



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**REGULATORS' ANNUAL REPORT TO THE EUROPEAN  
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**COMMISSION FOR ENERGY REGULATION (IRELAND)**

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## 1.0 Foreword

In the energy sector, many people will remember 2008 as a year of “two halves”. The first saw an unprecedented rise in wholesale fuel prices, leading to an inevitable knock-on impact on consumer electricity and gas prices. The second in contrast was characterised by a collapse in these wholesale prices, as a direct result of the global economic downturn. It was against this volatile background that the Commission endeavoured to maintain a level of stability for customers and to mitigate the impact of this fuel volatility. The Commission implemented a two phased tariff review approach that resulted in regulated electricity and gas tariffs increasing by 17.5% and 20% on average respectively in the late summer months following record peaks in wholesale fuel costs in 2008. This interim measure protected consumers from bearing the full brunt of the unprecedented rises in fuel costs on international markets. A combination of drops in wholesale fuel prices and rebates secured by the Commission from BGE and the ESB ensured the second stage of the phased approach did not result in any further increases.

Despite price issues dominating, 2008 was also a year of tangible regulatory progress. In particular, significant steps were made towards the achievement of Ireland’s new 40% renewable target<sup>1</sup>, with the Commission’s decision to allow for the connection of an additional 3,900MW of renewable power in the Gate 3 process. It is estimated that an installed renewable capacity of 5,800MW will be required to meet the Governments 40% target for 2020. Gates 1 and 2 combined with the 3,900MW announced in Gate 3 should result in an installed renewable capacity of approximately 6,700MW (if all projects are completed) - putting Ireland in the position to meet and potentially surpass Government targets.

Connecting such high levels of intermittent generation plant to the electricity network does not come without its challenges; not least the need to ensure the market signals the necessity for the appropriate plant mix and the location of such plant. In addition, it is noted that there is a requirement to rollout in a timely fashion, the network infrastructure necessary to support renewable generation, often located far from load centres, and the conventional generation needed to support it. Significantly, the development of the East West Interconnector will allow for the export of excess generation on the system as well as improving security of supply and competition. Throughout 2008 the Commission continued to monitor the development of the 500MW East West Interconnector project. Considerable progress in its development is now likely in 2009.

The Single Electricity Market (SEM) celebrated its first birthday in November 2008. Both the CER and the NIAUR are satisfied that the new joint wholesale market arrangements are successfully delivering benefits for all consumers. Despite the high underlying fuel costs the design of the market ensures the most cost effective stations run first and that wholesale prices remain fair and competitive. Additionally the market is attracting significant interest in the development of new generation plant. In particular the entry of Endesa into the market is a reflection of the success of the SEM to date. As part of the CER-ESB Asset Strategy Agreement, which was designed to reduce ESB’s market share in the power generation sector in Ireland to 40% by 2010, ESB completed the sale of just over 1,000MW of plant to Endesa in

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<sup>1</sup> Government target of 40% electricity consumption from Renewable Energy Sources by 2020.

early 2009 following negotiations throughout 2008. Endesa are now in the position to become a significant player in the market.

In keeping with the Development Framework for an All Island Energy Market the Commission and the Utility Regulator signed a Memorandum of Understanding (MoU) for the development of Common Arrangements for Gas (CAG) on an All-Island basis on the 14th February 2008. The basic idea of the CAG is, drawing on the achievement of the SEM in the electricity sector, to establish all island trading, regulatory and statutory arrangements whereby all stakeholders can buy, sell, transport, and contribute to the development and planning of the natural gas market north and south of the border effectively on an all-island basis. Twelve work streams were identified. Particular progress was achieved in the areas of cost benefit analysis, network tariffs, code alignment, gas quality and commitment to an annual Joint Capacity Statement with effect from 2009.

Other significant gas developments in 2008 included the establishment and licensing of Gaslink as independent system operator – including its relationship with the network owner - a review and decision on the future of the RTF retail tariff regime for large industrial and commercial customers, approval of a new Natural Gas Emergency Plan and consideration of an application from the developers of the Shannon LNG project for exemption from regulated third party access rules

The Commission was pleased to launch its Energy Customers Team (ECT) and customer website: [www.energycustomers.ie](http://www.energycustomers.ie) in 2008. In addition to providing a customer information service, the ECT provides a complaint resolution service to customers who are in dispute with their electricity or natural gas supplier. The energycustomers.ie website provides customers with accessible, relevant information to allow them to become more “bill aware” and to actively manage their energy costs. The service also provides customers with information on their rights, suppliers’ codes of practice, the customer switching process and the complaints process. It is vital that consumers are fully aware of the components of their bill and the impact their consumption has on the level of their bill.

In keeping with the EU Directive on Energy End-User Efficiency and Energy Services, the Commission, in conjunction with ESB Networks progressed the Smart Metering project during 2008. The 1<sup>st</sup> phase of this project involves a number of Customer Behaviour Trials (CBT’s). These trials will enable information to be obtained on customer consumption patterns and will provide participating customers the opportunity to monitor their own consumption and make behavioural changes where necessary.

At an organisational level, Mr. Dermot Nolan, was appointed as third Commissioner of CER, by the Minister for Communications, Energy and Natural Resources in July 2008. Mr. Nolan has joined the Commission from his previous appointment at the Communications Regulator (ComReg). The Commission continues to work closely with NIAUR on the SEM through established Joint Regulatory Arrangements and also on the Common Arrangements for Gas (CAG) project.

Of key importance in 2009 is the development of the Commission’s 5 year Strategic Plan for 2010 – 2014. This plan will provide a high level outline of our strategic goals and the strategies we will implement to achieve those goals. The Commission will set out an ambitious vision, to

be developed in further detail over the next 5 years through its annual business planning process. The Strategic Plan will aim to ensure the necessary regulatory policies are in place to implement relevant aspects of the European Commission's 3rd Legislative Energy Package and the EU's Renewables and Climate Change package. The Commission looks forward to liaising with its industry partners in developing this Strategic Plan.

The Commission recognises the current difficult economic environment and the impact these circumstances are having on customers and indeed on the energy sector. We remain committed to working with industry participants and consumer representatives to ensure the goal of secure, sustainable and competitive supplies is achieved while also recognising the difficulties associated with our fuel mix and reliance on imports. The Commission continues and will continue to tackle these challenges throughout 2009.



Michael G. Tutty  
Chairperson



Dermot Nolan  
Commissioner

## 2.0 The Commission for Energy Regulation (CER)

The Commission for Energy Regulation is the independent statutory body responsible for regulating and overseeing the liberalisation of the electricity and natural gas sectors in Ireland under the Electricity Regulation Act of 1999 and the Gas (Interim) (Regulation) Act of 2002.

### 2.1 Organisational Structure

Members of the Commission for Energy Regulation are appointed by the Minister for Communications, Energy and Natural Resources. The Commission is collectively responsible for decision making. The members of the Commission during 2008 were Mr. Michael G. Tutty (Chairman), Mr. Tom Reeves (Commissioner) and Mr. Dermot Nolan (Commissioner).

There are currently four main functional divisions, each managed by a divisional director, and an operations division that provides support services across all teams. These divisions are; Operations and Electricity Markets, Electricity Networks and Retail, Gas, and Safety, Environment and Customer Affairs.

The **Operations and Electricity Markets Division** is responsible for overseeing the electricity generation sector in Ireland as well the joint regulation of the Single Electricity Market (SEM) (along with Northern Ireland Authority for Utility Regulation - NIAUR). The Division also monitors security of supply in Ireland, licensing and monitoring of new and existing generation companies, including setting the terms of licences and enforcing those terms. This division also includes the Commission's operations teams of Human Resources, the Business Information Centre, IT, Facilities, and the Finance Department. Together these three areas are involved in driving efficiency gains throughout the organisation.

The **Electricity Networks and Retail Division** oversees the regulation of Ireland's electricity transmission and distribution systems as well as the competitive retail electricity market. They are also responsible for overseeing the development of the East-West Interconnector project.

The **Safety, Environment and Customer Affairs Division** is made of three distinct teams. The environment and renewables team regulates all aspects of the CER's work on the use of renewable and sustainable forms of energy, including promoting research and development as well as the implementation of national policy on renewables.

The gas and electricity safety team has responsibility for the implementation of the Safety provisions of the Energy (Miscellaneous) Provisions Act 2006, which relates to the regulation of electrical contractors and natural gas installers with respect to safety and the regulation of natural gas undertakings with respect to safety.

Also within this division is the Energy Customers Team. This team has responsibility for reviewing gas and electricity suppliers' adherence to their Consumer Protection Codes of Practice and Customer Charters. In addition, the team also provides an independent complaints resolution service for natural gas and electricity customers.

The **Gas Division** is responsible for the regulation of natural gas networks and supply. The team is also responsible for overseeing and leading the All Island Gas project – Common Arrangements for Gas (CAG) and is currently working with NIAUR in this area.

The Commission's Project Office also forms part of the Gas division. The role of the project office is to lead and support the successful implementation of major projects in the CER.

At present the project office is involved in the following three areas:

- Common Arrangements for Gas;
- Smart Metering;
- Secretariat to the Single Electricity Market (SEM) Committee.

## **2.2 CER Functions**

The functions of the Commission have been built up over time, following the enactment of various pieces of legislation. Initially the Commission was responsible for regulation and reform of the electricity market only, including the licensing of new entrant generators and suppliers. In 2002, the Commission was also given statutory responsibility for regulation of the natural gas market, while various pieces of legislation have increased our functions in the areas of customer protection, licensing and gas and electricity safety.

Section 8 of the Electricity Regulation Act, 1999 established the Commission for Electricity Regulation (CER). Section 9 detailed the functions of the new Commission with respect to its role in the Irish electricity sector. This Act came into effect in September 1999.

Section 5 of the Gas (Interim) (Regulation) Act, 2002 extended this legal role, and the functions of the CER, to the gas sector, thereby renaming the CER as the Commission for Energy Regulation. This Act also extended the functions of the CER in the electricity industry.

Subsequent secondary legislation, or statutory instruments, has been enacted since 1999, which have further added to these functions. Following the introduction in 2003 of electricity Directive 2003/54/EC and gas Directive 2003/55/EC, four pieces of legislation have amended these functions. Two of these concerned the CER's electricity functions and two concerned the gas sector – Statutory Instrument Number 60 of 2005 (European Communities (Internal Market in Electricity) Regulations 2005); Statutory Instrument Number 452 of 2004 (European Communities (Internal Market in Natural Gas) Regulations 2004) (Number 2); Statutory Instrument Number 320 of 2005 (European Communities (Internal Market in Natural Gas) Regulations 2005), and Statutory Instrument Number 406 of 2007 (Single Electricity Market Regulations 2007).

In late 2006, a further piece of primary legislation was enacted which added significant extra functions to the Commission's remit. The Energy (Miscellaneous Provisions) Act 2006 outlines the functions of the CER regarding the all island energy market and regarding electrical safety, natural gas safety and the regulation of electrical contractors.

Most recently the Electricity Regulation (Amendment) (EirGrid), Act 2008 was enacted to allow for the construction, by EirGrid, of the East West Interconnector between Ireland and Wales.

A list of the 'Functions of Commission', as contained in the consolidated version of section 9 of the Electricity Regulation Act, is presented in Appendix A of this document.

The functions of the Commission can be summarised as follows:

- Ensuring sufficient capacity in the electricity and gas systems to satisfy reasonable demands for supply of natural gas and electricity;
- Protecting the interests of final customers including the disabled, the elderly and those residing in rural areas;
- Promoting competition in supply of electricity and natural gas and electricity generation;
- Ensuring no unfair discrimination between applicants for or holders of licences, consents and authorisations or between them and State-owned operators;
- Promoting the continuity, security and quality of supplies and encouraging safety and efficiency in undertakings and by end users;
- Ensuring licence and authorisation holders are capable of financing their activities;
- Setting standards, enforcing compliance, settling disputes, controlling and monitoring performance and reporting regularly on these activities;
- Promoting research and the use of sustainable forms of energy that reduce or are free of greenhouse gas emissions as well as adopting measures to protect the natural environment in all the sectors' activities;
- Advising government on the development and regulation of the gas and electricity sectors;
- Regulating the activities of electrical contractors with respect to safety;
- Regulating the activities of natural gas undertakings and natural gas installers with respect to safety;
- Promoting the safety of natural gas customers and the public generally as respects the supply storage, transmission, distribution and use of natural gas;
- Establishing and implementing a natural gas safety framework.

## **2.3 Main Enforcement Powers**

The CER has a significant range of enforcement powers. These include:

- Licences: Anyone seeking to construct a power station, generate or supply electricity in Ireland must apply to the CER for a licence. The Transmission System Operator and the Distribution System Operator for electricity and gas are also licensed by the CER. The electricity Transmission System Owner is also licensed.
- Directions: Under section 24 of the Electricity Regulation Act, 1999 the CER can issue a direction to a licensee to comply with its licence or authorisation conditions.



- Determinations: Where the CER decides not to give a direction under section 24 of the Electricity Regulation Act, 1999, it may make a determination that the holder of a licence or authorisation has committed a specific breach of a condition or requirement.
- Court Orders: In order to ensure compliance with section 24, the CER may apply to the Irish High Court requiring the holder of a licence or an authorisation to discontinue or refrain from specific practices.

## 2.4 Interagency Agreements

The CER interacts with a number of other governmental bodies including the Irish Competition Authority, Sustainable Energy Ireland and the Health and Safety Authority.

The Irish Competition Authority is responsible for implementing Ireland's competition legislation which mirrors EU legislation. This remit includes the energy sectors. This overlaps with the CER's responsibility to facilitate and encourage the development of a competitive energy market and may overlap with the implementation of some of the CER's dispute resolution functions. In accordance with the Irish Competition Act, 2002, the CER and the Competition Authority have put in place a co-operation agreement. This agreement governs the relations between the two bodies. The agreement provides for the exchange of information and allows each party to forbear to act where it considers the other is investigating or exercising its powers in a certain matter. To date the Competition Authority has not taken any case in relation to an energy company.

Sustainable Energy Ireland is the government body charged with improving energy efficiency, advancing the development and competitive deployment of renewable sources of energy and combined heat and power, and reducing the environmental impact of energy production and use.

The Health and Safety Authority (HSA) has overall responsibility for the administration and enforcement of health and safety at work in Ireland. It is a State-sponsored body, established under the Safety, Health and Welfare at Work Act and it reports to the Minister for Enterprise, Trade and Employment. The HSA monitors compliance with legislation at the workplace and can take enforcement action (up to and including prosecutions). The Commission and the HSA signed a Memorandum of Understanding (MoU) in June 2008. The objective of this MoU between the HSA and the Commission is to facilitate cooperation between both regulators in discharging their respective statutory responsibilities for the regulation of natural gas undertakings, gas installers and electrical contractors with respect to safety in order to enhance the actions of both regulators and to avoid duplication of effort by both regulators and the imposition of an unnecessary regulatory burden on the regulated entities.

Furthermore, the CER interacts with the Department for Communications, Energy and Natural Resources (DCENR) which is the Government Department with responsibility for the development of energy policy in Ireland. This department is also responsible for licensing all offshore gas developments and pipelines (the CER is responsible for the licensing of all onshore gas pipelines). The department is also the main shareholder in the incumbent gas and electricity companies, Bord Gáis Eireann (BGE) and the Electricity Supply Board (ESB).

## **2.5 Independence & Accountability**

The CER is independent of the government and any other state agency in the implementation of its functions. However the CER is required to comply with directions issued by the Minister for Communications, Energy and Natural Resources as regards the performance of its functions. These directions may not be made in respect of specific or individual licensees. The CER submits an annual report for approval by the Minister for Communications, Energy, and Natural Resources and is also accountable to four parliamentary committee(s) on energy;

1. Joint Committee on Climate Change and Energy Security,
2. Joint Committee on Communications, Energy and Natural Resources,
3. Joint Committee on Economic Regulatory Affairs,
4. Joint Committee on Finance and the Public Service.

The CER is funded by a levy on the industry which is collected directly, but must obtain approval of the Minister for Communications, Energy and Natural Resources and the Minister for Finance, for staff numbers and salaries.

## 3.0 Main developments in the gas and electricity markets

This section provides a brief summary of the key developments in the Irish electricity and natural gas sectors during 2008.

### 3.1 Wholesale Market Developments

#### Single Electricity Market (SEM)

Following the successful introduction of the Single Electricity Market (SEM), on the 1<sup>st</sup> November 2007, the Regulatory Authorities (RAs), the CER and the Northern Ireland Authority for Utility Regulation (NIAUR), focus moved towards the ongoing governance and operation of the new wholesale market and towards ensuring that the benefits of the market are fully realised. It is important that the ongoing development of the market is given the priority it deserves. As such, SEM Continuing Development was identified as one of the Commission's Ten Key Tasks for 2008.

