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Elena Ardines,
Strategy Branch,
The Utility Regulator,
Queens House,
14 Queen Street,
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BT1 6ED

20th January 2010

Re: Forward Work Programme (April 2010 – March 2011)

Dear Ms Ardines,

ESB welcomes this opportunity to respond to the Utility Regulator's consultation on its "Forward Work Programme April 2010 – March 2011". The paper provides insight into those areas that the Utility Regulator considers will require the greatest focus over the coming year and provides early insight into anticipated priority issues for the following year.

Joint Regulatory Authority Strategy and Work Programme

The Utility Regulator has established a close working relationship with CER through the operations of the SEM Committee and other project initiatives. ESB believes that in the interest of greater transparency and increased regulatory stability, that the Regulatory Authorities should leverage this working relationship and jointly develop multi-year strategies and achievable two-year work programmes for potential areas of SEM refinement, Retail Market harmonisation and other key issues which may be best dealt with on an all-island basis. This would provide increased confidence to market participants that both Regulatory Authorities are aligned on how the all-island markets will evolve or operate over time. For those other policy areas which do not have an all-island dimension, these can be effectively

managed on a per jurisdiction basis and outlined in the work-programmes of the individual regulators.

ESB suggests that the Utility Regulator under the auspices of the SEM Committee and in partnership with CER considers the merits of a joint-strategic approach to these matters with a view to developing such joint strategies and work-plans during 2010.

Sustainability and Security of Supply

Significant energy sector transformation will be required over the coming years in order to allow best opportunity to achieve EU 2020 targets. As such, ESB believes, that it is timely for the Utility Regulator in conjunction with DETI, to consult with all stakeholders regarding whether and how its role may need to be adapted to successfully manage these transformational challenges over the coming years.

The Utility Regulator has highlighted key activities in its work-plan related to **sustainability** including progression of smart metering policy, energy efficiency and smart grids. Each of these are among the enablers of low-carbon transformation and it is encouraging that the Utility Regulator intends where appropriate to leverage from any all-island synergies in further development of its Regulatory policies in these areas.

In addition, the EU 2020 targets and underpinning regulations concerning emissions trading provide renewed stimulus for electrification of transport. In Ireland, ESB is committed to rolling out the necessary electricity charging infrastructure for electric vehicles and is also committed to developing the necessary data transfer, billing systems and processes to enable timely apportionment of electric vehicle battery charging costs via Supply companies to the correct customer. ESB believes that there would be benefit in the Utility Regulator liaising, over the coming months, with DETI and if appropriate the Department for Regional Development to facilitate alignment of transport policy support for electric vehicles and overall energy storage within a Smart Grid strategy for Northern Ireland.

ESB supports the Utility Regulator's plans to progress policy formation in relation to renewable and community heat and believes that there will be associated advantages for the Energy Services sector from alignment of policy on an all-island basis. It will be important that the Utility Regulator balances the required promotion of renewable heat from an overall sustainability perspective, with its wider promotion of gas compared to other fuels and its consideration of options for extension of the gas network so as to minimise a situation of stranded gas infrastructure investment following transition to other forms of low carbon and renewable heating.

ESB supports the Utility Regulator's plans to develop long-term arrangements for **security of supply** in conjunction with CER, DETI and DCENR on an all-island basis. ESB believes that all forms of low-carbon generation should be considered, recognizing that technology advancement will occur as the pressure to find global solutions to carbon emissions intensifies over the coming years. ESB believes that Clean Coal and Carbon Capture and Storage will have a significant role to play and suggests that the Utility Regulator, where appropriate in conjunction with CER, progresses the development of policy to support the utilisation of these technologies.

In considering security of supply, ESB believes that the Utility Regulator should consider the findings of a recent report by Frontier Economics and Consentec, “Blowing in the Wind – Measuring and Managing the Cost of Renewable Generation in Europe”, which highlighted the ongoing role that part-loaded thermal plant and hydro plant will play in a low-carbon sector dominated by intermittent renewable generation. This report highlights that while interconnection and gas fired generation will have a role in backing-up intermittent generation sources, there is a requirement for other sources of generation to fully cover the risks of problems in both gas supply and interconnector operability.

