ESBIE RESPONSE TO THE CONSULTATION ON ELECTRICITY AND GAS RETAIL MARKET COMPETITION IN NORTHERN IRELAND

16TH JULY 2008

Introduction

ESB Independent Energy (ESBIE) welcomes the opportunity to comment on the Utility Regulator's (UR) analysis and proposals in respect of competition in retail gas and electricity markets. This response addresses issues which relate to the retail electricity market which are summarised below:

- ESBIE proposes that a set of principles which will guide all decisions in respect of retail competition are put in place. These principles should include a statement to the effect that:
    - that no customer is discriminated against in respect of levies, network services and meter services on the basis of the supplier that they have chosen;
    - the UR recognises that customer churn is not the only means to assess competition;
    - the UR recognises that suppliers compete on grounds other than solely on price; and
    - that the UR will work to ensure that where practicable, all retail arrangements are harmonised with those in the ROI.
- Introduction of a shallow supply model has the potential to undermine competition and should be considered very carefully in the context of the risks that its introduction poses to the stability of the market.
- All-Island harmonisation of certain retail issues is being examined at the moment. ESBIE would like to see this taken further and for **all** measures examined in the consultation paper to be assessed against a criterion specifically relating to All-Island harmonisation.
- In order for demand-side management to function effectively within the wholesale market, day-ahead firm prices and quantities should be considered.
- Increased data publication is welcome but this should not undermine competition and it should include a review of the data published during tariff and revenue reviews.

High Level Principles

In the executive summary of the consultation the UR recognises that some of their objectives are potentially in conflict and that their aim is to implement "cost-effective retail competition that delivers overall benefit". As a market participant it is useful to understand the main objective used by the UR to determine policy.

ESBIE propose that new document published as part of this process sets out a more detailed set of principles that will extend across all decisions relating to retail market. An example of this from the SEM is the Code Objectives (Section 1.3) of the Trading and Settlement Code. All amendments to the Trading and Settlement Code are considered in the context of these objectives. ESBIE propose that one of the new objectives should be "to put in place a set of rules and retail market infrastructure so that no customer is discriminated against in respect of levies, network services and meter services on the basis of the supplier that they have chosen".

The recently published consultation on the development of the UR's 5 year corporate strategy recognises that a high (and potentially costly) churn rate does not necessarily contribute to stability. ESBIE welcomes the recognition that customer churn should not be used as the only metric to assess the effective operation of the market, but all these principles should be set out in a single document. Furthermore there should be some explicit recognition from the UR in the same document that the product provided by all suppliers in the market is not homogenous. Suppliers work hard to differentiate themselves through the quality of service that is provided to customers. Again, explicit recognition that competition is not solely based on price should be included in a principles document. Finally, All-Island market harmonisation is addressed as a separate issue, later in this response but the UR should state this as an objective.

Harmonisation

The UR has agreed to work with the CER on the following areas:

1. Review of k-factors
2. Complete review of retail markets
3. Tariff Structure review
4. Review of existing demand side management schemes

ESBIE accept that is necessary to limit the scope of the joint group for it to be effective but harmonisation should be an explicit criteria used to evaluate each of the policy options that is presented in the paper. Instead of commissioning a review to eradicate more anomalies between the retail electricity markets on the island in the future it is better to assess the policy options with respect to this criterion now. The item where this is most important in the immediate term is in relation to any restriction on rebidding.

Synchronisation of retail market processes

ESBIE are opposed to changing the electricity retail market timeframes in the years following the introduction of the SEM - unless there is a very clear reason for effecting this change. The electricity retail market has recently transitioned to a tariff year that is aligned to the standard gas purchasing year (October to September). Companies that operate in both jurisdictions on the island have recently transitioned to a single tariff period and it would increase the administration costs if this needs to change again. Furthermore it is not clear that a synchronisation would deliver benefits over and above the current retail market timeframe. The most important attribute of the retail tariff period is that it should be aligned to the majority of levies and use of system charges.

Shallow Supply Model

The consultation paper proposes that the concept of a shallow supply company be examined. While ESBIE has no objection to further evaluation of the option, we wish to highlight

- The efficiency of processing retail market messages is an area where suppliers compete, albeit through quality of customer service. To centralise this function would remove a competitive element from the market and ultimately has the potential to damage customer choice?
- Investing consumers' money in such a model may be unwise in a wholesale market where risk mitigation products are difficult to procure – since this issue is likely to be a bigger barrier to establishing a supply business.
- If the concept of a shallow supply model is viable – a market solution where a 3rd party provides data services to a supplier should be allowed to develop. This model is not uncommon in the electricity market in GB.
- Provisions that are considered by some as onerous, such as credit cover requirements, are necessary to protect the stability of the market and any default resulting in bad-debts in the SEM is likely to undermine investment. It is important therefore, that these provisions are not diluted in any way.

Liquidity of contract market

ESBIE welcome the prospect of greater liquidity in the contract market, however this needs to be approached with caution. ESBIE believe that the ideal solution is an industry-supported platform that is independent, appropriately collateralised and commercially focussed. Promoting a platform that is supported by industry participants is the most effective means of delivering an independent and responsive solution that strikes the appropriate balance between security and customer focus.

Divestment/Restriction on rebidding

As a policy measure, a control on rebidding is a far more subtle measure than divestment and ESBIE do not believe that these policy measures should be examined as a single option. ESBIE propose that, as a move towards harmonisation, the UR implement a policy which places restrictions on the incumbent rebidding for customers that have moved to the independent sector. The Commission for Energy Regulation (CER) have taken the decision to prevent rebidding in certain market segments and see this as a step towards full competition. Placing controls on the incumbent rebidding for customers in certain segments is consistent with the development of a fully competitive market. Independent suppliers operate in different environments to incumbents and this fact should be reflected in the regulations that apply to acquiring customers.

Demand Side

The UR is exploring harmonisation on a number of issues with the CER and this is referred to later in the response. One of the areas for joint-review is the effectiveness of existing demand-side schemes. Although these schemes are difficult to price, ESBIE believe that these schemes play a significant role in reducing the peak-demand on the island. As yet however the effective operation of demand-side units has not become commonplace in the wholesale electricity market. ESBIE believe that one reason for the lack of uptake is that because of SMP uplift, a demand-side bidder will find it difficult to bid a maximum price at which they wish to consume electricity. This arises because their demand-side unit may not be scheduled in the market because of the subtleties of the algorithm, while the outturn price may be in excess of this. The interconnector has been provided with a special suite of rules to allow traders to have firm prices a day in advance of market operation. A similar system with firm day-ahead prices and quantities should be explored for demand-side units if the regulators wish to stimulate widespread demand-side management that runs through the wholesale market.

Data Publication

ESBIE welcome the fact that the UR has outlined increased data publication as a step which is likely to have a positive impact on the market if it is implemented soon. It is important however that data that may have a negative impact on the market is not published. A set of data which may have a detrimental impact on competition is the market share or aggregate profile of individual independent suppliers. Other suppliers could use this information to make informed estimates of occasions when competitors have little of no capacity and use this to set their prices. ESBIE do not believe that independent suppliers in the market should have information relating to commercial activities published.

In conducting their review of revenue and tariffs for regulated businesses the UR frequently cites commercial confidentiality as the reason why a more detailed breakdown of the information is not available. ESBIE accept that this is warranted in certain situations but would prefer that there is a clear and unambiguous framework used to assess to each piece of information so that a consistent determination is made about the data in each case. This framework should be included in any review of data publication.