Analysis of the first year of market operation (2008) indicates that the SEM is successfully meeting its objectives. Some of the key success areas are:

**Fair & Cost Reflective Prices** – The SEM operates a transparent market clearing system resulting in wholesale market prices that follow demand. New efficient generation is also driving lower prices. Reduced fuel prices in 2009 are reflected in lower SEM prices which will mean lower prices to consumers;

**Increased Competition** - The market structures have encouraged the entry of new generators, while market rules have seen the most efficient power plants being run, at all periods. This was a key strategic objective of the new market and will lead to increased competition and the best price for consumers. At the end of the first year there were 45 participants registered in the SEM with 13 of these only joining since market commencement. In particular the entry of the Spanish energy utility Endesa into the market is a reflection of the success of the SEM to date;

**Investment and Security of Supply** - Another key objective was to attract new and efficient generators to the island of Ireland. The SEM Committee is encouraged by the level of interest in building new stations. In the Republic of Ireland alone, there are currently connection applications for 9,000MW of renewable generation and more than 6,000MW of conventional generation.

#### Common Arrangements for Gas (CAG)

On the 14th February 2008 the Commission and the Northern Ireland Authority for Utility Regulation (“the Utility Regulator”) signed a Memorandum of Understanding (MoU) for the

development of Common Arrangements for Gas (CAG) on an All-Island basis. The MoU sets out the high level objectives of CAG.

The two Regulatory Authorities are committed to working together to establish All-Island Common Arrangements for Gas whereby all stakeholders can buy, sell, transport, and contribute to the development and planning of the natural gas market north and south of the border effectively on an all-island basis. This means that variations in the price and conditions on which gas is bought and sold will be determined by market conditions and economics, not by variations in regulatory arrangements.

The CAG Project is managed out of the CER Project Office and involved setting up;

- Governance Structures;
- Project work streams (*incl. Cost Benefit Analysis (CBA), Gas Quality; Single Transmission Tariff; Gas Industry Operations; Legislation; Licences and Contracts; Code Development; Connection Policy; Joint Capacity Statement; Security Standard and Storage; Planning and Development Framework; Retail Market Alignment.*);
- Project plans; and
- Issues/Risk logs.

Good progress was made during 2008 on the key decisions in the Operations, Tariffs, Gas Quality and Cost Benefit analysis work streams. These decisions form the foundation for the rest of the project.

## **3.2 Retail Market Developments**

### **Electricity**

The Commission continues to regulate ESB PES tariffs for domestic customers and small to medium sized industrial and commercial customers on an annual basis. In light of the dramatic increase in fuel prices over the first half of 2008 the Commission approved an application from ESB PES for an interim price increase of an average of 17.5% for households and SME's to apply from the 1st August 2008. The Commission conducted a further review of tariffs in November 2008 to set tariffs from 1st January – 30th September 2009. The second half of 2008 was marked by falling fuel prices which, combined with a €15.4m over-recovery by ESB Power generation in 2007, a €300m rebate agreed with ESB and a further €87m PSO related rebate, allowed the Commission to approve an average decrease in electricity tariffs of just less than 1% from the 1st of January 2009.

Through the Industry Governance Group forum, the Commission in conjunction with industry has contributed to the implementation of agreed market procedures, codes of practice and operational policy that governs the liberalised retail electricity market. In 2008, the Commission published an 'Electricity Retail Market Information Report', which provides an overview of the retail market and developments within the sector. The report indicates increased competition in

the retail sector, particularly in the SME and Large Energy user sections. Since late 2007 the Large Energy User section of the market has been considered fully competitive and is no longer subject to fixed regulated tariffs. The Commission also notes significant competitive activity in the domestic market in 2009 and continues to work towards implementing full retail market competition in all segments of the market.

The Commission launched its new Energy Customers Team in October 2008. The Energy Customers Team provides a complaint resolution service for customers who are in dispute with their supplier. All suppliers are required to put in place a code of practice on complaint resolution. Where a resolution cannot be reached having followed these procedures, the CER will investigate and issue a decision. The CER has legislative powers to direct suppliers to compensate customers, if they believe it is required.

The Energy Customers Team dealt with 491 standard and 134 complex electricity related complaints in 2008. The single biggest area of complaint related to the matter of costs in some respect. In particular, billing/ estimated reading complaints and supplier deposits.

## **Gas**

The Commission is also responsible for the regulation of Bord Gáis Energy's (BG Energy) tariffs, promoting the development of competition in the gas market and overseeing the development of consumer policy to ensure consumers have adequate levels of service and protection provided to them by their suppliers.

Competition in the gas market for industrial and commercial customers has been in place since 2004. The CER has been working with industry participants to develop market processes to support full market opening and the development of competition for the benefit of all customers. Full market opening in the Irish natural gas market took place on 1st July 2007 and there are now two suppliers operating in the domestic segment; however Bord Gáis Energy still hold 98% of the domestic market.

In recognition of the exceptional wholesale market circumstances that evolved throughout 2008, the Commission deviated from the normal tariff review process for the 2008/09 gas year. Similarly to electricity, the Commission approved a two-phased approach to the gas tariff review process for the 2008/09 gas year. In the first phase of this process, the Commission approved an interim tariff increase of 20% for the residential and SME customer sector for the period 1<sup>st</sup> September 2008 – 31<sup>st</sup> December 2008. The second phase of the tariff review process was conducted in November 2008 for the period 1<sup>st</sup> January 2009 – 30<sup>th</sup> September 2009 with the Commission's final decision being published on 1<sup>st</sup> December 2008. This decision approved no further changes to the gas tariffs of residential and SME non-daily metered customer sector. Significant downward pressure on fuel prices coming into 2009 resulted in a 12%, on average, decrease in end user tariffs from May 2009 with a further decrease of c.10% planned for October 2009.

The CER's Energy Customers Team also provides a complaint resolution service for gas customers who are in dispute with their supplier. 129 standard and 44 complex gas related complaints were dealt with during 2008. Similarly to electricity, the most common area of complaint in 2008 was related to cost.

### **3.3 Infrastructure Developments**

#### **East-West Interconnector**

The Commission is actively involved in promoting the development of the East West Interconnector between Ireland and Great Britain. The advancement of this project continues to remain a key priority for the Commission, with significant progress being made to date. The Commission and EirGrid are working closely together to ensure the completion of this project on schedule.

The main items of work in 2008/09 are summarised below:

- Enactment of the Electricity Regulation (Amendment) (EirGrid), Act 2008;
- Following completion of the competition design in December 2007 an Invitation to Negotiate document was released by EirGrid to a panel of preferred tenderers, identified as part of the competition design phase of the project. Tenders were received from three parties in June 2008;
- Evaluation of the bids was carried out by EirGrid and the DCENR and the CER approved the contract to be awarded to the winner of the process;
- Preparatory planning work has been carried out to secure the over-land section of the interconnector route. Planning permission for the UK converter station was granted in early September and for the Irish section on 15 September 2009.

The advancement of this project remains a key priority for the Commission in 2009. A candidate has now been secured for the construction of the interconnector, and approval to proceed requested from Government.

#### **Conventional Generation**

The Commission continued to monitor the construction of power stations and receive reports on a quarterly basis on progress against completion time lines. The large generation projects closely monitored by the Commission at present include:

- **ESB 431 MW CCGT plant at Aghada, Co. Cork**  
This unit has planned its first fire for end September 2009 with a commercial operation date scheduled for February 2010.

- **Bord Gáis 445 MW CCGT plant at Whitegate, Co. Cork**

Whitegate applied for its Generation Licence in late 2008 and reports suggest that construction of the plant is on target for completion in time for winter 2010.

## **Shannon LNG**

In 2008, Shannon LNG applied to the Commission for a Liquefied Natural Gas (LNG) licence and a full capacity exemption from regulated Third Party Access (rTPA) pursuant to Article 22 of Directive 2003/55/EC for the LNG terminal in Tarbert, Co. Kerry.

Shannon LNG proposes to construct a regasification terminal on a 104 hectare (257 acre) site located on the Shannon Estuary between Tarbert and Ballylongford in Co. Kerry. The site, which is zoned industrial by Kerry County Council, is owned by Shannon Development and Shannon LNG has an option to purchase the site subject to obtaining planning approval. Shannon Development has reserved the site as a national strategic location for large-scale maritime related industry, such as an LNG regasification terminal, primarily because of its access to relatively sheltered deep water in the Shannon Estuary. The terminal is expected to be operational in 2012/13 at the earliest.

## **Connection Offers to Renewable Generators – Gate 3**

A Group Processing Approach for connection of renewable applications to the electricity networks was implemented by the Commission in 2005. This approach has proven to be a successful vehicle for ensuring the structured and sustained addition of wind to the system. There have been two Gate processes over the last few years involving the issuance of connection offers to circa 1,700 MW of renewable generation. There is now about 1,400 MW<sup>2</sup> of renewable generation (mostly wind) connected in Ireland, compared to 600 MW at the beginning of 2005, with a further 1,500 MW due to connect over the next few years.

Throughout 2008 the Commission consulted extensively on the next Gate of the group processing approach; Gate 3, in order to tease out the various options for the Gate. In keeping with the Irish Government's decision, announced last year, to increase its target from 33% to 40% of electricity consumption coming from renewable sources by 2020, the Commission published its final Gate 3 direction in December 2008 confirming the size of the Gate to be 3,900 MW. The Commission's direction also approved the adoption of what is referred to as the Grid Development Strategy (GDS) approach, which is EirGrid's plan for the long-run development of the transmission system. Under this approach applicants will be selected in application date order and connected through a defined rule set in the context of the GDS.

Connection offers to all c.3,900 MW renewable projects in Gate 3 are anticipated to roll-out from December 2009 through to June 2011. Combined with previous Gates, it means that the total renewable generation capacity in the State could increase from about 1,400 MW currently to about 6,700 MW over the next decade or so, with the bulk of this being from wind power. This

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<sup>2</sup> September 2009.

provides for the 40% Government target for 2020 and represents a huge commitment to the development of Irish renewable and indigenous energy as well as to tackling climate change.

## **Smart Metering**

The Commission is progressing a Smart Metering Pilot Project which is due to run until the end of 2010. Through this project the Commission will analyse the feasibility of implementing smart meters throughout Ireland. Two trials will be undertaken as part of phase 1 of the Smart Metering Project; A Customer Behaviour Trail and a Technology Trial. Governance structures have been put in place with the aim of drawing on the experience and expertise of the electricity and gas market. A Smart Metering Steering Group (SMSG) and a Smart Metering Working Group (SMWG) have been established. Both groups are chaired by the Commission and consist of representatives from the Department of Communications, Energy & Natural Resources (DCENR), Sustainable Energy Ireland (SEI), the Northern Ireland Authority for Utility Regulation (NIAUR) and all Irish Gas & Electricity Industry Distribution System Operators (DSO's) & Suppliers.

The SMWG's focus during 2008 has been on the detailed planning and implementation of Phase 1 of the project. This involves setting up and running Smart Metering Trials and completing other preparation work that will inform decisions relating to the full roll-out of a Smart Metering Project.

The results of all these trials will provide important information regarding the costs & benefits of a national rollout of smart metering. The Economic & Social Research Institute (ESRI) have been engaged by the Commission to advise on the development of a Smart Metering Cost Benefit Analysis (CBA).

## **Corrib**

The Corrib Gas field is currently under development off the west coast of Ireland. Once the field is operational the gas will be transported to the main gas transmission system. Bord Gáis Networks have constructed the Mayo Galway pipeline to transport the gas from the terminal to the main gas transmission system. Under Directive 2003/55/EC the Commission is required to develop regulated Third Party Tariff Arrangements for this Mayo Galway pipeline. The resulting tariff will be known as the Bellanaboy Entry Tariff and will be charged on all gas entering the gas system through the Mayo Galway pipeline. In 2008, the Commission conducted a detailed examination of the BGN costs for building the pipeline, which the regulated tariff will be based upon. During 2009 the Commission will publish a Consultation and subsequent Decision Paper on the form of the final Bellanaboy Entry Tariff.

### **3.4 Unbundling Developments**



## **Electricity**

EU Directive 2003/54/EC unbundling requirements have been transposed into Irish law through European Communities (Internal Market in Electricity) (Electricity Supply Board) Regulations 2008 (SI 280 of 2008).

In line with the model for distribution unbundling adopted in SI 280, ESB will remain the owner of the distribution system and a wholly owned subsidiary of ESB will be created to undertake the functions of the operator. To progress the separation of the businesses, the Commission consulted on the necessary modifications to the Distribution System Operator licence to take account of this new situation. Given the timeframe for the legal unbundling process offered the Commission felt it appropriate to carry out a full review of the Distribution System Operator (DSO) and Distribution System Owner (DAO) licences in light of the developments in the electricity market over the last seven years.

The Commission also consulted upon the Operating Agreement to be entered into between the DAO and the DSO. The Operating Agreement to be entered into between the Distribution System Owner (Distribution Asset Owner known as DAO being ESB) and the Distribution System Operator (DSO being ESB Networks Ltd) was published in November 2008. With the modified DSO and DAO licences published in early 2009.

## **Gas**

Following public consultation the Commission published the Operating Agreement between Gaslink and Bord Gáis Éireann in July 2008. Gaslink is the recently established Independent System Operator of the BGE Transportation System.

The establishment of Gaslink as an Independent System Operator for the BGE Transportation System to facilitate competition in supply activities is required under European Communities (Internal Market in Natural Gas) (BGE) Regulations, SI NO 760 of 2005.

The Operating Agreement is designed to enable Gaslink discharge the functions of independent transmission and distribution system operators as provided for in Directive 2003/55/EC.

In addition the Commission consulted on the licences awarded to Gaslink as the System Operator and to Bord Gáis Éireann as asset owner of the distribution and transmission systems in accordance with the European Communities (Internal Market in Natural Gas) (BGÉ) Regulations 2005 (SI No. 760 of 2005), which gives effect to EU Directive 2003/55/EC.

### **3.5 Security of Supply Developments**

The Commission's legal functions and duties in relation to security of supply are contained in legislation and remained a key priority for the Commission in 2008. The CER carries out its role in monitoring the security of supply/generation adequacy and, together with EirGrid as the TSO

and the Minister for Communications, Energy & Natural Resources, is putting in place appropriate arrangements to ensure that a satisfactory generation capacity margin is maintained and electricity supply is secured.

In 2008 the key work streams centred on the activities of:

- Monitoring Generation Adequacy;
- Compiling a detailed analysis and report on Ireland's Security of Supply position and monitoring arrangements, for submission to the European Commission;
- The finalisation of a decision on Secondary Fuel Obligations on generators;
- The completion of ongoing activities with the Task Force for Emergency Procedures, and;
- Continued monitoring of progress on the construction of generation stations that have received approval or authorisations to construct.

The Commission over saw the sale of assets under the CER-ESB Asset Strategy agreement of 2007 which resulted in the sale of a significant portion of ESB's generation portfolio to the Spanish Utility Endesa. This included >1,000MW of generation plant and a number of 'generation-ready' sites.

In addition the East/West Interconnector project progressed well during 2008. Increasing interconnection for Ireland will contribute to an improved security of supply outlook for the future.

Under European directives 2003/54/EC and 2005/89/EC, which have been transposed into Irish Law by Statutory Instrument No. 60 of 2005 legislation, the Commission is required to prepare and submit a report to the European Commission every two years by the 31<sup>st</sup> of July. The latest of these reports fell due on 31 July 2008.

The report<sup>3</sup> describes the security of supply situation in Ireland with reference to the following key areas:

- The Commission's Monitoring Activities;
- Fuel and Other Power Sources;
- The Balance Between Supply and Demand;
- Supply and Demand-Side Measures;
- Transmission Networks;
- Issues Identified and Measures Undertaken.

The Generation Adequacy Report for the period 2009-2015 was published by EirGrid (TSO) in Dec 2008 and reflects a forecast estimate of the electricity system demand and generation capacity over the next seven years. The Commission approved this document in accordance with the requirements under the Electricity Regulation Act 1999 and Statutory Instrument No. 60 of 2005.

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<sup>3</sup> Security of Supply Report 2008 CER/08/143

The report outlook is a positive security of supply position for the coming years but is contingent on a number of commissioning and decommissioning going ahead on time. The projected scenarios for the seven year period were drawn up with these contingencies in mind. The resulting conclusions were that construction projects must occur to plan in order to ensure security of supply and that plant availability is still of concern for the coming years.

Since the publication of this report EirGrid revised downwards its demand forecast for the period 2009-2015. In summary, the updated report forecasts a reduction in demand in 2009 of between 4%-5% and a further 0%-1% reduction in 2010. Demand is not forecast to recover to 2008 levels until 2012-2014. The reduction in demand forecast results in the generation adequacy standard being satisfied for the period 2009-2015 assuming the stated commissioning and decommissioning go ahead as planned.

