set the following objectives for its policy on the ownership of the assets:

- Ensuring any costs or benefits seen by the DUoS customer are appropriate;
- Ensure the CRU's policy does not create barriers to competition in the market for provision of EV charging services;
- Ensuring the EV charging service is appropriately operated and maintained;
- Ensuring the best use of the assets in terms of facilitating the growth of the EV industry; and
- Open access to charging points as a way to facilitate National Policy in relation to EVs.

The CRU has evaluated the ESB eCars' proposals, and the views given by respondents to the consultation against these objectives. In weighting the objectives the CRU considers it appropriate that the first objective "*Ensuring any costs or benefits seen by the DUoS customer are appropriate*" has primary importance in the CRU's considerations given its statutory duty to protect the interests of the electricity consumer.

Accordingly, in this Decision the CRU has sought to ensure that the DUoS customer does not see any further costs related to the maintenance and extension of the EV infrastructure and the value of the R&D expenditure recovered is maximised. However, when balanced against the other four objectives set out above, and when considered in the context of the current state of development of the EV industry the CRU considers that a transitional approach should ensure that the assets remain accessible, are properly maintained and facilitate the further development of EVs in the country. At the end of this transitional period, if the take up of EVs increases significantly, it is possible that the DUoS customers may recover a significant portion of the €25m spent on the R&D Trial. However, it is also possible that the sale value could be lower than €25m, depending on how the market develops.

The sections below set out the CRU's position on the following issues, taking into account the responses received and the CRU's policy objectives:

- The Expenditure on the EV Pilot;
- The Requirement to hold a supply licence; and

- The Operation and Sale of the EV Assets.

3.2 Expenditure on the EV Pilot

The Decision Paper set out an allowance of €25m for the EV Pilot, in that decision the CRU stated that “any costs incurred during the pilot beyond €25m will be met by ESNB”⁷.

As part of the CRU’s considerations and review of the output of the EV Pilot the CRU contracted a consultancy, Ricardo Energy & Environment, to review the ESNB report, prepared by ESB eCars, and give a high level view on the appropriateness of the costs incurred.

The Ricardo report⁸ notes that notwithstanding some lack of clarity about what was planned as part of the budget and what the precise planned outturn was in terms of infrastructure deployment, the budgetary costs seemed reasonable for the ambitious level of infrastructure deployment nationally. While the report noted some concerns regarding the dissemination of learning and recommendations in the report, it stated that the roll out of an extensive EV charging network in Ireland undoubtedly supported the introduction of EVs in Ireland.

When considering value for money in regard to this expenditure it is important to note that the expenditure in the infrastructure was made under the banner of innovation funding in order to facilitate a report on the likely impact of EV charging on the distribution system. In that context the initial measure of value for money is in the quality of the report. In this regard, the Ricardo report suggests that further improvement on the report is called for. The CRU will require ESNB to create a summary report summarising the individual reports and addressing the issues set out in the Ricardo Report.

Further it is worth recalling that the CRU stated in CER/14/057 that “the infrastructure developed over the course of the pilot would not be added to the ESNB RAB. Once the pilot was completed, the CRU would discuss the future use of or sale of the infrastructure developed, taking into account the DUoS customer investment and the results of the trial.” In the normal course of events, before assets are added to the RAB an evaluation of the value for money of the expenditure is carried out with only efficient expenditure allowed onto the RAB. In this case significant assets were accumulated in the course of an innovation project to facilitate a report, with the knowledge that an eventual sale was envisaged. In this context the most meaningful evaluation of value of the assets themselves is in the price to be achieved in a sale.

⁷ CER/14/057 page 6

⁸ This report has been shared with ESNB to facilitate the preparation of the summary report

Finally it is worth noting that given the extensive roll out of infrastructure it seems clear that EV users have gained significant value from the assets themselves and that the development of transport policy has benefited from both the assets and the report.

3.3 Requirement to Hold a Supply Licence

In CER/16/286 the CRU outlined its view of the legislation as applies to the operators of EV charging point. The CRU's view was that use of the charging infrastructure is not considered as supply of electricity as defined in the Act. The CRU viewed this as a service that operators provide to EV owners and therefore they are not required to hold a supply licence. The CRU requested respondents' opinions on the CRU's view relating to the legislation relating to the supply of electricity to the operators of EV charging point.

The CRU can confirm that it continues to hold this view, namely use of the charging infrastructure is not considered as supply of electricity as defined in the Act. In simple terms, while the supply of electricity to the EV charging point will require a supply licence (in the same way as supply to any premises), the charging of a vehicle does not require a supply licence.

For the avoidance of doubt, the view that charging of EVs does not require a supply licence holds regardless of whether or not such charging is made on a per kWh basis (or any other basis). The key point is that the vehicle is not a "single premises" which is the provision in the legislation.⁹

The Act defines a single premises as:

"...one or more buildings or structures, occupied and used by a person, where each building or structure is adjacent to, or contiguous with, the other building or structure."

