



Response by Energia to Utility Regulator Consultation

***Consultation on the Implementation of the Retail
Energy Market Monitoring (REMM) Framework***

2 April 2015

1. Introduction

Energia welcomes the opportunity to respond to the Utility Regulator (UR) consultation on the implementation of the Retail Energy Market Monitoring (REMM) Framework. This consultation is framed by the Third Energy Package which is in itself not overly prescriptive on the detail of market monitoring. It is therefore important that the UR find an appropriate balance between the regulatory burden being imposed on suppliers and the ability of the UR to discharge its statutory duties towards customers. We acknowledge the benefit of accurate, informative and relevant data being available to the market, however, we also draw attention to the costs associated with meeting these reporting requirements. Furthermore, the UR has a large amount of discretion in the design and implementation of the REMM framework and it is important that this framework is implemented proportionately.

This response provides a general overview before moving onto provide more specifics on the financial reporting elements and outputs, before finally providing comment on individual indicators under the headings as they appear in the consultation.

2. General Comments

One of the core principles of the consultation is “Proportionality” and ensuring that an undue regulatory burden is not placed on suppliers. It is apparent from the consultation paper that this principle has influenced the development of indicators in a number of areas, for example using network data sources, where possible, and thus not placing an undue burden on suppliers. However, elsewhere in the paper, it is unclear that the same attention is paid to adherence to this principle.

One such area is in the duplication of efforts to develop similar metrics for both Northern Ireland and Ireland, wherein the alignment of the methodologies for common metrics would not only allow those operating in both markets to reduce cost and simplify procedures, but it would allow a more meaningful assessment of information across both markets. This could benefit both suppliers and consumers.

The indicators in the consultation have been designed to capture data that the UR has deemed to be useful for the purposes outlined in the paper. Due consideration needs to be given to the data sources, how they are currently collated and utilised by suppliers, and based on this, how they’re best reported on under REMM. This should be a collaborative process between UR and suppliers.

The outputs from REMM will see the publication of large amounts of information that may be open to differing interpretations. The manner in which the resulting data is published needs to be considered further. Data should not be published without being contextualised and analysed by UR. Information should not be published for the sake of publishing, but rather there needs to be a clear logic and benefit to the dissemination of data to minimise rather than increase customer confusion.

We also have concerns about commercially sensitive data being subject to Freedom of Information (FoI) requests and we would ask that such concerns around

commercially sensitive data be factored in when designing the indicators. As outlined in further detail below, there are issues with premature publication of annual reports and trading data. If submitted in the timeline outlined by the regulator these reports will be unaudited and could be subject to revisions. More importantly, placing such a requirement on suppliers could place them in the unenviable position of having to refuse to report certain data, as to do so may contravene certain financial covenants and duties to the company and its shareholders. We would suggest that final accounts are submitted eight months after year end. This would ensure the reliability of the information and allow us to present this information to our stakeholders.

As the Regulator intends to inform policy based on the data obtained from REMM it is crucial that the Regulator gives enough time for new metrics to become established in the market and to allow for sufficient accumulation of data to ensure that trends are observable.

Finally, as highlighted in previous submissions, changes that occur in isolation can appear insignificant. However, it is important to be cognisant of the cumulative impacts of all the proposed changes contained within a consultation. Bearing this in mind, each indicator here should be assessed while keeping in mind the administrative burden, cost of implementing the changes and the actual benefit of the proposed indicator. This is particularly important given the ongoing strain to our resources brought about by existing consultations and the current wholesale redesign of SEM.

3. Financial Reporting

3.1 Reporting Timing

In response to the proposed timelines for reporting on the indicators, (i.e. one month in arrears) this is not realistically achievable as not only would this proposed date be in advance of management reports and financial results being approved by the company board, it would result in a greater risk of inaccuracy and revision. Based on the proposed reporting timeline, actual billing for the consumption month will not have completed. UR will need to decide if it is important that actual billing and consumption figures or estimated / forecast revenue figures are required. (See below for settlement timing differences).

In addition to this, as the UR cannot guarantee that the financial information would not be subject to a FoI request, there is the potential for privileged information being made publically available before the board has reported the financial performance of the company to its shareholders. In a best case scenario, basic financial information will only be available sixty days after the end of the accounting period. However, as outlined herein, this results in significant risk regarding the accuracy of margin figures as there are substantial timing differences across the market settlement regimes.

It is therefore proposed that cost of sales and margin figures are provided annually and revenue figures are provided monthly sixty days in arrears. Further information is contained herein which identifies the risks of reporting margins.