### **3.6 Safety Developments**

The Safety Team of the Commission is responsible for discharging the Commission's statutory functions with respect to public safety involving the regulation of transmission, distribution, storage, supply and shipping of natural gas. The team also has responsibility for the supervision of Registered Electrical Contractors and Registered Gas Installers. The importance of the Commission's role in this area is reflected in the large volume of work carried out in 2008. Specifically for 2008 the Commission set out a key task to:

***Implement the Natural Gas Safety Regulatory Framework and the approach for the Regulation of Electrical Contractors and Gas Installers including designation of safety bodies.***

Some of the key achievements of the safety team in 2008 are outlined below:

- The development and publication of a Safety Case Assessment Process in March 2008 as required under the '*Natural Gas Safety Regulatory Framework*';
- The approval of Safety Cases for Bord Gáis Networks - Transmission, Bord Gáis Networks – Distribution, Bord Gáis Energy and Flogas in line with the Safety Case Assessment Process;
- The development and signing of a Memorandum of Understanding (MOU) between the Commission and the Health and Safety Authority (the 'Authority') setting out the basis for co-operation between both agencies;
- The development and publication of a decision paper outlining the '*Commission's Decisions regarding Economic Aspects of Regulating Electricity and Gas Safety*';
- The development and publication of '*Version 1 of the Criteria for the Regulation of Gas Installers with Respect to Safety*';

- Appointment of the Register of Gas Installers of Ireland (RGII) as the Gas Safety Supervisory Body (GSSB);
- The development and publication of '*Version 1 of the Criteria for the Regulation of Electrical Contractors with Respect to Safety*';
- Appointment of the Register of Electrical Contractors of Ireland (RECI) and the Electrical Contractors Safety and Standards Association (ECSSA) as Electrical Safety Supervisory Bodies (ESSB's).

## **3.7 General Conclusions**

### **Electricity & Gas Markets**

The promotion of competition remains a key challenge for the CER in both the electricity and gas markets. Historically, both the electricity and gas markets were characterised by vertically integrated, state owned monopolies. The electricity market was first opened to partial competition in 2000 while initial segments of the gas market were opened to competition in 1997.

Since then, the CER has been engaged in the process of developing the structures and processes to ensure that the market functions and allows participants to compete in a manner that is fair and transparent.

The electricity retail market has been fully open to competition since February 2005. Full market opening of the gas retail market took place in July 2007, in line with EU requirements. Retail market opening in both sectors has been supported by the implementation of a range of customer switching business processes which have allowed energy customers to change supplier without delay and without charge. These processes, and the systems required to support them have been developed in consultation with all active independent suppliers and the CER.

The development of the SEM is one element of a project to establish a single market for electricity and gas across the island of Ireland. While continued monitoring of the SEM remains a key priority for the Commission, the CER has now turned its attention to the development of all island wholesale gas markets and is working closely with its counterpart in Northern Ireland, the Northern Ireland Authority for Utility Regulation (NIAUR) in this area.

The main fuels used to generate electricity are natural gas and coal accounting for c.62% and 19% respectively of Ireland's electricity generation. Ireland currently imports over 90% of its natural gas accounting for over 60% of end user gas prices. This heavy reliance on imported fuels for electricity generation means wholesale fuel prices will continue to impact significantly on end user electricity and gas prices. While significant drops were seen in the early stages of 2007 the consistent and sharp increases that followed required an interim increase of 17.5% in electricity and 20% in gas tariffs from 1 August and 1 September 2008 respectively. On a

positive note wholesale prices coming into 2009 have softened resulting in tariff reductions for both electricity and gas customers.

There is no security of supply risk identified with the supply of coal; however, Ireland is heavily dependent on imported natural gas. To protect the security of supply of natural gas, the Commission has undertaken a number of measures including:

The imposition of a licence obligation on generators regarding secondary fuelling:

- The commencement of preparation to introduce a gas market on the island of Ireland (the Common Arrangements for Gas) which is expected to improve our security of supply position; and,
- The continuation of the “Task Force on Emergency Procedures” group, who have developed and established procedures in the event of an emergency to minimise the impact of such an event.
- Heavy fuel oil, distillate, peat, hydro power, wind and other renewable generators comprise the remainder of the generation mix.

## **Renewable targets**

The Government's White Paper on Energy outlined Renewable Targets of 15% of consumption from renewable sources by 2010 and 33% by 2020. This target was revised upwards in 2008 to 40% of consumption from renewable sources by 2020. The Commission is cognisant of the Government and European Commission renewable targets and in this context is currently considering how to treat connections for wind generators and conventional generators. At present the Commission operates a 'gate' approach to the licensing of renewable generators. To date there have been 2 'Gates'. Gate 2 saw connection offers issued to over 1,300 MW of renewable generation, almost all of which is from wind power, with a potential 3,000MW in Gate 3. These large amounts of new wind powered generation due for connection will require significant network investment in particular in the south west region of Ireland where the construction of two conventional generation plant are underway. Until such time as the required reinforcement of the transmission system is completed, the generation output from this region may have to be constrained.

## 4.0 Regulation and Performance of the Electricity Market

The CER regulates the vertically-integrated incumbent – Electricity Supply Board (herein referred to as ‘ESB’) in the electricity market. The CER regulates the charges, tariffs and access conditions imposed by ESB and conducts five-year reviews of revenue earned by the electricity network operators. There are also annual price controls in place for the regulated generation and supply business units of the ESB. Access conditions, connection charges and use of system tariffs imposed by the transmission and distribution operators are also regulated. For electricity, this concerns EirGrid as Transmission System Operator (TSO) and ESB Networks as the Distribution System Operator (DSO) and Transmission System (Asset) Owner (TAO). Further, the CER has introduced a number of ring-fencing requirements between and within the incumbents’ regulated businesses to ensure that certain business units/subsidiaries are autonomous and independent of one another. These requirements are enforced by way of licence conditions and business separation implementation programmes. The full business separation of ESB network operators from its generation and supply businesses was completed in late 2005, with subsequent legal unbundling carried out in 2008.

### 4.1 Electricity Network Operators

There is one transmission system operator (TSO), EirGrid, and one distribution system operator (DSO), ESB Networks. ESB Networks is also the Transmission System (Asset) Owner (TAO).

The CER collects an array of information from the network operators for the purposes of calculating allowed revenues and network tariffs. This includes collecting information on the existing Regulated Asset Base (RAB), operating costs (OPEX), capital expenditure costs (CAPEX), asset values, business and system performance.

This process commences with the system operators submitting their proposed revenue requirements to the CER. The CER then reviews the information provided and decides on the allowed revenues for the operators based on a number of criteria, based on an ex-post review process, benchmarking data and performance against previously agreed targets and revenue amounts.

CPI-X (incentive based form of regulation) was used as the basis for the price control for the TAO, TSO and DSO in the current electricity Price Control (PR2), 2006-2010 and the Commission proposes to continue using it for PR3 (2011 – 2015) to provide strong incentives for efficiency and an assurance to the final customer that the benefits of those efficiency gains will be shared with them.

The benchmark data used consists of the following:

- ‘OPEX’: operational costs including payroll;
- ‘CAPEX’: network capital expenditure, load (growth) related and non-load (reinforcement) related.

The CER also reviews historical data to evaluate the operators' performance over the previous control periods, and reviews the submissions for expenditure in the coming control period including operational efficiencies, the delivery and requirements for capital investment, and improvements in the network. This review, technical, economic and financial in nature, may include top-down and bottom-up analyses. Top-down analysis of the businesses during PR2 was based on benchmark data where possible and encompassed the following; comparison of forecast and historic costs with those of comparable businesses where relevant and available, identifying controllable and non-controllable Opex categories and establishing the degree of consistency in approach between the businesses and appropriate comparators and benchmarking corporate centre costs against peer organisations. Based on the output of this analysis, the regulatory revenue for the base year and subsequent years is determined. Price controls are set for a duration of five years. The Department of Communications, Energy and Natural Resources (DCENR) is informed of the outcomes of these revenue reviews.

The CER completed its most recent 5 year revenue review of the transmission and distribution businesses in 2005. This review set out the form of regulation to be applied to the TSO and TAO for the period 2006 – 2010. It also determined the overall allowed revenue for each of the businesses and their respective performance incentives for the period. The total allowed revenues for the TSO for the current 5 year period (2006 – 2010) were €611m with €650m allowed for the TAO (2004 prices). The DSO was allowed revenues of €2,908m (2004 prices) for the current 5 year period (2006-2010). It is the Commission's intention to commence consultation on its forthcoming transmission and distribution revenue reviews (PR3) for the period 2011-2015 in early 2010.

## **4.2 Electricity Network Tariffs**

The CER approves any changes to transmission and distribution tariffs and has quality of service measures as part of its review of the revenue submissions, including benchmarking, efficiency targets and quality of service reports. The DSO and TSO release to market participants a *Statement of Charges* and a *Tariff Schedule*, detailing the prevailing tariff terms and conditions for the following year.

During 2008 the Commission reviewed and approved the total allowed transmission revenue for 2009 (€259 million) and the respective tariffs for the transmission year 1<sup>st</sup> January 2009 to 30<sup>th</sup> September 2009. Furthermore, the Commission has recently reviewed and approved the total allowed transmission revenue for 2010 (€237 million) and the respective tariffs for the transmission year 1<sup>st</sup> October 2009 to 30<sup>th</sup> September 2010. Transmission tariffs are designed to fully recover the TUoS revenue requirement from transmission "users" including both generators and demand users connected directly to the transmission system or indirectly via the distribution system.

Transmission tariffs consist of postalised demand tariffs and locational generator tariffs, which recoup 75% and 25% of the "wires component" of the allowed transmission revenue (the vast

bulk of the revenue) respectively. All allowed “non-wires” costs, such as ancillary services, are recovered through demand tariffs.

The network charge recovered from demand customers is not recovered solely on a capacity basis but is split between energy and capacity. 40% is recovered on an energy basis and 60% is recovered on a capacity basis through the ‘Network Capacity Charge’. This is allocated on a fixed basis through a per MW, Network Capacity Charge. This amounts to approx 45% of wire costs being allocated to the network capacity charge.

The 40% of wire related costs that is allocated on an energy basis is recovered through an MWh Network Transfer Charge, as a result demand users are charged consistent with their associated usage.

There is also a capacity margin charge in place for recovering costs associated with demand side management schemes. This is recovered fully from demand users and does not form part of the TUoS revenue.

The 25% of the total allocation of network related costs that is allocated to generation users is recovered through the Generation Capacity Charge. Generators connected directly to the transmission system or indirectly via the distribution system pay locational use-of-system charges which are capacity based (Reverse MW-mile methodology).

Distribution connected generators with a capacity <10MW have a locational Network Capacity Charge rate of zero. Generators equal to or greater than 10MW pay a site specific Generator Network Capacity Charge.

Generators who can be called upon to offset flows and who have the potential to reduce the need for future investments are credited by the TSO. This could result in some of these generators having a negative overall TUoS charge however a lower bound of zero has been set for generators who do not provide system security from a planning perspective – wind generation and ‘emergency’ generators.

The Commission recently conducted its annual review of distribution revenue and tariffs for 2010. The Commission has allowed the DSO to collect €679.2m (2010 prices) for the year 2010. This revenue is collected from demand customers through cost reflected tariffs.

There is a requirement on the DSO to submit an annual report to the CER detailing quality of service targets met, reasons for not meeting targets (if appropriate) and recommendations for improving the targets for the future. The CER reviews these reports and decides on appropriate action and also on what targets are required to be met for the next submission.

The table below provides information on the total duration (minutes/yr) of interruption for the average customer for the period 2005 – 2008:

	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b>SAIDI (planned interruptions)</b>	375	269	79	61



<b>Min/Yr</b>				
<b>SAIDI (unplanned interruptions) Min/Yr</b>	154	124	115	94
<b>SAIDI (planned and unplanned interruptions) Min/Yr</b>	529	393	194	155

### 4.3 Electricity System Information

The Single Electricity Market Operator (a contractual joint venture between EirGrid and SONI) publishes a range of wholesale market information pertaining to the Single Electricity Market concerning generators, system marginal prices (SMP) and trading and settlement data.

Central to the design of the SEM is the principle of transparency, through the publication of as much market related data as legally permissible. The SEM Trading and Settlement Code, being the rules and procedures governing the trading and settlement of wholesale electricity in Ireland and Northern Ireland, provides for the publication<sup>4</sup> of a comprehensive level of market data. The following are published by SEMO according to timescales set out in the Trading and Settlement Code:

- Annual Capacity Exchange Rate
- Annual Load Forecast
- Annual Capacity Payment Sum
- Market Price Cap
- Market Price Floor
- Value of Lost Load
- Fixed Market Operator Charge (Supplier Unit)
- Fixed Market Operator Charge (Generator Unit)
- Variable Market Operator Price
- Capacity Period Payment Sum
- Fixed Capacity Payment Proportion
- Ex-Post Capacity Payment Proportion
- Engineering Tolerance
- MW Tolerance
- System per Unit Regulation parameter

<sup>4</sup> This information is published on the SEMO website – [www.sem-o.com](http://www.sem-o.com)

- Discount for Over Generation
- Premium for Under Generation
- Fixed Capacity Payments Weighting Factor for each Trading Period in the relevant Year
- Terms of Reference for Market Operator Audit
- Audit Report
- Transmission Loss Adjustment Factors
- Imperfections Price
- Imperfections Charge Factor
- Testing Tariff
- Settlement Calendar
- Schedule of Testing Tariffs
- Fixed Credit Requirement
- Historical Assessment Period for the Billing Period
- Historical Assessment Period for the Capacity Period
- Analysis Percentile Parameter
- Credit Cover Adjustment Trigger
- Maximum level of the Warning Limit
- Annual Maintenance Schedule - Transmission Line Outages (Appendix F)
- Annual Maintenance Schedule - Generator Outages Schedule (Appendix F)
- Flattening Power Factor
- Monthly Maintenance Schedule – Generator Unit outages
- Monthly Maintenance Schedule – Transmission System line outages
- Monthly Load Forecast Margin
- Loss of Load Probability for each Trading Period in the relevant Month
- Variable Capacity Payments Weighting Factor for each Trading Period in the relevant Month
- Available Transfer Capacity (interconnector)
- Four Day Load Forecast
- Any important updates to Maintenance Schedule Data Transaction
- Two Day Rolling Wind Power Unit Forecast aggregated by Jurisdiction
- Forecast of Ex-Post Loss of Load Probability for each Trading Period in the forthcoming 31 Trading Days
- Ex-Ante Indicative System Marginal Prices
- Technical Offer Data
- Commercial Offer Data
- Demand Control Data Transaction

- Interconnector Available Transfer Capacities
- Active Interconnector Unit Export Capacity Holding
- Active Interconnector Unit Import Capacity Holding
- Modified Interconnector Unit Nominations
- Ex-Ante Indicative Market Schedule
- Ex-Ante Indicative Operations Schedule
- Generator Unit Technical Characteristics Data Transaction
- Energy Limited Generator Unit Technical Characteristics Data Transaction
- Dispatch Instruction and SO Interconnector Trades Data Transaction
- All Price-affecting Metered Data, excluding Trading Site Supplier Units for Trading Sites with non-firm access for all available Trading Periods
- Net Inter Jurisdictional Import for all available Trading Periods
- Indicative Tolerance for Over Generation
- Indicative Tolerance for Under Generation
- Initial Tolerance for Over Generation
- Initial Tolerance for Under Generation
- Indicative Dispatch Offer Price
- Initial Dispatch Offer Price
- Ex-Post Indicative Market Schedule Quantity
- Ex-Post Initial Market Schedule Quantity
- Ex-Post Indicative SMPs
- Initial SMPs 5
- Nominal System Frequency
- Average System Frequency
- Indicative Energy Payments to Generator Units
- Ex-Post Initial Energy Payments to Generator Units
- Credit Assessment Price for the Undefined Exposure Period for Billing Periods
- Estimated Capacity Price for the Undefined Exposure Period for Capacity Periods
- Metered Generation
- Ex-Post Indicative Capacity Payments to each Generator Unit
- Initial Capacity Payments to each Generator Unit
- Indicative Ex-Post Capacity Payments Weighting Factor
- Ex-Post Indicative values of Eligible Availability
- Ex-Post Initial values of Eligible Availability
- Initial Ex-Post Capacity Payments Weighting Factor

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<sup>5</sup> This is the price used for settlement in the market

- Initial Ex-Post Margin
- Initial Ex-Post Loss of Load Probability.

#### 4.4 Unbundling of Electricity Networks

ESB currently owns the electricity networks (both transmission and distribution) and also operates the electricity distribution system. In 2001, the CER issued a transmission system owner (TAO) and a distribution system operator (DSO) licence to ESB. A transmission system operator (TSO) licence was issued to EirGrid. An Infrastructure Agreement, detailing the arrangements between TSO and TAO, was formulated in 2001 and was fully implemented in July 2006.

EU Directive 2003/54/EC unbundling requirements have been transposed into Irish law through European Communities (Internal Market in Electricity) (Electricity Supply Board) Regulations 2008 (SI 280 of 2008).