3.4 Operation and Sale of the Assets

The Decision Paper (CER/14/057) required ESB Networks to design the EV trial in such a way that the assets and infrastructure could be sold to a third party. As the trial had concluded ESB eCars has submitted its proposal on the future of the charging infrastructure. ESB eCars proposed four options for the ownership of the assets:

- 1) Assets become part of the ESN RAB: With future Opex covered from DUoS and arrangements made for users of the system to purchase electricity from a supplier(s). In addition, the CRU may opt to support additional Capex to support future expansion;

⁹ <http://www.irishstatutebook.ie/eli/1999/act/23/enacted/en/html> page 7

- 2) Sale of Assets via public tender in a Single Lot to a third party: With potential for a covenant to prevent disaggregation;
- 3) Sales of Assets via public tender in Multiple Lots to third parties: With assets sold to multiple owners;
- 4) ESB eCars ownership: With no future regulation of user cost recovery tariff and no additional regulatory support. As part of this arrangement, ESB eCars would operate the system on a commercial basis.

As per CER/14/057, the CRU remains of its position that the infrastructure developed should not be added to the ESBN RAB and the assets should either be sold or maintained by ESBN, through a suitable operator on a commercial basis.¹⁰ Given the current financial value of the EV assets is likely minimal, the CRU has decided that, at the current time, the assets should remain in ESBN's ownership for a transitional period. The CRU notes that this Decision is consistent with the current direction of EU policy.¹¹

The CRU has decided that there will be no further funding of the assets through DUoS charges. The CRU notes that any future public funding of EV charging infrastructure, if appropriate, would be a matter for Government.

The CRU expects that the transitional period could last a number of years. The CRU expects ESBN to arrange the sale of the assets to maximise the value recovered from the R&D expenditure made by the customer on the EV infrastructure during the trial. The CRU notes that ESBN will need to establish a transparent process to determine the appropriate allocation between the DUoS customers' investment (€25m) and the parties who have contributed their capital to this EV charging infrastructure. The CRU will engage with ESBN on the appropriate timing of this disposal. Given the importance of the EV charging infrastructure both to EV users and to Government policy, it is important that the assets continue to be operated and maintained to an appropriate level. The CRU notes that until the sale is ready ESBN will be expected to ensure that the assets are adequately operated and maintained. ESBN should enter into an operating agreement with a suitable party to operate the infrastructure on a commercial basis and protect the value of the assets for the DUoS customer until the sale. This operating agreement to be submitted to the CRU for approval in order to ensure the DUoS customer's investment is adequately protected. The CRU expects ESBN to submit quarterly reports to the CRU for publication. The reports will cover the use of the assets, the general operation and condition of the assets, and any additions to the charging network.

¹⁰ CER/14/057 page 6

¹¹ Directive 2014/94/EU - the EU Policy direction is that EV infrastructures should not be owned by a DSO.

4. CRU Decision

In the previous sections of this Decision Paper the CRU has outlined its position on the issues raised in the Consultation paper and its views on the responses to that consultation. This section of the paper sets out the CRU's decisions made in this Decision Paper.

- The CRU has decided to not allow ESBN to recover the addition €6.1m expenditure from DUoS tariffs.
- The CRU's reading of the legislation is that EV charge point operators do not require an electricity supply licence.
- The CRU has decided that the assets should not be placed on the RAB but should remain in ESBN's ownership for a transitional period.
- The assets will be operated on a commercial basis and will not receive any further funding from the DUoS customer.
- The CRU expects ESBN to arrange the sale of the assets at an appropriate time in order to maximise value that can be recovered from the R&D expenditure. The CRU expects that the transitional period could last a number of years. The CRU will engage with ESBN on the appropriate timing of this disposal.
- The DUoS customer will receive a share of proceeds of this sale proportionate to the investment of €25m, noting that further investment is likely to be required before the sale is carried out.
- The CRU expects that ESBN will enter into an Operating Agreement with an appropriate party for the operation of the assets, and submit it to the CRU for approval, within six months of this Decision.
- The CRU expects that the operating agreement will provide for third party access to the payment system to enable the customers of parties other than ESB eCars to purchase access to the assets.
- The CRU expects that from quarter one of 2018 ESBN will submit quarterly reports to the CRU for publication. The reports will cover the use of the assets, the general operation and condition of the assets, and any additions to the charging network.

5. Next Steps

The CRU expects ESN to take the necessary steps to implement this Decision with immediate effect and inform their customers accordingly.

ESN is directed to furnish CRU with a summary report of the outcome of the trial, for publication, which addresses the issues raised in the Ricardo report.

ESN is required to regularly update the CRU as to its progress in meeting the expectations detailed in this decision. CRU will undertake to bring these updates to the attention of the Low Emission Vehicle Task Force.

CRU will consider the outcome of these reports in the context of innovation funding generally.