



**Electricity Supply Board**

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Queen's House,  
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19th June 2009

**CONSULTATION PAPER**  
**Energy Retail Competition Work Programme: General Overview and Rationale**

Dear Elena,

ESB Customer Supply (ESBCS) is pleased to be able to respond to this consultation regarding the General Overview and Rationale of Energy Retail Competition in Northern Ireland (NI).

Our response below is framed around the five consultation questions raised in the paper.

**General**

ESBCS supports the establishment of an All-Island Retail Energy Market incorporating electricity and gas, which would dovetail with the All-Island wholesale electricity market (SEM) and Common Arrangements for Gas (CAG).

To this end:

- The Utility Regulator should continue to work with CER to foster competitive Retail markets with an All-Island perspective and to leverage from the experience of the introduction and ongoing functioning of SEM.
- Where appropriate, and reflecting on the successful precedent of SEM, cross jurisdictional cooperation should be encouraged at a retail market level so as to eliminate the need for duplication in process design and system definition.
- It is timely now for this 'cooperation in process definition' to occur as it has the potential for shortening the timeframe for delivery of an enduring solution for the

NI retail electricity market, as well as offering the potential for substantial synergies to Market Participants to operate on an All-Island market basis.

***Question 1 – Impact of this paper with regard to equality of opportunity and good relations***

ESBCS concurs with the sentiments of paragraph 12 that the high level nature of the paper does not make it an appropriate subject for Equality Impact Assessment and would also agree with a reassessment following analysis of responses.

***Question 2 – General comments on overall approach to analysing the cost, benefits and options relating to supply competition***

The consultation paper states at paragraph 31 that comparisons between NI and Great Britain (GB) are limited but gives no justification for this. ESBCS feels that the Utility Regulator should leverage the experiences of the GB retail markets when deciding on the steps that it will take to promote and advance competition. The GB jurisdiction is very similar to that of both NI and the Republic of Ireland (ROI) and, although the scale may not be similar, drawing on the precedent in the GB market may be very useful and should not be discounted too quickly.

ESBCS also considers that there would also be significant benefit in referencing the ROI market. The recent commencement of domestic electricity competition is a verification that competition is effective in the ROI and that the processes and systems in place can cope with high volumes of customer transactions.

The consultation paper acknowledges that introducing competition involves significant costs such as the introduction of switching systems, that significant expenditure on such systems has already been incurred and further expenditure will be required to implement the enduring solution.

However, an easy Change of Supplier Process incorporating an effective Switching System is critical for the development and ongoing support of competition. The ERGEG Fact Sheet 'Put Consumers First'<sup>1</sup> states that:

- Better information, more ease of switching empowers consumers;
- The switching process must be easy, fast and free - standardised data formats are key;
- Consumers have a key role in stimulating competition by shopping around between suppliers for the best value and exercising their right to choose.

ESBCS suggests that common switching processes and interfaces be established in NI and ROI. It is likely that across the Market Participant community that there would be synergies to be gained by adopting the same processes and interfaces North and South.

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<sup>1</sup> [http://www.ceer-eu.org/portal/page/portal/EER\\_HOME/FS-08-02\\_EUEnergyRegulatorsPutConsumersFirst\\_2008-10\\_Fi1.pdf](http://www.ceer-eu.org/portal/page/portal/EER_HOME/FS-08-02_EUEnergyRegulatorsPutConsumersFirst_2008-10_Fi1.pdf)

The current switching system in place in NI and lack of uniform data transparency continue to be significant barriers to entry, although it is acknowledged in the paper, that work is now underway to improve on current operational limits.

The other barriers previously highlighted in the Utility Regulator's competition paper in April 2008<sup>2</sup> also remain in place i.e. lack of market liquidity, position of incumbent supplier in a small market, price control factors and high customer acquisition costs. ESBCS suggests that these barriers should be tackled in parallel with the logistical work activities of switching systems and processes.

While competition better meets the needs of consumers, in a market transition from regulated monopoly to the development of a more competitive market structure it will be incumbent on the regulatory authority to facilitate and promote a number of market conditions to help develop effective competition. These should include:

- Customer awareness
- The availability and comparability of competitive customer offerings
- Customer ease of use of the switching process;
- Timely information/data on gross and net rates of switching;
- The extent of existing competition based on customer surveys etc
- The extent of prospective competition
- Market share by competing retailers; and
- Barriers/ease of entry faced by potentially competing retailers

***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?***

Segmentation of the energy retail sector has been observed in most jurisdictions and is likely that the situation will be similar for the NI market. Energy retailers will incur costs in attracting new customers, and segmentation is a means of facilitating a customer acquisition strategy at minimum cost. The longer term concern would be that discrimination would apply against customers who do not switch suppliers or who are encouraged to exercise choices that are less preferential than their existing arrangements. The recent Ofgem Energy Supply probe in GB<sup>3</sup>, which is seen as one of the most open energy markets worldwide, expressed concerns about sales and marketing conduct and the failure of competing retailers to provide clear information to potential customers. We would encourage the Utility Regulator to examine the lessons from the GB market in this instance and through a process of effective regulatory oversight prevent undue discrimination. The suggestions noted in the Ofgem Energy probe should be borne in mind:

- Promoting more active customer engagement – clearer bills, annual statement; annual prompt re switching possibilities; promote price comparisons; simplify switching process.
- Helping consumers make well-informed choices
- Adequate rules on suppliers' sales and marketing activities
- Helping small business consumers

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<sup>2</sup> Consultation on Electricity and Gas retail Market Competition in Northern Ireland 23<sup>rd</sup> April 2008

<sup>3</sup> Energy Supply probe – Initial Findings Report (Ref:140/08) 6th October 2008

- Prohibition on undue price discrimination

With regard to the possible areas of segmentation specifically highlighted in the paper we would make the following observations:

**Dual fuel-Rural/urban:** we believe that even if dual fuel is used as an initial market entry point by a retailer it is unlikely to be a normal feature of a NI market structure due to the very limited coverage of the gas network. Therefore the Utility Regulator should not be overly concerned about the development of enduring discrimination on the basis of dual fuel offerings.