In line with the model for distribution unbundling adopted in SI 280, ESB will remain the owner of the distribution system (DAO) and a wholly owned subsidiary of ESB will be created to undertake the functions of the operator. To progress the separation of the businesses, the Commission consulted on the necessary modifications to the Distribution System Operator licence to take account of this new situation. Given the timeframe for the legal unbundling process offered the Commission felt it appropriate to carry out a full review of the Distribution System Operator (DSO) and Distribution System Owner (DAO) licences in light of the developments in the electricity market over the last seven years.

The Commission also consulted upon the Operating Agreement to be entered into between the DAO and the DSO. The Operating Agreement to be entered into between the Distribution System Owner (Distribution Asset Owner known as DAO being ESB) and the Distribution System Operator (DSO being ESB Networks Ltd) was published in November 2008. With the modified DSO and DAO licences published in early 2009.

Business separation arrangements exist between the various ESB divisions. In particular ringfencing arrangements are in place between the networks business of ESB, ESB Networks and the production and supply arms of ESB; ESB Power Generation (ESB PG), ESB Public Electricity Supplier (ESB PES) and ESB Independent Energy (ESBIE).

Details of these networks separation arrangements are presented in the table below and are incorporated in each of the system operator's (or owner's) licence:

Electricity Unbundling	
	Transmission   Distribution

	Yes/No	Yes/No
Separate headquarters	Y	Y
Separate corporate presentation	Y	N
Unbundled regulatory accounts with guidelines	Y	Y
Audit of unbundled accounts	Y	Y
Publication of unbundled accounts <sup>6</sup>	Y	Y
Separate board of Directors without Directors from other group companies	Y	N

Source: CER

The relevant unbundling provisions of the TSO, TAO and DSO licences are as follows:

- **Implementation of Legal Unbundling & Network Ownership:** Ownership of the networks is with ESB, an undertaking that is owned by the state (95 percent) and by its own employees (5 percent). Operation of the distribution networks is under taken by ESB Networks Ltd, a wholly owned subsidiary of ESB. EirGrid undertakes operation of the transmission system and the wholesale market. EirGrid was legally separated from ESB in July 2006. The Government outlined, in its White Paper on Energy<sup>7</sup>, its intention to transfer ownership of the transmission network from ESB to EirGrid. This would establish EirGrid as the National Transmission Grid Company.
- **Ringfencing Arrangements:** The TSO, EirGrid, is fully independent of ESB. EirGrid is owned by the state (through the Department of Finance and the Department of Communications, Energy and Natural Resources). ESB Networks is a ringfenced business within ESB. As such, ESB Networks as the TAO is separated from the production and supply arms of ESB, ESB PES and ESB PG. ESB Networks Ltd is a wholly own subsidiary of ESB and undertakes the functions of the DSO.  
In terms of location, EirGrid has its own separate offices. ESB Networks premises are also separate from other ESB premises.
- **Incumbent's Corporate Image:** In terms of presentation, EirGrid presents itself as EirGrid and the TSO, emphasising its difference and separation from ESB, with its own logo and its own website at [www.EirGrid.com](http://www.EirGrid.com). ESB Networks presents itself as the DSO and TAO. ESB Networks does not use a separate logo or corporate website.
- **Publication of TSO/TAO/DSO Accounts:** There is a requirement on parties to submit audited accounts.
- **Regulatory Accounting Guidelines ('RAGs'):** In 2002 the CER issued detailed guidelines in the regulatory guidelines.

<sup>6</sup> Unbundled accounts are published in a summarised format.

<sup>7</sup> Delivering a Sustainable Energy Future for Ireland – A Government White Paper: March 2007

The CER regulates accounts submissions under Condition 14 ('Separate Accounts for the Separate Businesses') of ESB Networks' Transmission System Owner Licence, Condition 22 of the EirGrid's Transmission System Operator Licence and Condition 19 of the ESB Networks' Distribution System Operator Licence.

These conditions ensure that ESB maintains separate accounting and reporting arrangements, in a form approved by the CER.

- **Audit of 'RAGs':** These regulatory accounts are subject to a separate audit from an audit team of certified accountants separate from the audit team for ESB accounts and for EirGrid.
- **Role of Compliance Officer(s):** The sole role of the compliance officer(s) is to facilitate compliance by the licensee's obligations and duties under the licence and any other legislative obligation or duty notified to the licensee by the CER. In particular, the duties and tasks assigned to the compliance officer(s) include recommending and establishing practices, procedures and systems to ensure the licensee's compliance with the relevant duties and monitoring the effectiveness of the practices, procedures and systems adopted by the licensee to ensure its compliance with the relevant duties.
- **Shared Costs:** Costs of transmission are applied separately and paid for by Use of System charges and other payments from users of the system. Costs of the DSO are shared in some areas and are apportioned by the DSO's regulatory accounts.
- **Other Regulatory Sanctions:** As outlined above the requirement for separate financial accounts in respect of each separate business is included under both the distribution and transmission licences issued to ESB Networks Ltd and EirGrid. Failure to adequately implement the procedures would mean that the licensees would not be in compliance with their licence obligations.

Section 24 of the Electricity Regulation Act, 1999 states that where the CER is of the opinion that the holder of a licence may be contravening or may be likely to contravene a condition or requirement it may issue a notice to the holder of the licence.

Following consideration of any representations or objections in relation to this the CER may make a direction to the holder of the licence to take measures as are necessary to cease the contravention or to prevent a future contravention. Alternatively as outlined under Section 25 where the CER decides not to issue a direction under Section 24 it may make a determination that the holder of the licence has committed a specified breach of a condition or requirement. In order to ensure compliance with a direction given under Section 24 the CER may apply to the Irish High Court for an order requiring the holder of the licence to discontinue or refrain from specified practices (Section 26).

## 4.5 Single Electricity Market

The Single Electricity Market (SEM) consists of a gross pool market into which all electricity generated or imported onto the island of Ireland must be sold, and from which all wholesale electricity for consumption or export from the island of Ireland must be purchased. The SEM combined the two previously separate wholesale markets of the Republic of Ireland and Northern Ireland into one cross-border market and was developed with the goal of creating a single market that benefits all consumers through; greater competition, better investment opportunities, enhanced security of supply, and improved efficiencies.

Following the successful introduction of the SEM, on the 1<sup>st</sup> November 2007, the Regulatory Authorities (RAs), the CER and the Northern Ireland Authority for Utility Regulation (NIAUR), focus moved towards the ongoing governance and operation of the new wholesale market and towards ensuring that the benefits of the market are fully realised.<sup>8</sup> It is important that the ongoing development of the market is given the priority it deserves. As such, SEM Continuing Development was identified as one of the Commission's Ten Key Tasks for 2008.

Analysis of the first year of market operation (2008) indicates that the SEM is successfully meeting its objectives. Some of the key success areas are:

**Fair & Cost Reflective Prices** – The SEM operates a transparent market clearing system resulting in wholesale market prices that follow demand. New efficient generation is also driving lower prices. Reduced fuel prices in 2009 are reflected in lower SEM prices which will mean lower prices to consumers;

**Increased Competition** - The market structures have encouraged the entry of new generators, while market rules have seen the most efficient power plants being run, at all periods. This was a key strategic objective of the new market and will lead to increased competition and the best price for consumers. At the end of the first year there were 45 participants registered in the SEM with 13 of these only joining since market commencement. In particular the entry of the Spanish energy utility Endesa into the market is a reflection of the success of the SEM to date;

**Investment and Security of Supply** - Another key objective was to attract new and efficient generators to the island of Ireland. The SEM Committee is encouraged by the level of interest in building new stations. In the Republic of Ireland alone, there are currently connection applications for 9,000MW of renewable generation and more than 6,000MW of conventional generation.

## **Regulatory Environment**

The **SEM Committee** is the decision-making body which governs the exercise of regulatory functions on SEM matters. Legislation was enacted in both jurisdictions to establish and to give effect to the SEM Committee:

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<sup>8</sup> For more detailed information on SEM related activities please see the 2008 SEM Annual report available at [www.allislandproject.org](http://www.allislandproject.org)

- **Republic of Ireland** – the Electricity Regulation (Amendment) (Single Electricity Market) Act 2007 which amends the Electricity Regulation Act 1999 to provide for the establishment and operation of a single competitive wholesale electricity market on the island of Ireland.
- **Northern Ireland** - the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 provides a legal framework for the establishment and operation of the SEM in NI.

Under law, the primary function of the SEM Committee is the taking of decisions as to the exercise of relevant functions of the CER or the NIAUR in relation to SEM matters on behalf of the Regulatory Authorities.

The objectives and functions of the SEM Committee in carrying out their functions in relation to the SEM are set out in Section 9 of each of the above acts.

The SEM Committee is supported by an **Oversight Committee**, a Secretariat and a number of **Joint Management Units** (JMU) which supervise and co-ordinate key regulatory workstreams.

The Oversight Committee is responsible for:

- the management and recommendation of resources across both Regulatory Authorities to ensure both Regulatory Authorities give effect to decisions of the SEM Committee;
- the co-ordination and development of proposals on SEM matters for consideration by the SEM Committee;
- the management of key regulatory functions through JMU, as outlined below; and,
- such other matters as determined by the SEM Committee.

Four key SEM regulatory functions have been identified and a Joint Management Unit (“JMU”), assigned to each:

- Trading and Settlement Code;
- Market Modelling Group;
- Market Monitoring Unit;
- Single Electricity Market Operator (SEMO) Regulation.

Agreed internal joint working principles, called Joint Regulatory Arrangements, have been developed by the Regulatory Authorities for the operation of the oversight arrangements, the exercise of roles in the management of each JMU, and the exercise of any delegated functions from the SEM Committee.

The CER has lead responsibility for two of the JMU’s; the Trading & Settlement Code and the Market Modelling Group, and also a shadow role in the other two JMU’s; SEMO Regulation and the Market Monitoring Unit.

### **Trading & Settlement Code**

The Code is a multilateral contract which sets out the rules and procedures concerning the sale and purchase of wholesale electricity in Ireland and Northern Ireland. The Code was designated



by the Regulatory Authorities on 3rd July 2007 and can be modified from time to time thereafter in accordance with procedures set out in the Code.

### **Market Modelling Group (MMG)**

The Market Modelling Group (MMG) provides market forecasts of the SEM to the RAs. The majority of the MMG's forecasting is over short term (1 to 2 years), which is used to feed into the work of other JMUs and departments within the RAs. Medium and long-term forecasting is also carried out to support RA policy decisions.

### **Market Monitoring Unit**

The market monitor, also based in Belfast, reviews generator participant behaviour in the market; this includes investigations into the exercise of market power, monitoring the compliance of market participants with the bidding code of practice and other market rules. The MMU is also the point of contact for participants who wish to register complaints of market behaviour.

The MMU also has responsibility for setting the **Capacity Payment Mechanism (CPM)**. The Capacity Payments Mechanism (CPM) for the SEM attaches a value to the provision of capacity by generators within the market. The CPM was developed with a view to ensuring the reliability of the system, giving some degree of price and revenue stability and sending efficient signals to the market for long term investment. Taken together, the System Marginal Price (SMP) and the CPM reward generators for the value of energy and capacity. This Capacity Payment Mechanism ensures the reliability of the system, giving some degree of price and revenue stability and sending efficient signals to the market for long term investment. The money is sourced by concurrent Capacity Charges levied on all Suppliers that purchase energy from the pool. Under the Capacity Payments Mechanism, capacity payments are made in respect of generators based on a measure of their availability. These payments depend on a fixed amount of cash – known as the “Annual Pot” - determined by the Regulatory Authorities each year. This is based, in terms of price, upon the fixed costs of a best new entrant peaking plant and, in terms of volume, on the capacity required to meet the (all-island) security standard of the system. Capacity Payments to generators are funded by Capacity Charges, which are levied on Suppliers based upon their electricity purchases.

In 2008, following a consultation with the industry the annual pot for the 2009 CPM was set at €640.9 million, an increase from the 2008 CPM pot of €575.2 million; this is a result of higher capital costs due to increased global demand for gas turbines. In 2009 the Regulatory Authorities conducted a review of the process and calculation of the capital cost of a best new entrant peaking plant with the aim of reducing volatility in the annual capacity pot.

### **SEMO Regulation**

This unit, which is based in Belfast, is responsible for approving the Single Electricity Market Operator's (SEMO) revenues and tariffs, overseeing licence compliance, and approving projects run by SEMO. The main project during 2008 was the Market System Development Plan (Day 1+), which was delivered on time in January 2009.

## Market Power Mitigation

**Market Power Definition** - The ability of a market participant, acting independently, to raise market prices consistently and profitably above competitive levels for a sustained period of time<sup>9</sup>.

As part of the development of the SEM the Regulatory Authorities developed a robust market power mitigation strategy to prevent market power being abused or distorting the SEM. The major focus of this strategy comprised the imposition of Directed Contracts on generators with significant market power, the imposition on generators of licence conditions to adhere to a Bidding Code of Practice and the setting up of a bespoke Market Monitoring Unit to monitor participants bidding behaviour. For the first year of operation, only ESB Power Generation was required to offer Directed Contracts.

Directed Contracts form a cornerstone of the market power mitigation strategy in the SEM. These contracts (to be in the form of Contracts for Difference at a regulated price based on the Regulatory Authorities' forecast of spot market prices in a market absent any market power) mitigate market power by reducing the incentives for the market participants to submit bids above competitive levels, or otherwise withhold capacity, in order to influence current spot prices or future contract prices. The Regulatory Authorities direct generators with market power to offer a portion of their output as Directed Contracts to all suppliers who wish to avail of it.

ESB Power Generation (ESB PG) are required to offer a suite of directed contracts to all eligible suppliers in the market. The prices of these contracts are determined largely by forward fuel prices and a pricing formula established by the Regulatory Authorities. Suppliers bid the volume of MWs they require during the directed contracts auctions held in June and July 2008. The entire volumes of directed contracts were sold during the auctions and therefore fulfilling this element of the market power mitigation strategy.

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<sup>9</sup> Ref: US Department of Justice & Federal Trade Commission, Horizontal Merger Guidelines 1997. See also, definition of dominant position in *United Brands v Commission of the European Communities* Court of Justice of the European Communities, Case 27/76 [1978] ECR 207, judgment of 14 February 1978.

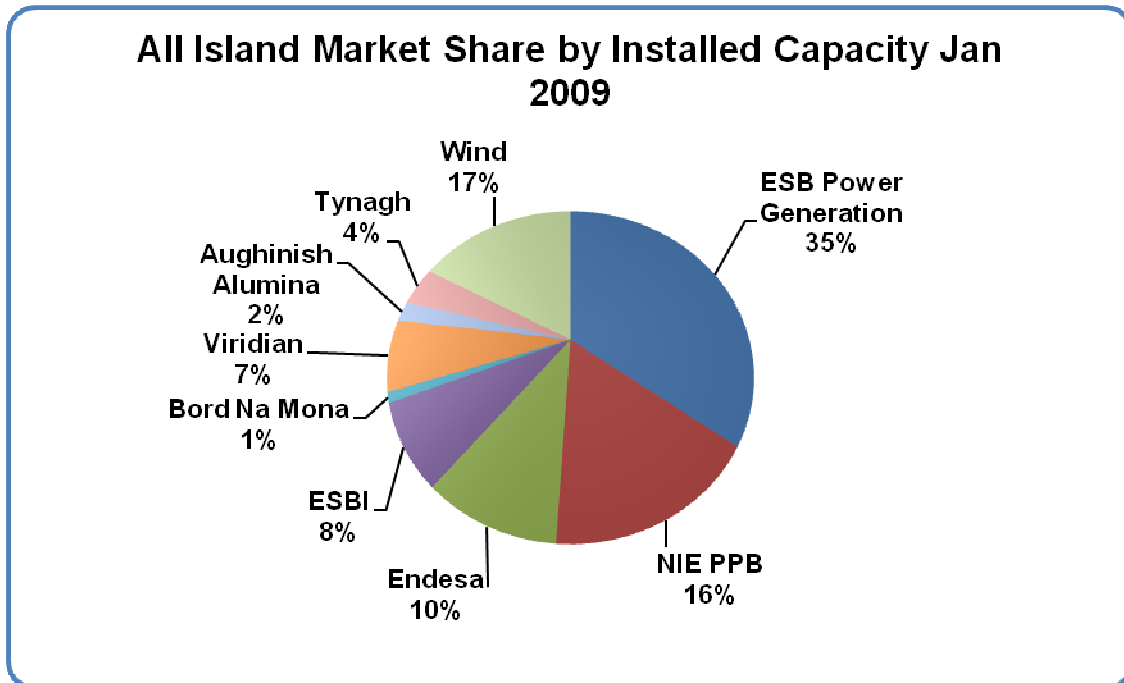


Figure 1.0 - Market share by installed capacity in the SEM as at Jan 2009.

