

# **ESB Response to Draft Forward Work Plan (April 2012 – March 2013)**

## **Summary**

ESB welcomes the publication by the Utility Regulator of its Forward Work Plan for industry comment.

ESB requests the Utility Regulator to consider the proposals and recommendations made in this response including:

- The necessity for an assessment of the viability of stand-alone supply companies in a competitive Northern Ireland retail electricity market;
- The need to strike a balance in all regulatory determinations between the regulatory burden and costs arising for market participants, as against the cost / benefits to the market and customers;
- A reviews of mechanisms to encourage additional parties (including for example financial institutions) to offer financial contracts within the market;
- The need for prioritisation of Regional Market Integration within the 2012/2013 work plan and the need for cost / benefit assessment of all market design options;
- Development of policy to support Clean Coal and Carbon Capture & Storage technologies for the island of Ireland;
- Development of a set of regulatory principles to both guide decision making and provide insight into the Utility Regulator's intent for strategic development of the sector;

ESB believes that regulatory action in these areas will deliver benefits for customers through further competition in the retail and wholesale markets, advance regional market integration and support improvements in security of supply in an all-island context.

ESB believes that such actions in combination with other activities incorporated in the FWP are appropriate for the period April 2012 – March 2013.

## **Introduction**

ESB welcomes the opportunity to respond to this consultation and provide its views on the Utility Regulator's Forward Work Plan (FWP) covering the period April 2012 to March 2013. The paper provides insight into those areas that the Utility Regulator considers will require the greatest focus over the coming year.

ESB had responded to the previous Forward Work Plans for 2010-2011 and 2011-2012 and appreciates that some of the priority areas that ESB had highlighted on those occasions have been included in this FWP.

In this response ESB has structured its comments primarily in relation to the electricity sector and focused on the following key areas:

- Retail Market Competition;
- Ensuring cost / service balance in all regulatory determinations;
- Competition in the energy wholesale market;
- Regional Market Integration;
- Security of Supply;

In addition, ESB suggests that to aid understanding across the stakeholder community of regulatory strategy on particular matters and to minimise regulatory uncertainty regarding evolution and development of the sector that the Utility Regulator considers development of a set of principles that will guide decision making for the sector.

## ***Retail Market Competition***

Power NI and Electric Ireland are stand-alone supply companies operating in the market. As stand-alone supply companies they face degrees of risk that are not faced by other suppliers in the sector. The stand-alone nature of their business significantly impacts on their ability to most effectively and economically manage market risks on behalf of their customers. This situation does not offer best value to customers and is hindering both suppliers' ability to offer competitive tariffs to all sectors of the retail market.

In order to support sustainable retail market competition in Northern Ireland, ESB suggests that the Utility Regulator needs to assess the viability of stand-alone supply businesses in the current market arrangements. Subsequent to that assessment, ESB suggests that those measures necessary to sustain a competitive retail market should be implemented for all suppliers in Northern Ireland.

### ***Cost / Service Balance in all Regulatory Determinations***

A key objective of the Utility Regulator is to protect the interests of the customer. Where regulatory determinations introduce costs to the energy sector, these costs in many cases are eventually borne by the customer. To minimise impact on customers, ESB believes that all regulatory determinations must be made in the context of balancing the costs to the market participants of delivering on the Utility Regulator's decisions as against the cost / benefits to the customer.

For example, in a market where supply companies operate to a very low margin, it will be important that a balance is maintained between the costs to deliver changes prescribed by the Utility Regulator e.g. in the interests of competition and customer protection, and the benefits arising from these decisions.

### ***Competition in the Energy Wholesale Market***

ESB notes that NIAUR has included the implementation of “decisions regarding improvement on contract market liquidity and the mitigation of the exercise of market power” in its FWP.

The SEM Committee has acknowledged the recent developments in contract liquidity including PSO-related CfDs, regular NDC auctions including for short-term products, and the new Tullet Prebon OTC trading facility. ESB has been instrumental in each of these developments, hosting the PSO-related CfD auctions on behalf of the RAs, voluntarily and unilaterally increasing the frequency of NDC auctions and selling longer term products to meet the needs of Suppliers, and driving the development of the OTC platform with Tullet Prebon and other market participants. ESB has delivered on all its commitments in respect of wholesale liquidity and has driven progress in this area.