3.2 Settlement Timing Differences

There are various settlement timing differences in the electricity market that can result in inaccurate financial information, for example:

- SEM settlement – the SEM settles on an initial Day+4, Month+4 and Month+13 basis (also ad hoc if variances are noted in between).
- DUOS settlement – there is no time limit on when resettlement can take place
- TUOS settlement – in line with M+13 SEM resettlement
- Sales volumes – billed monthly on meter reads or estimates

Different timelines of settlements and application of meter reads introduces resettlement risk. This can be a cost or a benefit, within any financial period there will always be an outstanding resettlement period and initial billed figures can change. If a customer's bill is corrected before the wholesale cost resettles there will be an associated income or cost at a future date. This will impact the margins made per customer type, generally over a longer period of time these variance are relatively small however if reporting on a short period of time variance could significantly impact sector specific results.

3.3 Difference in Accounting Standards Applied

Energia operate under IFRS however other companies may use alternative accounting standards. This can make the results between companies incomparable for some items. One such area is IAS 39 which impacts on the disclosure of financial derivatives. Effectively 'ineffective' hedge items are taken to the P&L account. This can increase or decrease profits depending on the mark to market movement within the reported period. However the hedge instruments actually relate to future forecasted costs / income. These costs will become part of the P&L through cost of sales when they settle however MTM movements that must be taken to the P&L in IAS report will create volatility in margins / customer groups across a short time period.

3.4 Treatment of Renewables

Energia renewables are held under the same legal entity as the Retail supply business. Profits from renewables are included in the Regulated accounts and will impact margin per customer. In addition the UR will need to be conscious of treating de minimus renewable generation equitably across all participants It may be useful if UR propose how de minimus renewable profits be treated in the financial reporting requirements.

4. Implementation of the Resulting metrics

As the proposed reporting requirements are not insignificant and occur at a time of significant change to the sector, the lead in time to implement these new metrics will be substantial. Resources are stretched by the amount of change being proposed and implemented in the energy sector on the island. Most significantly, these changes are taking place in the shadow of a redesign of the SEM.

Before a robust and accurate system of reporting can be developed, we first must engage in a design phase and then carry out extensive testing to the new systems.

The time taken is further compounded by the different reporting requirements being imposed by the CER and UR. Bearing this in mind, it is Energia's best estimate that the proposed changes would take a minimum of 5 months to design and implement and a further 3 months to ensure integrity of the data contained within the reports.

5. Reporting Indicators

5.1. Governance and data quality (3.12)

One of the suggestions contained within the consultation is to have a single point of contact within organisations that will be responsible for submissions and for corresponding with the UR. In order to ensure resilience within organisations, we would suggest that this not be limited to one contact but have at a minimum, a primary and secondary contact that will be included in all correspondences with the UR.

5.2. Timing of the data submissions (4.3.2)

It is essential in terms of data quality that only account information that has been audited and signed-off is submitted. It is also not appropriate in a commercial context, and in fact may not be contractually permitted, for such accounts to be divulged before shareholders and concerned parties.

In light of this, the UR should reconsider their request for account information. As an alternative, we propose that the annual margin return submission does not occur until a time that the accounts have been signed off and audited, this should be approximately 8 months after year end.

In relation to amendments to the templates, we would request that if changes occur after the finalisation of the consultation that there is an opportunity to respond to any substantial changes to the agreed templates prior to its implementation. Without considered and balanced changes with input from both perspectives, the UR runs the risk of straying from the core principles outlined in this consultation as well as forcing reporting redesigns which may cause significant delays and impact on data accuracy and quality.

5.3. Market Share – Allocation of Electricity customer into groups (5.3.1)

The UR is proposing that customers be disaggregated based on consumption data. This is potentially very problematic for suppliers. A fluctuation in an I&C customer's energy usage could result in them moving through categories. These variations in consumption could be seasonal or more frequent but either way could result in a significant number of customers moving through categories. This then causes difficulties in us reporting and results in a less meaningful metric for the UR. Adopting a categorisation based on T-codes, rather than consumption, would reduce the regulatory burden being imposed on suppliers and would be a more useful metric for I&C customers as they are already familiar with this categorisation.

5.4. Renegotiated contracts (5.1)

The Cornwall report recently concluded that competition in the I&C sector was working. In light of this, the requirement for the level of information proposed under

this metric is questionable both in general terms and with respect to the principle of proportionality. Given that a report commissioned by UR concludes that the market is working we do not see the benefit of seeking this information on all aspects of the market, particularly for the I&C sector. As such we contend that this indicator, as proposed, is not justifiable in this context and does not align with the principles of this consultation as set out by UR.