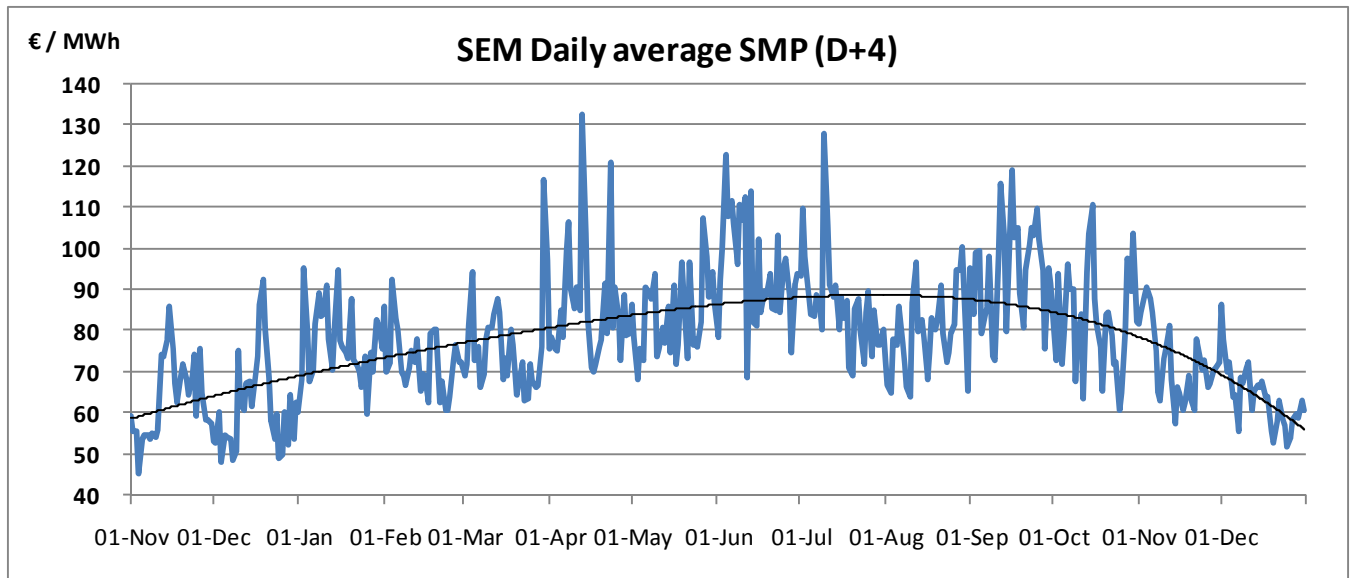
### Bidding Principles

As another key element of the market power mitigation strategy, the Regulatory Authorities drew up and consulted on a set of Bidding Principles and a Bidding Code of Practice for generators bidding into the SEM. As part of this, market participants must adhere to principles that price bids be submitted to the Single Market Operator (SEMO) at Short Run Marginal Cost (SRMC). This requirement to bid SRMC is reflected in a condition in all electricity licences in both Northern Ireland and Ireland.

### Prices in the SEM

2008 saw significant movements in the System Marginal Price (SMP) as a result of volatile movements on the international fuel markets. The SEM is dominated by power stations that run on fossil fuels and therefore carries through any shocks from those fuel markets into the wholesale electricity price. Gas is the dominant fuel in the SEM and together with coal and oil accounts for nearly 84% of electricity generated in 2008.

The figure below shows the average daily System Marginal Price (SMP) from the 1<sup>st</sup> November 2007 to the 31<sup>st</sup> December 2008.



**Figure 2.0 Average Daily SMP for 2008 – SMP = System Marginal Price that is set for each trading period based on a market schedule that is unconstrained by transmission limitations.**

## **SEMO Establishment, Revenue and Tariffs**

The SEM design also required that a Single Electricity Market Operator (SEMO) be put in place to schedule the market, settle energy payments and administer other market related cash-flows. Accordingly SEMO, a contractual joint venture between the System Operator of Northern Ireland (SONI) and EirGrid, was established prior to the commencement of market trials in July 2007 and in advance of SEM 'Go-Live' on 1 November 2007.

The establishment of the SEMO was carried out under the supervision of the Regulatory Authorities, and an important part of the Regulatory Authorities' role in this regard was the setting of a SEMO revenue control. This allowed the SEMO to recover both its own administrative costs and other market related costs as required under the SEM Trading and Settlement Code. These costs include those associated with settlement systems and the dispatching of generators away from their scheduled output, known as constraints costs.

## **4.6 Electricity Retail**

### **Introduction**

The Commission has statutory responsibility for approving ESB Customer Supply (ESB CS) proposals to change electricity tariff structures and levels as well as regulating annual allowed revenues for ESB CS. The Commission also oversees the development of consumer policy as it applies to electricity customers and ensures that the correct market structures to support competition are in place.

The electricity retail market fully opened to competition in February 2005, meaning all electricity customers are entitled to choose their supplier. When a section of the market becomes competitive, it is removed from price regulation. The Large Energy User section of the market is now considered fully competitive and is no longer subject to fixed regulated tariffs since late 2007. The CER continues to work towards implementing full retail market competition in all segments of the market.

Through the Industry Governance Group forum, the Commission in conjunction with industry has contributed to the implementation of agreed market procedures, codes of practice and operational policy that governs the liberalised retail electricity market. In 2008, the Commission published an 'Electricity Retail Market Information Report', which provides an overview of the retail market and developments within the sector. The report indicates increased competition in the retail sector, particularly in the SME and Large Energy user sections. The Commission also notes significant competitive activity in the domestic market in 2009.

### **Retail Market concentration**

There are currently 9 undertakings active in the Irish retail market. Of these, 7 are independent suppliers which are not affiliated in any way with the incumbent, ESB. ESB, also has a 'universal service', or default, supplier arm known as ESB PES. Two out of the next three largest suppliers serve mostly medium domestic customers. The fourth largest supplier focuses on small and medium-sized commercial customers. This firm is also involved in the domestic market. Overall there are 5 suppliers (4 where ESB PES and ESBIE are combined) in the largest and medium-sized retail segment, 5 (4) suppliers in the small business sector and 4 in the domestic market.

### **Supplier characteristics**

Nationality: All but one of these firms is based in Ireland. The exception is the supplier Energia, a subsidiary of Viridian (Northern Ireland Electricity).

Of the 4 largest suppliers, only one is not vertically integrated with a generation business.

As mentioned above, the incumbent ESB also owns and operates the Irish distribution system, of which there is only one in Ireland. ESB also currently owns the transmission system. However, the operation of the transmission system is undertaken by the independent TSO, Eirgrid. The operation and ownership of the networks is separated from the supply businesses via management separation. However, all of these business units share selected common services within ESB's corporate structure.

## **Regulated Supply Tariffs**

The CER approves the tariffs of the default supplier, ESB PES. From 2002, these tariffs – which typically apply from October to September in each tariff year – have been approved on an annual basis. In certain cases wholesale market conditions have necessitated mid-year tariff reviews.

ESB PES customers are divided into the following categories:

1. Domestic Urban (residential customers served by three-phase low voltage network);
2. Domestic Rural (residential customers served by single-phase low voltage network);
3. Residential Business (connections where a customer is both residential and commercial);
4. Small (a) Commercial & (b) Industrial (General Purpose: customers with a maximum import capacity of less than 50kVA);
5. (a) Commercial & (b) Industrial Low Voltage Max Demand (customers with a maximum import capacity of 50kVA or above);

As applied to Eurostat customer categories, tariffs 1-3 charged in Ireland roughly correspond to domestic categories Da to De. Tariff categories 4-5, above, relate to Eurostat Ia to Li industrial and commercial customer categories. However, the key difference between these two classification systems is that the majority of Irish tariffs are charged to customers based on their network characteristics, while Eurostat categories are based on customer usage. Therefore, in Ireland, the default supplier's average cost of serving customers in any given category may be considerably higher than the costs to an independent supplier of serving customers in the same category.

## **Retail Revenue and Tariffs**

Following a period of public consultation, in September 2008 the Commission published a paper detailing the allowed revenue for ESB CS, as the Public Electricity Supplier (PES), for the period from 1st October 2008 to 30th September 2009. The published document set out the basis and calculation of the allowed cost of €160.78m and placed it in the context of the five year (2006-2010) control on PES Allowable costs. The time period covered in the current 5yr revenue review will expire at the end of the next tariff period (2009-2010); therefore in 2009 the Commission will commence a full review of the allowable costs for the next five year period with full details to be published in 2010.

The Commission continues to regulate ESB tariffs for domestic customers and small to medium sized industrial and commercial customers on an annual basis. In light of the dramatic increase in fuel prices over the first half of 2008 the Commission approved an application from ESB PES for an interim price increase of an average of 17.5% for households and SME's to apply from the 1st August 2008. The Commission conducted a further review of tariffs in November 2008 to set tariffs from 1st January – 30th September 2009. The second half of 2008 was marked by falling fuel prices which, combined with a €15.4m over-recovery by ESB Power generation in 2007, the €300m rebate agreed with ESB and a further €87m PSO related rebate, allowed the Commission to approve an average decrease in electricity tariffs of just less than 1% from the 1st of January 2009. Further falls in wholesale fuel prices saw an average of 10% reduction in end user tariffs in May 2009 with further reductions to be implemented from October 2009.

The figure below provides an approximate breakdown of domestic retail tariff components.

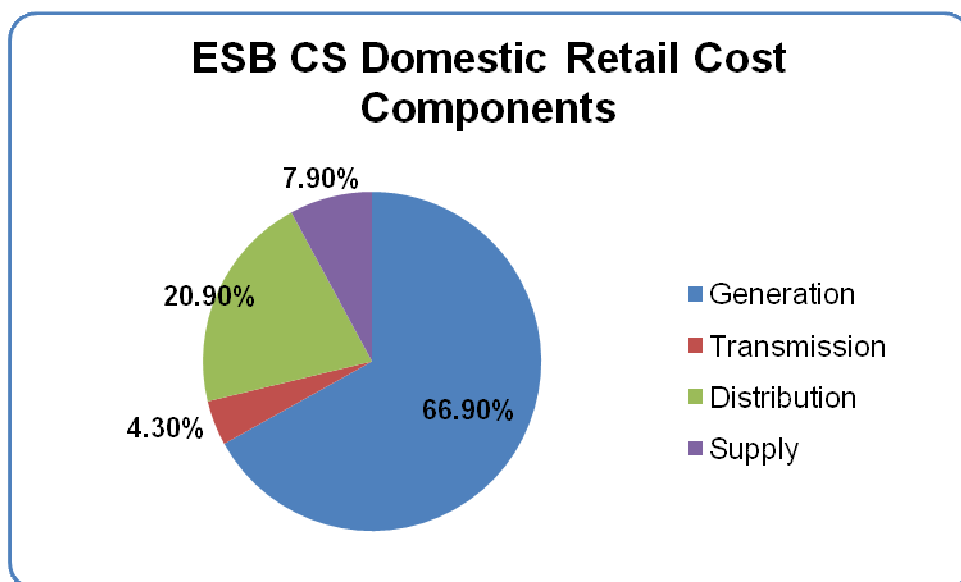


Figure 3.0 ESB CS Domestic Retail Tariffs Cost Components (Dec 2008)

The Commission notes that electricity costs in Ireland are high relative to some other European countries. This is primarily due to the small size of the Irish market and the heavy reliance on fossil fuels to generate electricity. Figure 3.0 above shows that for an average domestic customer of ESB CS approximately 67% of their final tariff is made up from generation costs. Unlike many European countries, Ireland does not have access to cheaper generating fuels such as hydro and nuclear. Furthermore, up to €4.3 billion will have been spent upgrading and maintaining the electricity networks between 2001 and 2010 which has pushed up the network costs; this investment has been essential to maintain security of supply.

## **Retail Market Customer Switching**

Overall, a considerable proportion of industrial customers have switched supplier since market opening commenced in 2000. A smaller, yet significant, number of commercial customers have changed since this date. The entry of Bord Gáis and Airtricity into the domestic electricity market has resulted in a large increase in domestic switching (at the end of Q2 2009, independent suppliers had c.9.8% of total number of domestic customers).

In regard to customer switching processes, there are no charges for changing supplier. The maximum delay for changing supplier is 20 days. Finally, there is no process-restriction on customers in debt from changing supplier.

In September 2006, the Commission decided that levels of competition amongst suppliers in the 'large energy users' sector of the market had developed to a sufficient level to end tariff regulation in this sector of the market. This effectively prevented ESB PES from competing for customers in this market sector. ESB PES is still active in this sector of the market, supplying customers that could not obtain another supplier.

## **Retail Tariff Structures**

In 2008, the Commission received a number of proposed changes from ESB CS to some of the regulated tariff structures. This was deemed appropriate following the commencement of the SEM in order to ensure that tariffs charged mirror the profile of costs in the wholesale market. In May 2008 the Commission approved one of these changes for implementation and approved a further five, in principle. It was intended that these further five proposals would be adopted in the 2008-2009 tariff period. However in light of the volatile wholesale fuel prices over the first half of 2008 and the resulting interim tariff increase for households and SME's, any changes to tariff structures were postponed, to be reviewed in 2009.

The Commission also commenced a joint review of all retail tariff structures with NIAUR at the end of 2008. This will look at comparing and contrasting the PES tariff structures north and south and make recommendations on areas for harmonisation. This work is part of a package of joint retail work with CER and NIAUR which will also review the application of k-factors in the retail market.

## **Energy Customers Info**

The CER's Energy Customers Team was established late in 2006 to provide a complaint resolution and information service directly to small business and domestic customers. When a customer has completed their supplier or network operator's internal complaint process, and is still not satisfied that their complaint has been adequately considered, they can then contact the Energy Customers Team who will investigate the matter on their behalf. Following investigation the Commission has the power to direct suppliers and network operators to award compensation or to resolve the complaint in a set fashion if the customer's complaint is upheld. The Energy Customers Team is also the Commission's first point of contact for



domestic information requests and provides a customer friendly website, **energycustomers.ie**. The Energy Customers Team spoke or corresponded with over 1,200 customers during 2008 with respect to their queries or complaints.

## Information Requests

Information Requests are defined as general questions and queries from customers referring to natural gas, electricity or the functions of the CER. The type of Information Requests received include general information on disconnection and reconnection fees, list of suppliers, information on how to get connected, and inquiries on what role the CER plays.

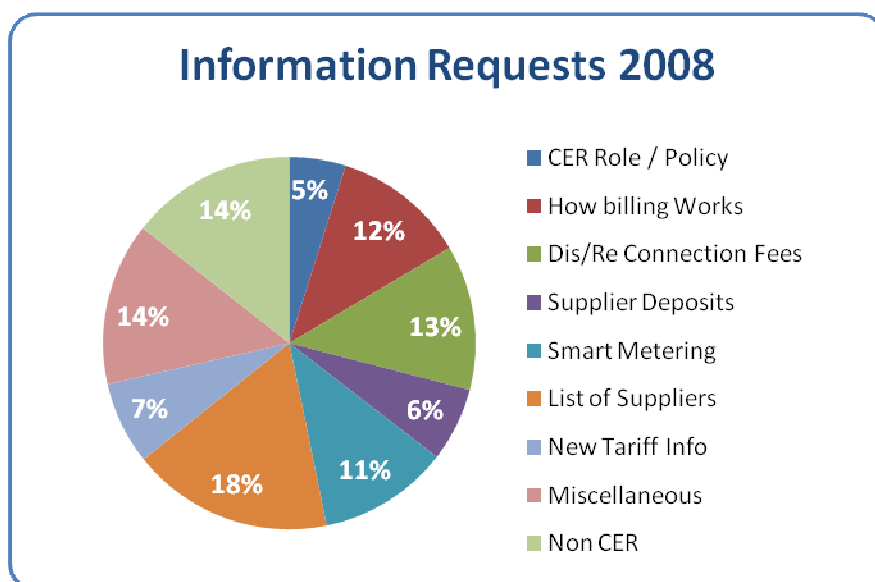


Figure 4.0 Breakdown of information requests received by the CER Energy Customers Team during 2008

## Complaints

**Standard Complaints** are defined as general complaints which do not require the full scale investigation of a supplier's or network operator's behaviour in relation to a specific incident. In general they can be answered at the first point of contact or with limited correspondence. Examples of these would be complaints regarding fixed regulated standing charges, customer's dissatisfaction regarding the introduction of new fees or tariffs or general policy complaints. The Energy Customers Team monitors these complaints to ensure that if a trend is visible in the type of issues being raised by customers that feedback is given to the division within the Commission with responsibility for that issue. This ensures that as policies are reviewed customers' views are included for consideration. The Energy Customers Team dealt with 491 electricity related standard complaints in 2008.

A **Complex Complaint** is a complaint between a customer and a supplier or network operator, or both, which requires a full investigation by the Commission. A complaint will only be logged

as a Complex Complaint if it has completed the supplier or network operator's full complaints handling process and if this has been confirmed by both the customer and the supplier or network operator. The investigation of a Complex Complaint includes liaising with the customer, supplier, and/or network operator whilst determining the full extent of what has occurred in relation to the issue raised by the customer. Once the Energy Customers Team is satisfied that enough information has been provided to issue a determination on the matter a decision is made by the Commission. The Commission has the power to direct a supplier or network operator to compensate or put in place a solution to the problem, if appropriate. The Energy Customers Team dealt with 134 electricity related Complex Complaints in 2008.