Paragraph 70(c) states that switching rates continue to be lowest in the most rural parts of GB and explains that this may relate to the cost of doorstep sales in geographically dispersed locations. Another factor, in our view, is the non availability of gas in the more remote geographic locations. The competitive GB retail market was, and is still, based on dual fuel offerings where over 80% of electricity consumers are also gas consumers and we understand that there isn't significant rural/urban differentiation observed as most customers are capable of taking a dual fuel offering. It is reported that at least one third of GB customers avail of dual fuel offerings from the same supplier.

**Price differentials:** the most recent experience of new retail entrants to the domestic market in ROI providing a significant price discount against regulated tariffs underlines the Utility Regulator's survey findings that "consumers regard price as, overall, the most important factor". The statement at paragraph 72 in relation to the extent that prepayment meters in NI will avoid problems of segmentation is probably made on the basis that NIEES service these customers via a common service provider arrangement to which all suppliers can have access, and thus there isn't a market structure barrier to entry. However it doesn't acknowledge that new retail entrants will be required to make significant investments in a payment facility infrastructure to access this significant tranche of customers. The Utility Regulator should recognise this fact and ensure that no unnecessary barriers prevent prepayment customers from availing of competitive offerings.

**Non-switchers:** While it is recognised that there is a small risk of suppliers price discriminating against consumers who do not switch it must also be remembered that consumers may be exhibiting choice by remaining with their existing supplier. The Utility Regulator should ensure that all supplier offerings do not unjustly price discriminate against a particular category of customers. In this regard we welcome the statement in paragraph 86 that the Utility Regulator will adopt a policy that ensures the benefits of competition will be shared by all consumer groups.

***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?***

ESBCS supports the concept of monitoring by the Utility Regulator in order to safeguard consumers from abuse. We would also encourage the Utility Regulator to let competition develop and in this regard the Utility Regulator should not be prescriptive about setting specific rules around types of tariff that should be offered and the consumer base that 'must' be targeted.

### **SMART Metering**

The consultation paper states that smart metering is relevant in providing consumers with accurate information about their own energy consumption and costs and will collaborate with DETI in the coming year in their assessment of costs and benefits of a smart meter roll-out.

In the ROI smart metering pilots have already commenced for domestic and business customers. There is the potential for distortion to competition to develop between both jurisdictions and a lack of opportunity afforded to NI consumers if SMART metering doesn't proceed in a timely manner. There will also be the potential for technical and business process impacts for a Supplier operating in an All-Island context where technology and enabling mechanisms are different in both parts of the island. Such lack of synergies would likely impact on tariffs provided by that supplier.

### **SME Sector**

In order to promote competition in the SME sector some of the measures considered in the Ofgem probe could be considered such as:

- Requirement to inform small business customers clearly in writing of the key terms and conditions of their contracts especially those relating to switching and roll-over;
- Code of practice to govern the objections and switching process to ensure greater uniformity and arrangements for changing supplier and contract extension
- Accreditation scheme for switching sites dealing with small business customers
- Code of practice on Third Party intermediaries

### ***Question 5 – Proposed approach to continued regulation of tariffs in the coming years***

Because of the current barriers to entry mentioned under question 2 above the establishment of effective competition in NI is unlikely to take place quickly unless significant intervention occurs. In contrast significant developments have recently occurred in the ROI where domestic electricity competition has commenced. The Utility Regulator states that such competition would encourage it to consider lifting price controls bearing in mind the interests of all consumers, including non-switchers.

Over time and given the right conditions as mentioned under question 2 above, (established competition; high customer awareness and willingness to switch; and low barriers to entry) competition can be expected to become sufficiently well developed to allow formal tariff regulation to be removed, even if some other forms of less direct regulation remains necessary. Moving from regulation to competition is likely to require

the development of a range of codes of conduct and guidelines to ensure that the conduct of market participants is appropriate. We suggest that there will be a need to develop a competition assessment framework similar to that developed by Ofgem and a work programme to support it.

The importance of inter-jurisdictional co-operation cannot be overemphasised and is demonstrated well in the wholesale electricity market. In the retail electricity market some co-operation is taking place – reviews of k-factor, supply margins and regulated tariff structures. The paper states that further consultation will be undertaken in 2009/10 to cover risk allocation and begin sketching out an evolutionary path for tariff regulation. Because significant domestic competition has already commenced in the ROI retail market there is a greater urgency now to complete this process as soon as possible. The consultations/reviews need to be fast-tracked and decisions made more urgently because of the changing circumstances.

ERGEG, the European regulators group, in a recent report<sup>4</sup> argued for customers' interests to be protected by the market rather than by regulatory intervention and it stated that end-user price regulation is not the right solution to protect or to empower consumers in the market.

If you require any clarification on any of the points raised above please do not hesitate to contact me.

Yours sincerely,

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Gerry McDonald,  
ESB Customer Supply

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<sup>4</sup> ERGEG Position Paper on End-user Price Regulation. Ref. E07-CPR-10-03 18<sup>th</sup> July 2007