5.5. Complaints (5.7.1)

Energia takes customer care and complaints seriously and has detailed process and procedures to deal with any issues that may arise. The effective handling of complaints is extremely important to us. Notwithstanding the above, if this metric is to provide accurate and useful data, then network complaints and complaints against third parties cannot be willingly attributed to the reporting suppliers. Currently, the proposed breakdown does not allow for complaints to be appropriately allocated to Networks or third parties and this will likely result in an overstatement of complaints made against suppliers. Such a result is considered to be wholly unjustifiable. As it stands, if supplier complaints, network complaints and complaints against third parties are not segregated, this metric will not provide meaningful data. This is of considerable concern as the intention is to inform policy based on the information obtained from the REMM reporting requirements.

In order for the regulator to fully discharge its obligations in relation to the consumer, all aspects of the market that impact directly on the consumer's experience need to be accounted for. This must include any issues arising from the customer's interaction with Networks. We take particular issue with the inclusion of the following categories as supplier issues:

- Quality of Supply
- New Connections
- Disconnections/Reconnections (Network only)

The above categories are specifically linked to the service provided by networks and in no way should these complaints be attributed to suppliers. In order to protect customers thoroughly in the market, a separate network specific complaints list should be included to mirror the complaint categories as outlined in the consultation.

In terms of the classification of complaints, we note that Energia does not currently operate a classification system and the systemisation of such an approach is not considered to be straightforward. We therefore are unsure how this feature could be added to our systems without significant time and expense, notwithstanding the views of UR in the paper that such changes should not be required.

5.6. Customer account balances (5.10.1)

The structure of this indicator does not provide comprehensive details on customer account balances. In Northern Ireland, Energia exclusively supplies non-domestic customers and a site-by-site categorisation of customer account balances is not practical or representative of the real world. For example, a customer may have a

number of sites in debit with one in credit. Reporting of this metric on a site-by-site basis would show that there are a multiple accounts in debit whereas if the sites are aggregated to company or account level, then the accounts will be in balance.

In relation to this metric we propose it be amended and that it be reported on a company basis rather than site-by-site, thus giving a metric that is more suited to I&C customer set.

5.7. Retail Margins (5.11)

This indicator has been taken from the Cornwall Energy report and we welcome the proposal to introduce a common methodology to determine retail margins in different segments of the market. However, a number of points remain outstanding. First, it is considered preferable for network costs to reflect actual network costs and not for them to be based on profiled consumption. Where there is to be sub-categories within the domestic and non-domestic segments of the market, this would be facilitated by a split based on T-codes. A split based on consumption, as proposed, will introduce additional complexity in terms of tracking specific customers and reporting consistently on customers with the best available data.

Furthermore, it is unclear why, in light of the Cornwall Energy report on competition in the market, sub-categories based on consumption within the non-domestic sector is being proposed. This will increase cost and complexity, and may represent a disproportionate and undue burden on suppliers.

6. Conclusions

In summary, it is Energia's view that aspects of the proposed REMM framework will result in an increased regulatory burden and cost to both suppliers and consumers, with the benefit of some of the proposed metrics remaining unclear. From the point of view of UR's overall approach, we would ask that adherence to the core principles of proportionality and avoiding undue regulatory burden, is maintained equally across all of the proposed metrics.

While we acknowledge there are some differences between the NI and Irish retail markets, we would urge the UR to, where possible, align metrics with those being requested by the CER in their market monitoring work. This would result in a reduced regulatory burden on suppliers, reduced cost and increased interoperability of data for consumers and suppliers operating in both jurisdictions.

We would ask that the UR be mindful as to how it uses or publishes the data collated under REMM. No data should be published without being contextualised, appropriately filtered and examined. Furthermore, the timeline for data submission should respect constraints on suppliers in terms of reporting sensitive commercial information. As we have noted herein, the disclosure of certain information may be restricted by existing financial covenants. Also, the potential availability of such sensitive data through FoI requests could be detrimental to the supplier and its shareholders if released in advance of its presentation to shareholders and/or bondholders.

We also request that the Regulator reviews the following aspects of the consultation, bearing in mind earlier comments.

- Sufficient time should be allowed for suppliers to test and build the required reports. (8 months).
- Categorisation of I&C customers by T-codes would result in reduced administrative burden to suppliers and a more useful metric for industry and Stakeholders across NI and RoI.
- The removal of renegotiated contracts as a metric, at least for large customers.
- In order to correctly attribute complaints and to truly measure a consumer's experience in the market, it is essential that complaints relating to networks and third parties can be reported separately.
- Customer account balance should be assessed on customer/company level rather than account by account.