## **Market Power Mitigation**

The CER monitors the conduct and behaviour of ESB suppliers by employing a number of measures. ESB's activities, as the Public Electricity Supplier, are regulated in the areas of final customer tariffs and supply terms & conditions. Supply terms and conditions include conditions concerning consumer codes of practice, non-discrimination and duty-to-supply clauses, performance reporting, and supplier of last resort obligations.

These PES and PG licences include ringfencing arrangements which cover the disclosure of information between the two businesses, between the two businesses and the regulated network businesses and between the two businesses and the board of ESB.

ESB's independent supply business, ESB Independent Energy, is licensed as a 'brown' (a renewable and a CHP) independent supplier. As well as being subject to generic licence conditions, ESBIE's licences contain conditions limiting its marketing activities. The present ESBIE licences also contain a market dominance condition. This condition also allows the CER to specify what constitutes the relevant market for the purpose of monitoring market dominance.

### **1. Tariff Approval & Publication**

ESB PES, as the default supplier, must publish its tariffs, as approved by the CER. ESB PES offers these tariffs on the principle of non-discrimination. Changes to approved tariffs may be undertaken on an annual basis. Independent suppliers, on the other hand, are not required to publish their respective tariffs.

### **2. Supply Obligation**

Under regulation 18 of S.I. 60 of 2005, ESB PES has a duty to supply all customers who make reasonable requests for supply. Independent suppliers are not subject to this regulation.

### **3. Business Separation**

ESB PES is functionally separated from ESB Networks as DSO and TAO and from Eirgrid as TSO. In 2001, the CER licensed ESB as transmission owner and distribution operator. Under these licences, ESB is required to separate these network businesses from its affiliated supply and generation businesses. This 'business separation' process was

commenced in late 2001 and will be fully complete by the end of 2005 (the Transmission System Operator, Eirgrid, which was established in 2001, was fully separated from ESB in June 2006.)

## 4.7 Further Interconnection and Market Developments

Ireland is connected to Northern Ireland via a 600 MW AC 'North-South' interconnector. Since the advent of the SEM this interconnector is now considered a part of the all island market. In turn the SEM is directly connected to Scotland via a 400MW DC interconnector between Northern Ireland and Scotland at Moyle. Each year auctions are held to allocate capacity across this interconnector.

### 'East-West' Interconnector

The Commission is actively involved in promoting the development of the East West Interconnector between Ireland and Great Britain. The security of supply and competition advantages attributed to increasing the levels of interconnection for Ireland are key factors behind the drive to increase interconnection. The interconnector may also facilitate the expansion of Ireland's indigenous renewable energy portfolio and is consistent with European policy towards the development of regional and more integrated electricity markets. As such the advancement of the East West interconnector project remained a key priority for the Commission in 2008 with significant progress being made. The Commission and EirGrid are working closely together to ensure the completion of this project on schedule.

The main items of work in 2008 are summarised below:

- Enactment of the Electricity Regulation (Amendment) (EirGrid), Act 2008;
- Following completion of the competition design in December 2007 an Invitation to Negotiate document was released by EirGrid to a panel of preferred tenderers, identified as part of the competition design phase of the project. Tenders were received from three parties in June 2008;
- Evaluation of the bids was carried out by EirGrid and the DCENR and the CER approved the contract to be awarded to the winner of the process;
- Preparatory planning work has been carried out to secure the over-land section of the interconnector route planning permission for the UK converter station was granted in early September and for the Irish section on 15 September 2009.

East-West Interconnector Feature	Detail
Capacity	500 MW

Ownership	EirGrid plc
Delivery date	End 2012
Connection Point on Irish System	Woodlands sub-station, south Meath.
Next Steps	Achievement of funding requirements and necessary permits with construction beginning in 2010/11.

The advancement of this project remains a key priority for the Commission in 2009. A candidate has now been secured for the construction of the interconnector, and approval to proceed requested from Government.

In addition to the East-West interconnector, the Commission is aware of plans by Imera Power to develop interconnection between Ireland and Britain and will monitor this project as it develops and deal with applications for authorisations and exemptions as appropriate.

## Mergers and Acquisitions

Scottish and Southern Energy plc (“SSE”) entered into an agreement to acquire Airtricity Holdings Limited (“Airtricity”) from its current shareholders in January 2008. The agreement was subject to clearance by the Irish Competition Authority and by the Irish and Northern Ireland energy regulators (CER & NIAUR). The acquisition has now been completed and SSE has indicated their intention to target Irish domestic and business customers.

Endesa, the Spanish power company and ESB confirmed on 31<sup>st</sup> July 2008 that an agreement was entered into by both parties in respect of the sale of two power stations, two peaking plant and two sites. Endesa agreed to purchase the following ESB Power Generation plant, with a total export capacity of just over 1,000 MW (plus key “generation-ready” sites):

Plant	Export Capacity	Location	Fuel
Great Island	216MW	Wexford	Heavy Fuel Oil
Tarbert	590MW	Kerry	Heavy Fuel Oil
Peaking Plant	4* 50MW	Various	Distillate Oil
<i>Sites at:</i>			
Lanesboro		Longford	
Shannonbridge		Offaly	

The sale of these generating units represents a key step in achieving the aim of reducing ESB’s share of the power generation market to 40% by 2010. Furthermore it indicates a long term commitment by Endesa, which is one of the largest utility firms in Europe, to developing a strategic presence in the Irish energy sector. The sales process was concluded in early 2009.

## **5.0 Regulation and Performance of the Natural Gas Market**

Under the Gas (Interim Regulation) Act, 2002 the CER is responsible for the regulation of the Irish gas network and the supply or retail market. While the Minister for Communications, Energy and Natural Resources retain responsibility for the licensing and regulation of offshore exploration.

The CER regulates the charges, tariffs and access conditions imposed by Bord Gáis Energy and conducts five-year reviews of revenue earned by the gas network operators. There are also annual price controls in place for the supply arm of BGE. Access conditions, connection charges and use of system tariffs imposed by the transmission and distribution operators are also regulated. In gas, this concerns BGE Networks as owner of the gas transmission and distribution systems and Gaslink as Transmission System Operator (TSO).

Further, the CER has introduced a number of ring-fencing requirements between and within the incumbents' regulated businesses to ensure that certain business units/subsidiaries are autonomous and independent of one another. These requirements are enforced by way of licence conditions and business separation implementation programmes.

### **5.1 Regulation of Gas Transmission and Distribution Companies**

Bord Gáis Éireann (BGE) owns the gas networks in Ireland which are now operated by Gaslink, a legally separate subsidiary of BGE. The relationship between Gaslink as the system operator and BGE as asset owner is managed through the Operating Agreement approved by the CER. These arrangements are in accordance with Irish legislation SI 760 of 2005, which was introduced to give legal effect to Directive 2003/55/EC.

#### **Gas Network Tariffs**

BGE proposes network transmission and distribution tariffs to the CER as part of the annual tariff review exercise<sup>10</sup>. The CER reviews the assumptions underlying these submissions and the impact these will have on system-users. The CER then carries out a public consultation on the proposed tariffs in advance of issuing a determination.

A 'revenue review' is undertaken every five years for both transmission and distribution costs, during which the CER makes an in-depth examination of Bord Gáis Network's (BGN) costs, including the benchmarking of costs against the same activities in other countries. BGN's

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<sup>10</sup> Gas tariffs and revenues are approved for the 'gas year' which begins in October and continues until the end of the following September. The CER published the proposed transmission and distribution tariffs for 2008/09 in June 2008 (CER/08/112 and CER/08/114)

allowed costs are decreased as appropriate to reflect efficiencies that should be achieved. The most recent revenue reviews for transmission and distribution run from 2007/08 to 2011/12.

The performance of the networks is evaluated in the context of tariff reviews and in the wider context of public safety – for example; the CER has approved expenditure to replace cast iron pipes with PE pipes for safety reasons.

Regarding quality of supply, there is a low risk of interruption on the Irish natural gas system; as such continuity of supply is not an issue in this market.

<b>Natural Gas Network Operators 2008</b>						
	Number regulated companies	of	Approx network access charge (€/Cubic Metre)			Interruptions (minutes lost per customer per year)
			I4	I1	D3	
Transmission	1		n/a	n/a	n/a	Negligible
Distribution	1		n/a	n/a	n/a	Negligible

Source: CER

## Gas Balancing

Natural gas market balancing arrangements are included in the Irish gas Code of Operations, as approved by the CER. The needs of small market participants and new entrants are taken into account in the tolerance ranges, which are based on customer category (i.e. smaller customers have larger tolerances). Daily entry-exit balancing is on an aggregate basis across the entire portfolio of individual shippers and market participants can trade out any imbalance ex-post with another shipper (which has an opposing Daily Imbalance Quantity for the same day).

The table below describes the Irish balancing mechanism in greater detail:

<b>Gas Balancing Mechanism Characteristics</b>	
Definition of balancing charges	Under the Code of Operations, balancing charges are defined as the Daily Imbalance Charge and the System Imbalance Charge.
Definition of penalties	Penalties are charged on imbalances outside the appropriate tolerance range that are not traded out. First tier imbalances (i.e. within the tolerance range) are cashed out at a neutral price, which is not punitive. In excess of the tolerance market participants are penalised

	at the Second tier imbalance price.
Existence of tolerance levels	Tolerance levels are set on a customer category basis. Gaslink, calculates the Shipper Portfolio Tolerance in respect of each day for each registered Shipper. The calculation methodology for the Shipper Portfolio Tolerance is outlined in Part E, Section 1.7 of the Code of Operations.
TSO/DSO energy procurement	Gaslink procures energy through an annual tender for balancing and shrinkage.
System Requirements	Gaslink publishes a report outlining its balancing requirements on an ex-post basis. Estimates are published to shippers and to tendering parties ex ante.
Balancing incentives	System users have an incentive to balance within the set tolerance levels so that they are not faced with the punitive second tier imbalance price.
Balancing interval	Entry/exit balancing is on a daily basis.
Balancing areas	In Ireland, there is a single transmission/ distribution system, which corresponds with the single balancing area.
Interaction between areas	It is anticipated that a single balancing area will be created for the island of Ireland (Republic of Ireland and Northern Ireland) following the full implementation of CAG11
Grouping of Imbalances	The entry-exit balancing regime operates on an aggregate basis across the entire portfolio of the individual shipper. System users can trade out any imbalance on an ex-post basis.

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<sup>11</sup> CER and the Northern Ireland regulator (NIAUR) are undertaking a programme of work designed to integrate the Irish and Northern Irish gas markets under the Common Arrangements for Gas (CAG) project.

Imbalance timetable	Settlement Shippers are notified of the initial imbalance at 17.00 on the day following the trade. They have from this time to 17.00 seven days after the end of the month to trade out the imbalance with other shippers. Shippers are notified of the final imbalance position at 17.30 seven days after the end of the month.
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### Information provided to Participants by TSO

In 2004, the CER published a decision outlining what information the TSO must provide to market participants regarding balancing. In particular, the following information is provided:

1. Balancing Actions

Gaslink publishes in a generalised format the criteria used to determine when an action is necessary. Gaslink will also publish (possibly in arrears to allow for validation) the location, date, and volume (buy/sell) for balancing actions taken. Gaslink will be obliged to keep a record of the reasons why certain balancing actions are taken. This information will not be published but will be available to the CER to review.

2. Imbalance Prices

Gaslink publishes all possible charges that Shippers and potential Shippers will face, in table format showing all charges, explaining how/why these apply, stating what the charge actually is (or has been, where appropriate), and referring to the relevant sections of the Code of Operations or web addresses, for example, where background of the charges may be found.

### Unbundling of Gas Networks

In 2004, the CER issued transmission, distribution and supply licences to BGE. New legislation, SI 760 of 2005, was introduced in late 2005 which gave further legal effect to Directive 2003/55/EC by providing for the legal unbundling of the transmission and distribution systems operations of BGN. This was effected on 4th July 2008 with the establishment of Gaslink as the legally unbundled Independent System Operator. To facilitate the legal unbundling as required by 2003/55/EC the CER granted Transmission and Distribution operator licences to Gaslink and Transmission and Distribution Owner licences to BGE and revoked the original licences.

The business separation arrangements exist between BGE Networks and Bord Gáis Energy are presented in the table below:

Gas Unbundling (From Bord Gáis Energy)		
	Transmission	Distribution



	(Yes/No)	(Yes/No)
Separate headquarters	Y	N
Separate corporate presentation	N	N
Unbundled regulatory accounts with guidelines	Y	Y
Audit of unbundled accounts	Y	Y
Publication of unbundled accounts	N	N
Separate board of Directors without Directors from other group companies	N	N

Source: CER

The relevant provisions of these licences are as follows:

- **Implementation of Legal Unbundling:** The Minister for Communications Marine & Natural Resources signed a statutory instrument in late 2005 (SI 760 of 2005) which provides for the legal unbundling of the distribution and transmission operation activities of the incumbent BGÉ. This was effected on 4<sup>th</sup> July 2008 with the establishment of Gaslink.
- **Network Ownership:** BGE owns the gas transmission and distribution networks in Ireland and is wholly-owned by the Irish Government. The relationship between BGE as asset owner and Gaslink as system operator is set out in the Operating Agreement approved by the Commission.
- **Ringfencing Arrangements:** There are ringfencing arrangements in place between BGE Networks and BGS. However, these businesses are not as yet physically separated. BGÉ also has one 'shared services' division.
- **Incumbent's Corporate Image:** The network operator is branded as BGÉ Networks, while the supply arm is presented to customers as Bord Gáis Energy Supply. However, BGE's website and logo are common use. Moreover, BGÉ publishes one annual report for its businesses. The system operator Gaslink, is an independent subsidiary of BGÉ. They do not operate under the parent company umbrella and have their own brand and website.
- **Publication of TSO/DSO Accounts:** The 2005 BGÉ Financial Accounts include segmental analysis by business segment (i.e. Transmission Operations, Distribution Operations, Energy Supply – Total, Energy Supply External Turnover and Ancillary Businesses). The Natural Gas Transmission and Distribution Licences granted to BGÉ include detailed requirements in relation to the preparation of separate financial accounts for each separate Business. The requirements in relation to these are outlined further below.
- **Regulatory Accounting Guidelines ('RAGs')**: The CER regulates BGÉ accounts submissions under condition 26 of the gas transmission Licence and under condition 25 of the gas distribution licence.

- Audit of 'RAGs': Under condition 25 of the distribution licence and condition 26 of the transmission licence, the licensee shall in relation to each separate business procure in respect of the accounting statements prepared in accordance with this condition for the financial year, a report by the auditors addressed to the CER stating whether in their opinion these statements have been properly prepared in accordance with this condition and give a true and fair view of the revenues, costs, assets, liabilities, reserves and provision of, or reasonable attributable to the separate business to which the statements relate.
- Role of Compliance Officer: The sole role of the compliance officer (as outlined under condition 22 of the distribution licence and condition 23 of the transmission licence) is to facilitate compliance with the licensee's obligations and duties under the licence and any other legislative obligation or duty notified to the licensee by the CER. In particular, the duties and tasks assigned to the compliance officer include recommending and establishing practices, procedures and systems to ensure the licensee's compliance with the relevant duties and monitoring the effectiveness of the practices, procedures and systems adopted by the licensee to ensure its compliance with the relevant duties.
- Other Regulatory Sanctions: As outlined above the requirement for separate financial accounts in respect of each Separate Business is included under both the Distribution and Transmission Licences issued to BGÉ. Failure to adequately implement the procedures would mean that the Licensees would not be in compliance with their licence obligations.

These conditions ensure that BGÉ maintains separate accounting and reporting arrangements, in a form approved by the CER.

## **Management & Allocation of Interconnection Capacity & Congestion Mechanisms**

As mentioned above, the Transmission and Distribution systems are operated by the newly established Independent System Operator, Gaslink<sup>12</sup>. The Transmission and Distribution assets remain in the ownership of Bord Gáis Éireann (BGÉ).

### **Gas Congestion Management**

Currently 95% of gas is imported through the two interconnectors with the UK (IC1 and IC2). There is ample capacity available through the interconnectors now and for the foreseeable future and therefore there is no congestion. Neither is there any congestion on the on-shore system as the system is centrally planned. Investments are approved by the CER and included in the regulated asset base with revenues recovered through the tariffs.

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<sup>12</sup> Gaslink came into operation on 4<sup>th</sup> July 2008.

While there is no congestion in the Irish system in practice, rules have been developed to deal with congestion should the situation arise. These rules for congestion management are in line with Directive 2003/55/EC, and are outlined in the Irish gas Code of Operations.

As there is currently adequate capacity available on the Irish gas transmission system capacity is allocated on a first-come first-served basis. Business rules have been developed for an interruptible product at the Entry but the product has not been implemented to date. While the CER is keeping these rules under review as the market develops, it is thought that the cost of capacity (and particularly interconnector capacity) acts as a disincentive for market participants to hoard capacity.