Electricity Retail Competition

The work-programme highlights (in paragraph 2.52) that the new retail Unit in the Utility Regulator will work ‘...to enhance effective competition in energy supply...and several project elements will be pursued in the coming work plan year’. One of these elements is the progression of the enduring solution for electricity to remove constraints on retail market activity and in particular customer switching. While ESB is somewhat frustrated at the duration it has taken to progress the necessary switching infrastructure, it nevertheless appreciates the work that has now been completed in this regard on a joint basis with all interested parties – the Utility Regulator, CER, NIE, ESB Networks and all suppliers in both markets. ESB looks forward to the further progression of this critical project and will provide support as appropriate. ESB believes that every effort to align systems and processes on an all-island basis should be made in order to reduce Supplier and Network provider costs and consequential tariff impacts for consumers. The work-programme (Paragraph 2.53) confirms the joint work currently underway in relation to harmonising retail market processes particularly in relation to market messaging. However other areas where harmonisation is of value and which should also be included in the work-programme are global aggregation and possible alignment of IT messaging/hub arrangements.

In relation to the proposed development of an enduring solution to Fuel Mix Disclosure (paragraph 2.57), ESB is of the view that associated electricity marketing issues require to be addressed. ESB suggests that the Utility Regulator considers Ofgem’s Green Supply Guidelines, published in early 2009, as a template to aid with structuring a work programme in this area.

SEM Market Operator Price Control

ESB notes that the annual price control for SEMO to apply from October 2010 is highlighted in the work-programme. ESB recommends that this price control be altered from an annual to a multi-year (three or five year cycle) such that SEMO can be provided with flexibility regarding how it manages its activities and resource levels in order to meet its defined service requirements and any reasonable requests emerging from market participants.

ESB believes that this will provide increased flexibility for SEMO to balance its resources over a longer period of time in recognition of peaks and troughs in activity and enduring process improvements.

In addition, such a multi-year approach could reduce the resource impact on the Utility Regulator associated with the detailed price control assessment and evaluation on an annual basis.

TSO Performance and Customer Responsiveness

SONI plays a key role in the development of the transmission system, procurement of key ancillary services and in conjunction with EirGrid in the operation and evolution of the SEM. The decisions and actions of the TSOs have the ability to impact on the wholesale market and individual market participants. As TSO operational costs and any market-wide costs arising from TSO decisions are ultimately borne by electricity consumers, TSOs should be accountable to the market. ESB believes that the market would benefit from a review by the Utility Regulator of SONI governance and service delivery responsiveness such that SONI can deliver the high quality service as required by the market participants over the challenging times ahead for the sector.

In this regard, ESB believes that the Utility Regulator (together with CER) should consider the development of, in conjunction with market participants, a set of key performance indicators that provide proper incentives for the TSOs to drive quality performance and responsiveness to the market. ESB believes that this will be important to ensure that during the forthcoming period of energy sector transformation that TSO activities contribute to increasing stability for the market as a whole and for market players.

In Summary

ESB welcomes the publication by the Utility Regulator of its Forward Work Plan for industry comment. The work-plan is extensive and challenging for 2010-2011 and ESB recognises that as other priority issues arise over this period that this plan may need to be refined in line with resource and budgetary considerations.

Nonetheless, ESB would ask the Utility Regulator to consider the proposals and recommendations made by it in its response to this consultation. ESB believes that some of these recommendations, for example the development of jointly prioritised strategies and work-plans may facilitate greater effective utilisation of regulatory resources and allow for additional activities to be included within the work-plan over the next twelve months.

In particular, ESB recommends the development of support policy for electric vehicles as part of the wider energy storage aspect of Smart Networks policy development. Electric vehicles will have a significant role to play in transforming the energy sector in pursuit of EU 2020 targets and evolving synergies on an all-island basis need to be considered.

ESB also recommends progression of policy development to support CCS within the wider security of supply considerations of the Utility Regulator. While further technology advancements may still be required, recently announced CCS demonstration projects across Europe provide increased stimulus within the sector and highlight the need for preparedness for CCS on an all-island basis.

ESB believes that continued focus by the Utility Regulator on the “enduring solution” for Retail Market competition is essential and requests that every opportunity to harmonise and standardise systems and processes be taken so as to minimise costs to Suppliers and end consumers.

Finally, ESB believes that improvements can be made regarding the duration of SEMO price controls so as to provide increased management flexibility for it to react to market participant service requirements over a longer control period. In addition ESB recommends the establishment of a set of KPIs for the TSOs to ensure that they are incentivised in the correct manner to provide high quality service and contribute to increased market stability over the forthcoming years.

I can be contacted at any time to discuss the content of this response and would welcome the opportunity if desired to meet with you in this regard.

Yours sincerely,

Fergal Egan

ESB Regulatory Affairs