However, we remain concerned that ESB is the only market participant selling wholesale contracts. Whilst this situation remains, ESB is concerned that a perception may arise from ESB's willingness and cooperation in this regard, that ESB has a dominant position in this contracts market and the greater the sense of the other market participants that market liquidity is an issue for ESB alone.

We note the RA's view that ‘liquidity is generally best developing organically through industry/market initiatives.’ rather than through intervention. However, ESB is the only market player developing initiatives and, if this continues, then some direct intervention impacting all generators must be required. Alternatively, ESB suggests that the Utility Regulator reviews mechanisms to encourage additional parties (including for example financial institutions) to offer financial contracts within the market.

Recognising that the SEMC's recent “Market Power & Liquidity” conclusions in respect of market power and the MMU views that the current market power mitigation measures (BCoP, DCs and the MMU) are proving very effective, ESB would welcome clarity on those further market power mitigation “decisions” to be progressed by the Utility Regulator during this work plan.

## ***Regional Market Integration***

It is anticipated that Regional Integration will provide a number of benefits including facilitation of renewables and increasing wholesale market competition. The introduction of trading arrangements between SEM and BETTA and further with North Western Europe will provide increased opportunity for market participants to balance their market positions closer to real time reflecting the increased variability of renewables on the power system, and also provide the opportunity for increased contract liquidity.

Given the potential scale of impact, importance and timeframe to deliver any significant enduring market design changes, ESB feels that Regional Market Integration should be prioritised within the FWP for 2012/2013.

In order to minimise the impact on customer tariffs arising from implementation programme costs (both centrally and across all market participants), ESB suggest that all market design options be seriously considered together with their implementation and operation costs as well as the benefits. Indeed we would urge that full consideration be given to the benefits of full participation in a wider regional/EU internal energy market including, from customer, RES integration and security of supply perspectives.

## ***Security of Supply***

The Regional Market initiative and delivery of the DETI renewable targets will contribute to security of supply. Smart Grids, Energy Efficiency and Demand Side Management will also have a role to play in this area. As mentioned in ESB's response to the 2011/2012 FWP, there will be merit in the Utility Regulator and CER leveraging all potential synergies in support of supply security on an All-Island basis.

ESB supports the Utility Regulator plans to develop long-term arrangements for security of supply (electricity) on an all-island basis. ESB believes that all forms of low-carbon generation should be considered and in this regard believes that Clean Coal and Carbon Capture and Storage (CCS) will have a significant role to play. As such, recognising that the Moneypoint and Kilroot power stations are getting older and reflecting the lengthy timelines for their replacement, ESB suggests that the Utility Regulator, where appropriate in conjunction with CER, progresses the development of policy to support the utilisation of these technologies. It should be noted that it is not only coal fired generation that will require CCS. If the Electricity Sector is to be fully decarbonised between 2030 and 2050 then CCS on Gas Fired generation will also be required.

Completion of the North-South electricity Interconnector will also support security of supply on an All-Island basis. It may be necessary for the Utility Regulator and CER to work closely with the TSOs to ensure progression of this project through to construction stage, and thereafter with the transmission asset owner to support the completion of construction and commissioning of this critical infrastructure. ESB believes that the FWP would benefit from inclusion of activities to promote (within

the wider communities) the necessity and benefits of this infrastructure within both jurisdictions.

### ***Development of Regulatory Principles***

Investment decisions by generators, suppliers or network owners are influenced significantly by the degree of regulatory certainty that exists in the energy sector. Regulatory certainty is particularly important at this time, with the sector operating in a very uncertain economic environment.

At present there is significant regulatory uncertainty, for example surrounding the future evolution of the retail market in Northern Ireland (competitive forces versus ex-ante/ex-post regulation) and the future design of the wholesale electricity market. This uncertainty makes the development of business strategies for market participants more difficult and as a consequence may constrain the evolution of the sector.

ESB considers that there is merit in the Utility Regulator developing a set of regulatory principles which will guide decision making and underpin the future development of the sector as a whole. These principles would provide information on the regulator's intent / strategic direction for the sector together with guidance for all stakeholders on the basis against which future regulatory determinations will be made. These principles would minimise regulatory uncertainty, aid stakeholder understanding and acceptance of regulatory decisions as eventual outcomes would align with these principles.

In addition, the development and communication of regulatory principles by both regulatory authorities (the Utility Regulator and CER) would enable further coherence between both regulators on regulation and operation of the markets.