

**ESB Independent Energy's response to the
NIAUR Energy Retail Competition Work
Programme Consultation**

1st July 2009

Response to Consultation Questions

Consultation Question 1

Respondents are asked to comment on the impact of this paper with regard to equality of opportunity and good relations (paragraphs 9 to12).

ESB Independent Energy concurs with the Utility Regulator that the subject matter of this particular consultation paper does not impact on equality of opportunity and good relations and hence should not be subjected to an Equality Impact Assessment.

Consultation Question 2

General comments are invited on our overall approach to analysing the cost, benefits and options relating to supply competition.

ESB Independent Energy concurs with the broad and overall thrust of the costs and benefits approach outlined and particularly in terms of the net benefit i.e. the impact of competition on consumer end prices.

In terms of options relating to retail competition, while ESB Independent Energy recognises that the Utility Regulator is responsible for protecting Northern Ireland (NI) consumers and that the Utility Regulator places a high value on competition as a means to deliver consumer benefits, we believe that an All-Island Retail Market Framework offers both regulators North and South the best opportunity to protect their customers over the medium to long-term. In our view this would be best achieved through the development of a joint NIAUR/CER retail strategy specifically addressing the issues affecting the further development of an All-Island Retail Electricity Market post-SEM, particularly given the relative small size of the NI market and indeed an All-Island market.

We believe that the most efficient way to safeguard customer interests and the interests of all market stakeholders is through effective sustainable competition in an All-Island Retail Market. The key to this is ensuring a level-playing field for all market participants within the market in as many areas of operation as possible. This would also encourage new entrants to the market who are unlikely to want to consider either NI or the Republic of Ireland (RoI) in isolation.

In this regard, ESB Independent Energy would strongly urge the Utility Regulator to work to ensure that where practicable, all retail arrangements are harmonised with those in the RoI on an All-Island basis. All-Island harmonisation of certain retail

issues is being examined at the moment e.g. Fuel Mix Disclosure, K-factor and Tariff Structures review but ESB Independent Energy would like to see this taken further and for all measures to be examined in the context of All-Island retail harmonisation, specifically e.g. harmonisation of market processes & market systems, tariff setting and regulatory oversight (similar to SEMO).

For example, currently suppliers have to operate and manage two separate Networks retail market messaging business processes and systems North and South for dealing with new customer registrations, de-energisations & re-energisations and meter readings processing etc. Harmonisation of these systems would, firstly, reduce the cost of doing business in both markets especially in relation to reducing the cost of entry into the market since, as mentioned already, a new entrant is unlikely to consider the Republic of Ireland or Northern Ireland in isolation. Secondly, it is likely that by harmonising the two systems, the overall cost of providing the Networks market messaging service could be reduced. Therefore, ESB Independent Energy believes that the logical conclusion to this particular process is a single retail market system managed by a single entity under joint regulatory oversight.

Also, ESB Independent Energy are involved in the recruitment of a number of our own customers in RoI for participation in a comprehensive pilot testing scheme in advance of the main roll-out of SMART Metering across all of RoI. This requires the development of a comprehensive functional specification. This is being conducted without the inclusion of NI who is also now beginning to separately investigate the roll-out of SMART Metering across NI in the future. Notwithstanding the different junctures that RoI and NI are in relation to their respective SMART Metering projects, ESB Independent Energy believes that the benefits and costs associated with SMART Metering must be studied and determined from an All-Island Retail Market perspective and that a consistent approach to SMART Metering on an All-Island basis would be good for customers in terms of e.g. future costs, SMART Tariffs being offered.

Consultation Question 3

To what extent is segmentation of the retail sector inevitable and indeed healthy?

What kinds of segmentation (or inequality of outcome) would respondents see as undesirable, and at what level might regulatory intervention be justified?

ESB Independent Energy believes segmentation in terms of regulatory treatment is probably inevitable and potentially necessary to protect as you say the 'vulnerable' members of the sector. Competition in the domestic retail sector should deliver benefits to all sectors and measures must be taken to encourage supplier competition in the domestic sector but without a detrimental impact on vulnerable customers. At the same time, this segmentation should be conducive with cost reflecting pricing and it should also not be to the detriment of competition which inevitably benefits customers as a whole.

Regulatory intervention may also be required in order to ensure that all customers are equally attractive to suppliers e.g. by extending the NI policy of preventing debt hopping to RoI it removes a disincentive for suppliers to take on credit poor customers. This would also fall within the scope of harmonisation of the retail markets North and South.

Consultation Question 4

The paper suggests that the Utility Regulator should monitor with particular care levels of competition for rural customers, pre-payment customers and those not on the gas network. Also that we should monitor closely whether current meter-reading obligations are sufficient.

Comments on these priorities are invited. Do respondents wish to suggest other areas that require particular attention from us?

ESB Independent Energy concurs that the Utility Regulator should monitor the level of competition in the market for the all customer groupings mentioned, vulnerable customers etc but repeat the point we made earlier that segmentation should not be to the detriment of competition.

As regards meter reading obligations and these maybe being somewhat diminished in recent years as a result of, for example, meter reading estimates becoming more the norm as actual meter reading has significantly reduced in recent years, ESB Independent Energy believes this further strengthens the case for SMART Metering roll-out on an All-Island basis as this will have positive impacts regarding meter

reading, transparency etc e.g. provision of actual electronic half-hourly data for current read NI NHH & RoI NQH metered customers and so will eliminate estimate readings.

Consultation Question 5

Comments are sought on our proposed approach to continued regulation of tariffs in the coming years (paragraphs 75 to 78).

Again, whilst ESB Independent Energy welcomes and agrees with the broad approach set out under points 75 – 78 e.g. prices should be set in such a way that they accurately reflect risk allocation that is the same for both incumbents and new entrants, the point about tariffs being deliberately set above cost to provide headroom and the assertion by the Utility Regulator that is not your intention, your intention to review your current annual approach to tariff setting in the current volatile market climate etc, we would make the following points:

ESB Independent Energy believes tariffs should be cost reflective and it is critical that the tariff setting process does not undermine competition. The current process of setting an annual tariff in itself has the potential to create risk for both existing independent suppliers and new entrants as they tend to offer their own tariff products in a hedging market that offers products over multiple time horizons or different contract timelines. Therefore, at a minimum, we believe that there needs to be far greater transparency, timeliness and opportunity to input into the whole NIE Energy Supply retail tariff structure setting process and price control exercise. We are of the view that there is a general lack of published consultative information on past tariff setting and insufficient time given to address consultations. ESB Independent Energy believes a full, open and timely consultative framework for setting NIE Energy Supply retail tariffs would add significant value to the whole transparency of tariff setting consultations.

In this regard, ESB Independent Energy welcomes the recent joint publication by NIAUR & CER of the 2009 Electricity Retail Tariff Timetable as evidence of co-operation between the regulatory authorities and transparency around the whole regulated tariff setting process North and South.

Also, in terms of data publication, ESB Independent Energy welcomes the fact that the Utility Regulator has outlined increased data publication as a step which is likely to have a positive impact on the market if it is implemented soon (previous consultations/SIGs etc). It is important however that data that may have a negative impact on the market is not published. While we would support and gladly welcome

the publication of overall market data e.g. overall total customer numbers in different I&C, SME and Domestic sectors and corresponding total volume (GWh) figures in the different sectors, 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 or no capacity and use this to set their prices. ESB Independent Energy does 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 Utility Regulator frequently cites commercial confidentiality as the reason why a more detailed breakdown of the information is not available. ESB Independent Energy accepts that this is warranted in certain situations but would prefer that there is a clear and unambiguous framework used to assess 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.