Other features of congestion management measures include:

- Short-term capacity products: Three short-term firm capacity products were introduced during the 2007/08 gas year; monthly, weekly and within-day products are now available for shippers to plan and adjust their capacity bookings as appropriate throughout the gas year.
- Secondary market for capacity: The secondary market for capacity operates on a bilateral basis. While the Transporter, Gaslink, is not a party to these capacity trades, it does recognise and facilitate these trades on its systems;
- Interruptible Capacity: Interruptible capacity is not currently made available throughout the Irish system, due to the minimal risk of interruption. An interruptible product does exist at the storage entry point at Inch. Principles and business rules have been developed for an interruptible product at the entry, these will be developed further and implemented as part of the CAG project;
- Cross-border link swaps: Since cross-border links are not congested no swaps are in place;
- Transit Contracts (Article 3(1) of Directive 91/296): No transit contracts exist at present. The South/North pipeline may be transiting in the future. The specific arrangements have not yet been finalised;
- Assessment of maximum technical capacity: The TSO methodology on the maximum technical capacity is assessed in the *Joint Capacity Statement (JCS)* prepared by the CER and the Utility Regulator in Northern Ireland. The JCS estimates the gas capacity of the Ireland and Northern Ireland systems and in addition acts as an independent check on the TSO methodology;
- Publication of capacity availability and capacity bookings: The transporter has developed a transparency website for the publication of information regarding the level of capacity booked and the level of capacity available at certain relevant points on the system. This information is available publicly through the transporter's website ([www.gaslink.ie](http://www.gaslink.ie))

## 5.2 Wholesale Gas Market

### Common Arrangements for Gas

The *Common Arrangements for Gas (CAG) project* between the Ireland and Northern Ireland includes the development of a common all-island gas market arrangements going forward. On the 14th February 2008 the Commission and the Northern Ireland Authority for Utility Regulation (“the Utility Regulator”) signed a Memorandum of Understanding (MoU) for the development of Common Arrangements for Gas (CAG) on an All-Island basis. The MoU sets out the high level objectives of CAG.

The two Regulatory Authorities are committed to working together to establish All-Island Common Arrangements for Gas whereby all stakeholders can buy, sell, transport, and contribute to the development and planning of the natural gas market north and south of the border effectively on an all-island basis. This means that variations in the price and conditions on which gas is bought and sold will be determined by market conditions and economics, not by variations in regulatory arrangements.

The CAG Project is managed out of the CER Project Office and involved setting up;

- Governance Structures;
- Project work streams (*incl. Cost Benefit Analysis (CBA), Gas Quality; Single Transmission Tariff; Gas Industry Operations; Legislation; Licences and Contracts; Code Development; Connection Policy; Joint Capacity Statement; Security Standard and Storage; Planning and Development Framework; Retail Market Alignment.*);
- Project plans; and
- Issues/Risk logs.

Good progress was made during 2008 on the key decisions in the Operations, Tariffs, Gas Quality and Cost Benefit analysis work streams. These decisions form the foundation for the rest of the project.

### Indigenous Production and Storage

The Moffat entry point in Scotland connects the Irish natural gas system to that belonging to National Grid in GB, and allows for the importation of GB gas to Ireland and Northern Ireland via two sub-sea interconnectors and an onshore pipeline in Scotland. It is the primary source of gas for the gas markets in Ireland (c. 95%), Northern Ireland and the Isle of Man.

Ireland's only indigenous gas supplies at present are located off the South coast of Ireland at Kinsale and are brought ashore through the Inch entry point. These existing fields are largely depleted and the production accounts for only about 5% of demand. There is some potential for additional gas supplies to be recovered off the Kinsale coast and indicative estimates suggest there may be more than 1.9 bcm (70 bcf) of potential reserves.

The main source of additional indigenous production in the short term is the Corrib gas field off the West coast of Ireland. This project is well advanced and commercial production is expected to commence by the end of 2010. The Corrib gas field is estimated to contain circa 23 bcm of gas and is expected to supply 60% of the Irish gas demand for 6 years. After this time the field is expected to rapidly deplete.

The only storage facility currently in Ireland is the depleted South West Kinsale (SWK) gas field has been converted for this purpose. It has a working volume of c. 200mscm (2,093GWh), a maximum withdrawal rate of 2.8 mscm/d (29.3 GWh/d) and a maximum injection rate of 1.8 mscm/d (18.8GWh/d). It mainly operates as a seasonal storage facility but can also accommodate within-day gas withdrawals and injections. There is potential for expansion of the storage facility.

## 5.3 Retail Gas Market

### Shipper/ Supply Licence Provisions

All shippers/suppliers in the market require a Shipper/Supply Licence<sup>13</sup> from the CER. These licences include the following conditions:

- Provision of Information to CER: The general conditions of the licence include the requirement for the provision of information to the CER. The licensee must provide to the CER in such form and at such times as the CER may require such information and reports as the CER may consider necessary or relevant or it may require in the performance of its duties or functions under legislation. In addition, the licensee shall publish information (save for confidential or commercially sensitive information) in such form and manner and at such times as the CER may require.
- Market Surveillance: Condition 8 of the general conditions prohibits anti-competitive behaviour stating that the licensee shall not prevent, restrict or distort competition to any appreciable extent in any market relating to the supply, distribution, transmission or storage of natural gas. The licensee is also prohibited from abusing any dominant position it may have. The CER shall determine whether the licensee holds a dominant position.
- Competition Policy actions: Specific conditions relating to economic regulation applicable only where the licensee is BGE include the ring-fencing of the supply business and restriction on use of certain information (Condition 14). Condition 16 refers to prohibition of cross-subsidies.

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<sup>13</sup> Natural Gas customers in Ireland may be supplied by a shipper or a supplier.

Condition 18 prohibits discrimination in supplying or offering terms for the supply of natural gas. In particular, the licensee shall not show undue preference to any person (or class of persons) and shall not exercise undue discrimination between any persons (or classes of persons).

Condition 19 lays down the duty to offer supply whereby the licensee shall upon receipt of a request from a person who the licensee is authorised to supply by this License and who is a final customer as soon as practicable a) offer to enter into a supply contract to supply natural gas to the premises in respect of which the supply is requested; and b) where the terms offered are accepted by the customer, give a supply of natural gas to those premises in accordance with the terms offered.

## Gas Supply Tariffs

Bord Gáis Energy's allowed revenue – relating to the Domestic and Small Industrial & Commercial markets – is calculated by the application of a revenue control formula. The overall level of gas procurement and operating costs and a suitable margin on costs is approved through this revenue control formula by the CER.

The table below outlines the separate components of the revenue control formula:

<b>BGE Energy Supply Revenue Control Formula</b>	
<i>Component</i>	<i>Basis</i>
Transmission & Distribution costs (pass-through)	These figures are calculated by the multiplication of estimated capacity and commodity figures of BG Energy's customers by the transmission and distribution tariffs. The CER examines these forecasted figures and reconciled at the end of the year once an outturn value is known.
Gas procurement costs (pass-through)	Condition 17 of the BG Energy Licence obliges BG Energy to procure gas at the best effective and most obtainable price. In its latest decision regarding the revenue control period 2007/08 – 2011/12, the CER added financial incentives to the revenue control formula to incentivise BG Energy to purchase gas more efficiently.
BGS's own supply costs	Indexed to growth/decline in numbers of BG Energy's customers and in GWh sales.

In addition, new tariff structures for domestic and small and medium sized businesses have been implemented by BG Energy since October 2007. This follows a review of tariff structures carried out by the CER during 2007. These new tariff structures have been designed to ensure greater levels of cost reflectivity as well as improving levels of choice for natural gas customers. They also provide a more transparent tariff against which other suppliers may wish to compete. In addition the new tariffs have been designed to encourage improved efficiency. Levels of fixed or standing charges in the tariff have been reduced significantly which means that the final level of a customer's bill is more closely linked to unit charges and actual usage than in the past.

### **Large Customers (consumption level between 5.3 GWh/annum & 264 GWh/annum)**

The *Regulated Tariff Formula* (RTF) applies to this customer category. However gas customers within this consumption level that utilise the gas to produce electricity, including combined heat and power have the choice between a RTF tariff and an 'unregulated' tariff.

<b>BG Energy RTF Products</b>	
<i>Product</i>	<i>Description</i>
Fixed RTF	This product is offered for terms of 3, 6, 9 and 12 months. The gas commodities are fixed for each month when the RTF offer is accepted. It is stated in CER/04/306 of the 30 <sup>th</sup> September 2004 that 'BG Energy must use the International Petroleum Exchange (IPE) futures settlement prices for each month of the RTF contract period as quoted on the IPE on the first business day immediately preceding the date on which the customer is quoted'.
Variable RTF	This product does not last for a limited time period. This product continues until either a switch in supplier occurs or a fixed term RTF is accepted. The average of the relevant International Petroleum Exchange (IPE) prices for a month is utilised to determine the price a customer is charged in the subsequent month. It is stated in CER/04/306 of the 30 <sup>th</sup> September 2004 that "the IPE index term is calculated as the average of the IPE settlement prices for month M for each business day up to and including the second last business day of month M-1".
Default RTF	This is put in force when a customer isn't supplied by an independent supplier and has not indicated in writing its acceptance of either of the other two RTF products.

	This product is the same as the variable RTF product except that the price the customer is charged in the first month is set as the market price. It is stated in CER/04/306 of the 30 <sup>th</sup> September 2004 that 'the IPE index for the first month of the period will be set at the IPE price on the last business day of the previous month'.
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BG Energy is required to submit the standard RTF supply contract for approval by the CER. The RTF is based on the following formula:

$$P = [(IPE\ Index + Tgb + Psw) * EUR/GBP] + Tti + Tdi + Si + Fixed\ Charges$$

P	the price of gas for the customer
IPE Index	the monthly International Petroleum Exchange price index at the national balancing point in Great Britain (GB)
Tgb	GB transportation charges
Psw	Swing Premium
EUR/GBP	the Euro Sterling exchange rate
Tti	Transportation charges for the Irish Interconnectors and on-shore Ireland Transmission System
Tdi	Transportation charges for the Irish Distribution System
Si	Shrinkage charges on the Irish System
Fixed Charges	Fixed charge to cover BGS operating costs and margin

The CER is currently reviewing the RTF methodology and the development of competition in the gas market since its establishment. This review will entail a decision with regards to the future of regulation in the RTF customer sector.

### **Medium Customers (consumption level above 73,000kWh and SPC greater than 3,750kWh)**

The Fuel Variation Tariff (FVT) is a new price regulation regime which came into effect as of 1 October 2007. Similar to that of the RTF, the FVT is based on a formula, approved by the CER, which reflects the cost to serve of each customer. It consists of four components;

*Gas Commodity Charge (c/kWh)*: reflecting the monthly unit cost of wholesale gas purchased

*Fixed Rate Charge (c/kWh)*: incorporating transmission commodity tariffs, distribution commodity tariffs, swing, flexibility and an approved margin on costs (2.75%)



*Site Charge (€ per month)*: incorporating transmission capacity tariffs, distribution capacity tariffs, administration costs

*Shrinkage Gas Charge (c/kWh)*: reflecting the monthly unit cost of transmission shrinkage gas costs incurred with respect to FVT volumes. This charge is common to all customers.

<b>BG Energy FVT Products</b>	
<i>Product</i>	<i>Description</i>
Monthly Floating Price	This is the default pricing option which applies to all FVT customers of BG Energy where no alternative pricing arrangements have been put in place. The gas commodity price is calculated as the average of the last five 'ICE' daily settlement prices for month M during month M-1 as published in the European Spot Gas Markets (ESGM).
Fixed RTF	This product is offered for terms of 3, 6, 9 and 12 months. The gas commodities charge for each month in the contract period is calculated as the published 'ICE' settlement price for the day immediately prior to the booking window.

## **6.0 Security of Supply**

This section provides information on the current Security of Supply situation in Ireland with regard to electricity and gas supplies.

### **6.1 Electricity Security of Supply**

This section details the CER's role and that of Eirgrid as TSO with respect to security of electricity supply. It then examines growth in demand and the forecast situation for security of supply and provides an examination of the various measures being undertaken by the CER to address security of supply issues. The CER's role with respect to the authorisation of new plant, details of upcoming new infrastructural developments, the current and forecast generation mix, together with a brief description of the various incentives currently in place in the Irish market to encourage new generation capacity is also discussed. The section concludes with an overview of upcoming network developments intended to assist security of supply through further interconnection.

#### **CER & TSO's Role**

The CER has a role in monitoring security of supply/generation adequacy and, together with the TSO (Eirgrid) and the Department of Communications, Energy & Natural Resources (DCENR), putting in place appropriate arrangements to ensure that a satisfactory generation capacity margin is maintained and electricity supply is secured.

To this end, the CER reviews the generation adequacy of the Irish system on a weekly basis and publishes a weekly report on its website. This report also contains quarterly comparisons and useful data on generation adequacy including wind generation statistics and demand levels. The CER also produces a bi-annual report on security of supply for the European Commission while an annual update is provided in the CER Annual Report. The TSO produces an annual forecast statement (covering the forthcoming seven year period) which is also approved by the CER.

In consultation with the DCENR and other relevant parties, the CER decides on any necessary actions, as deemed appropriate, to protect or enhance security of supply. In addition to putting in place such measures as deemed appropriate, the CER has established a regulatory regime in the authorising and licensing of generation and regulation of the various networks codes to assist in the enforcement of security of supply.

The TSO, in addition to the preparation of its annual forecast statement, is responsible for the day-to-day monitoring of generation capacity and system management (management of nominations, dispatch, ancillary services and system emergency management (system alerts, load shedding, etc.).

## **CER Report to EU Commission on Security of Electricity Supply**

Under European directives 2003/54/EC and 2005/89/EC, which have been transposed into Irish Law by Statutory Instrument No. 60 of 2005 legislation, the Commission is required to prepare and submit a report to the European Commission every two years by the 31st of July. The latest of these reports fell due on 31 July 2008.

The report describes the security of supply situation in Ireland with reference to the following key areas:

- The Commission's Monitoring Activities;
- Fuel and Other Power Sources;
- The Balance Between Supply and Demand;
- Supply and Demand-Side Measures;
- Transmission Networks;
- Issues Identified and Measures Undertaken.

The conclusion of this report identified several key measures that had been initiated or should be realised to protect security of supply:

1. An adequate notice period for forthcoming plant closures;
2. Efforts to meet the Renewables targets for 2010 and 2020;
3. Develop a more flexible plant mix;
4. Encourage Demand-Side Management.

The Commission is currently overseeing a number of measures to directly benefit security of supply. These include:

- A transmission project to double the electricity interconnector capacity between Northern Ireland and Ireland scheduled for 2012,
- The East West electricity interconnector to Great Britain scheduled for 2012.

The Security of Supply Report indicates a heavy reliance on fossil fuels for electricity generation, primarily natural gas, coal and oil. The continued supply of natural gas is a critical issue for the CER given that natural gas accounted for approx 55% of Ireland's generation fuel mix in 2007<sup>14</sup>. The Commission has taken a number of measures to protect the security of supply of natural gas including:

- Developing a proposal that would enhance those obligations of generators regarding stocks of secondary fuel.
- Continuing with the Task Force on Emergency Procedures group as a forum in which to discuss plans and procedures for managing a gas emergency or shortage.

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<sup>14</sup> CER/08/195

## 6.2 Security of Supply Indicators

### Growth in Electricity Demand

Electricity demand in Ireland saw substantial growth over recent years. In 1996 total system demand was just over 15,000GWh. By 2007 this figure had reached almost 26,000GWh. To date, the record peak demand, which occurred in December 2007, is 5,085 MW. The trend in the evening peak for the year has seen it reported towards the end of each year, typically the Tuesday or Wednesday of the week before Christmas. 2008 was no exception with the peak value of 4,899 MW occurring on 15 December. However, unlike previous years where peak consumption has grown 2-3% year on year the 2008 value did not exceed the evening peak reported in 2007. Furthermore, the current economic downturn has resulted in a c.5% decrease in total demand in the first half of 2009 compared to the same period in 2008.

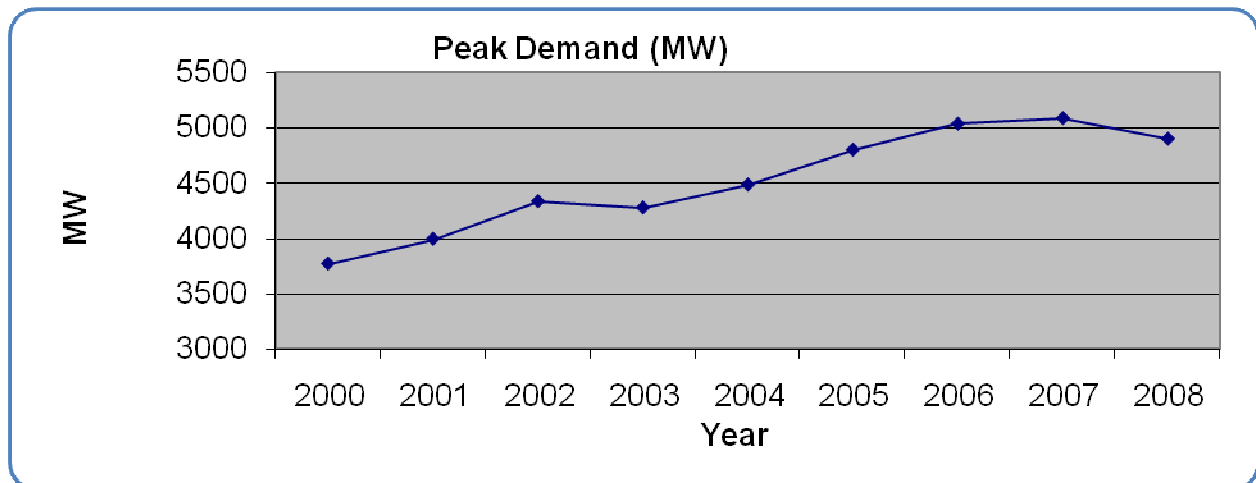


Figure 5.0 Peak Demand Figures 2000 - 2008

### TSO Annual Reviews of Generation Adequacy (7 Year Forecast Statement)

The TSO produces an annual forecast statement of generation adequacy covering the subsequent seven-year period. In 2004, the TSO commented that the central issue to security of supply had become plant availability, particularly availability of the incumbent generation company's plant.

Although plant availability has improved since then, the volatility of generator availability over recent years remains the dominant factor affecting system adequacy, and outweighs other factors such as variations in demand. The latest Generation Adequacy Report for the period 2009-2015 was published by EirGrid in Dec 2008 and reflects a forecast estimate of the

electricity system demand and generation capacity over the next seven years. The Commission approved this document in accordance with the requirements under the Electricity Regulation Act 1999 and Statutory Instrument No. 60 of 2005.

The report outlook is a positive security of supply position for the coming years but is contingent on:

1. The completion and connection of the Aghada and Whitegate projects planned for October 2009 and 31<sup>st</sup> June 2010 respectively;
2. The continued operation of Great Island and Tarbert generation stations up until the planned closures in 2011/12; and,
3. That there are no major plant failures in excess of existing forced outage trends.

Since publication of the 2009 – 2015 EirGrid has revised downwards its demand forecast for the period covered by the report. Demand in 2009 has been revised downwards by 4-5% with a further reduction of 0 – 1% expected in 2010. The revised projected scenarios for the seven year period have also been drawn up with the above contingencies in mind. The resulting conclusions are that generation adequacy standards will be met assuming the stated commissioning and decommissioning go ahead as planned.

### **6.3 Progress on Major Infrastructure Projects**

#### **Monitoring of construction projects**

The Commission continues to monitor the construction of power stations and receives reports on a quarterly basis on progress against completion time lines.

The large generation projects closely monitored by the Commission at present include:

#### **ESB 431 MW CCGT plant at Aghada, Co. Cork**

From progress reports throughout 2008, the completion is on target for Q1 2010. The unit has planned its first fire for the end of September 2009 with a commercial operation date scheduled for February 2010

#### **Bord Gáis 445 MW CCGT plant at Whitegate, Co. Cork**

Whitegate applied for its Generation Licence in late 2008 and reports suggest that construction of the plant is on target for completion in time for winter 2010. The unit has planned its first fire for December 2009 with a commercial operation date scheduled for June 2010.

### **CER's Role with respect to Authorisation of Generation**

Under the relevant legislation, generation plant are required to obtain an Authorisation to Construct or Reconstruct Generation Plant and a Licence to Generate. These contain a number of conditions relating to the construction and operation of the plant, and the applicant's business.

These are both issued by the CER which assesses the suitability of applications in accordance with the following criteria:

- Suitability of the Applicant (correctly constituted body, managerial competency, solvency, etc.);
- Suitability of Project – technical assessment (generation plant and technology proposed, construction and commissioning programme, plant engineers, network connection agreements, etc.);
- Compliance with relevant legislation (environmental regulations, planning permissions, other permits (Water Extraction Licence, Thermal Emissions Regulations, etc);
- Project business plan (project financing, business plan, off-take arrangements, accounts projections, etc.);

### Current Generation Fuel Mix

The actual breakdown of Ireland’s generation by fuel source, from 2000 to 2007 is shown below.

System Energy Sources %							
	Coal	Oil	CHP	Gas	Peat	Renewable	
<b>2007</b>	18	6	4	55	6	11	
<b>2006</b>	18	9	4	50	7	11	
	Coal	HFO	LFO	Gas	Peat	Hydro	Wind & SSG*
<b>2005</b>	26	11	0.2	44.7	4.8	2.5	4.5
<b>2004</b>	25.7	12.2	0.2	44.8	4.8	2.5	3.4
<b>2003</b>	25.4	9.7	0.3	50.7	8.2	2.3	2.7
<b>2002</b>	27.9	15.0	0.2	42.3	8.4	3.6	2.6
<b>2001</b>	28.7	20.9	0.3	36.8	8.9	2.3	2.2
<b>2000</b>	30.0	18.9	0.3	37.6	7.5	3.5	2.1

\*SSG – Small Scale Generation

### Implicit and Explicit Incentives to Build Capacity

There are a number of aspects of the Irish market with relate to incentives to build capacity:

**Capacity Payments Mechanism**, a payment based on contribution by generation plant to the capacity margin, based on spare capacity provided at the daily peak demand;

A **capacity-related spill price** which is an extra amount, per MWh, paid for all spilled energy as a form of capacity payment;

A **spill floor price** which provides for a guaranteed minimum price, below which the price cannot fall (offering a degree of revenue certainty for generators);

**Power Purchase Agreement** schemes (particularly to support renewable generation projects) whereby projects are guaranteed off-take contracts with the incumbent generation company, incumbent supply company, for fixed periods of time (in the past, such schemes have been implemented by both the CER and the Ministerial Department with responsibility for energy).

### **Network/Interconnection Projects**

Ireland is connected to Northern Ireland via a 600 MW AC 'North-South' interconnector. Since the advent of the SEM this interconnector is now considered a part of the all island market. In turn the SEM is directly connected to Scotland via a 400MW DC interconnector between Northern Ireland and Scotland at Moyle. Each year auctions are held to allocate capacity across this interconnector.

As described in Section 4.7 the Commission is also progressing the East West Interconnector project which will see a 500MW interconnector built from Ireland to Wales by 2012.

## 7.0 Public Service Obligations and Consumer Protection

In line with European legislation, public service obligations in Ireland cover the following areas in electricity and gas:

- Quality of Supply;
- Consumer Protection;
- Supplier of Last Resort.

Quality of supply obligations and performance targets cover selected service obligations such as supply continuity and safety issues. These obligations and targets are placed on the network operators and owners – Eirgrid and ESB in electricity and BGE in the gas market.

Consumer protection measures apply to all suppliers active in the Irish retail energy markets. These cover supplier conduct over a range of areas such as marketing, billing, complaints handling, customer debt, treatment of vulnerable customers and disconnection. These obligations are broadly equivalent for suppliers in the electricity and gas markets and are specified by codes of practice submitted by suppliers and approved by the CER. Supplier-customer contract conditions are also covered in the form of a ‘supplier charter’.

Customers are also protected when their supplier abruptly exits the market. In the event of such an exit, the CER obliges a supplier, or a number of suppliers, to act as a Supplier of Last Resort (SoLR).

Several PSOs also apply exclusively to the electricity sector covering the following areas:

- Environmental Protection/Security of Supply;
- Network Access;
- ESB PES Universal Service/Duty to Supply.

In Ireland, the term – ‘Public Service Obligation (PSO)’ – generally refers to the obligations placed on suppliers and ESB Power Generation in the areas of environmental protection and security of supply. The objectives of the PSO are to ensure reasonable self-sufficiency in electricity generation capacity by utilising peat as a primary fuel source and to promote renewable energy sources to help protect the environment and contribute to Ireland’s security of supply. The policy, detail and operation of PSO backed support schemes relating to environmental protection and security of supply are determined by the Government. The cost of meeting these environmental and security of supply PSOs is met by all customers based on charges calculated by the CER.

The CER also has a legislative duty to ‘have regard to’ customers located in rural areas. Moreover ESB PES has a duty to supply all reasonable requests for supply received from customers.



Finally, the CER sets regulated tariffs for end-customers served by ESB PES in the electricity market and BGE Energy Supply in the gas market.

This section considers each of these in turn, starting with electricity & gas PSOs. Electricity-specific PSOs are dealt with separately. Finally, the methods used to calculate the regulated supply tariffs are outlined.

## **7.1 Irish Legislative Framework**

The Electricity Regulation Act, 1999, and the Gas (Interim) Regulation Act, 2002, transposed into Irish legislation the various public service obligations outlined in European electricity and gas Directives 96/92/EC, and 98/30/EC. Electricity S.I. 60 of 2005 subsequently adopted obligations and consumer protection measures included in electricity Directive 2003/54/EC. Equivalent measures in gas resulting from Directive 2003/55/EC were introduced by S.I. 452 of 2004.

### **Electricity PSO Legislation & Licensing**

In accordance with Section 9 of the Electricity Regulation Act, 1999, the CER is obliged to:

- to secure that all reasonable demands by final customers of electricity are satisfied;
- to promote the continuity, security and quality of supplies of electricity;
- to promote the use of renewable, sustainable or alternative forms of energy;
- to take account of the protection of the environment;
- to carry out its duties and functions in a manner that it considers protects the interest of final customers.

The Act does not create a hierarchy of functions and duties for the CER. Therefore, under this Act the CER must balance its duties regarding environmental protection, security of supply, treatment of final customers, network access and security of supply. This Act places particular emphasis on the protection of elderly and rural customers.

Regulation 31 of S.I. 445 of 2005 conferred on the CER the duty of approving electricity supply charges levied by ESB PES. Regulation 19 of S.I. 60 of 2005 reaffirms this duty.

S.I. 60 of 2005 also added Directive 2003/54/EC 'Annex A' consumer protection measures and a universal service obligation to this list. This S.I. also provides for the labelling of energy sources on electricity bills.

## **Natural Gas PSOs Legislation & Licensing**

The Gas (Interim) (Regulation) Act of 2002 extended the existing electricity customer protection functions of the CER to the gas market.

In addition, the public service and consumer protection requirements placed on market participants as outlined in Directive 2003/55/EC have been transposed into S.I. 452 of 2004.

In S.I. No. 452 it is stated in regulation 21A that the function of the CER with respect to consumer protection is to ensure:

- there is a high standard of protection for all final customers in their dealings with natural gas suppliers;
- all final customers are supplied with natural gas of specified quality at reasonable prices;
- there are dispute resolution mechanisms in place for users of the natural gas system and their final customers;
- there are adequate safeguards to protect vulnerable customers (including the elderly and disabled) which shall include measures to help such customers avoid disconnection;

The CER is entitled to give directions, as it deems necessary, in order to carry out the above functions. A supplier or shipper in breach of such a direction is guilty of an offence and is liable on summary conviction to a fine not exceeding €3,000.

These duties were included in generic and BGS licences issued in April 2004.

## **7.2 Electricity & Gas PSOs**

### **Quality of Supply**

In electricity, under condition 13 of the ESB Distribution System Operator's licence, in 2001 the ESB submitted to the CER a report setting out the criteria against which the performance of the Distribution Business would be measured. These criteria included data on the number of disconnections, the number of customer minutes lost etc.

Every year since 2001, the DSO has submitted an annual performance report outlining performance against these criteria. This report is published by the CER in September of every year. The CER can amend these performance criteria from time to time. Condition 11 of the Transmission System Owner's licence and condition 16 of the Transmission System Operator's licence include equivalent conditions. The TSO does not submit an annual performance report. However, transmission performance indicators are provided for in the regulated accounts.

In 2004, the CER issued gas transmission and distribution system operator licences to BGE Networks (at that time known as BGE Transportation). Conditions 14 and 18 of the distribution licence and conditions 15 and 19 of the transmission licence refer to quality and safety obligations. To facilitate legal unbundling as required by 2003/55/EC the CER granted

Transmission and Distribution Operator licences to Gaslink the newly established Independent System Operator in 2008.

## **Consumer Protection Measures**

Customer protection obligations are binding on all suppliers serving residential customers. The application of these measures to business customers is at the discretion of the CER.

Customer protection measures take the form of supplier codes of conduct and supplier charters (contracts). These measures are broadly equivalent for electricity and gas.

### **Supplier Codes of Conduct & Customer Charters – Gas & Electricity**

Suppliers are currently required to produce the following Codes of Practice in order to provide their customers with a level of customer protection:

- Code of Practice for Marketing
- Code of Practice for Billing, Payment and de-energisation/disconnection
- Code of Practice on Complaints Handling
- Code of Practice for Vulnerable Customers – if serving domestic customers
- Customer Charter – if serving domestic customers.

The CER issued guidelines in relation to all of these Codes of Practice and the Customer Charter to ensure consistency in their production. The early 2007 the first version of these codes were published by suppliers and they have been operating for the duration of this report.

### **Contract Transparency – Gas & Electricity**

Under condition 12 of the natural gas supply/shipping licence BGS is required to publish the terms on which it supplies natural gas to eligible customers. In addition, condition 23 of the gas supply/shipping licence states that all suppliers of domestic customers must supply the CER with all relevant contracts or arrangements set out in a standard form, which shall be approved by the CER.

Condition 7 of the electricity supply licence underlines that detailed terms 'as are appropriate for the purpose of the agreement' are to be set out by the licensee in making an offer to enter into an agreement for the provision of relevant metering equipment. Also condition 19 of the electricity supply licence states that all suppliers of customers, 'whose consumption of electricity at any single premises in any 12 month period is estimated and calculated to be or likely to be less than 10,000 kWh or such other figure as the CER may substitute must supply the CER', must supply the CER with all relevant contracts or arrangements set out in a standard form, which shall be approved by the CER.

## Complaints Arbitration – Gas & Electricity

Statutory Instrument SI 452 of 2004 for Natural Gas and SI 60 of 2005 for Electricity increased the Commission’s responsibility in the area of customer protection. In particular both SI 452 and SI 60 provide the Commission with the legal remit to independently resolve disputes between customers and licensed suppliers, the distribution system operator in electricity and, in the case of natural gas, natural gas licence holders.

The CER has established a dedicated Energy Customers Team which provides this independent complaints resolution service for small business and domestic customers. If a customer cannot resolve their complaint with their supplier or network operator following completion of their complaints handling process, they may refer their complaint to the Energy Customers Team for consideration. The team examines the complaint interacting with suppliers and network operators to determine the root of the problem. Following completion of any necessary investigation the Energy Customers Team issues a decision in relation to the matter on behalf of the CER. Where appropriate the CER may direct a supplier or network operator to undertake an action or compensate a customer in relation to their complaint.

The Energy Customers Team spoke or corresponded with over 1,200 customers during 2008 with respect to their queries or complaints; this included 182 complex complaints on which the Commission issued formal decisions. The table below provide a breakdown of the type of issues these customers raised.

Standard Complaints		Complex Complaints	
		Billing / Incorrect	34
Billing / High Cost	79	Connection Charges	11
Billing / Estimated Readings	129	Estimated Meter Reads	64
Dis/ Re connection Fees	96	Cross Metering	7
Supplier Deposits	123	Time Switch	6
Tariffs	84	Faulty meter	15
Gas Boiler Repairs	8	Tariffs	17
Voltage Problems	19	Transformers	6
ESB Lines/ Poles on land	32	Damage to Land/Property	6

Miscellaneous	76	Misc.	16
<b>Total</b>	<b>646</b>	<b>Total:</b>	<b>182</b>

### **Supplier of Last Resort for Electricity & Gas**

Further to S.I. 60 of 2005, the CER may appoint and direct an electricity Supplier to Last Resort to serve customers where either a supplier has exited the market or where specific exceptional circumstances (i.e. safety concerns) warrant such a direction. It is anticipated that similar conditions will be legislated for in the gas market.

In April 2005, the CER published a paper of SoLR options for both the electricity and gas markets including proposed rules for the allocation and duration of the role, as well as principles governing the recovery of extraordinary costs by the SoLR(s). In addition this paper specified the circumstances that would trigger such this process. The CER considered that ‘triggers’ such as abrupt supplier exit, supplier bankruptcy and supply licence revocation would be considered here.

A decision on this matter was issued in April 2006 which appointed ESB PES and BGE as SoLRs for the electricity and gas markets respectively.

The CER consulted on possible changes to Supplier of Last Resort rules and policy in the electricity sector to take account of changing market rules and conditions arising from the commencement of the SEM in November 2007. A decision on this matter was issued prior to the commencement of the SEM.

## **7.3 Electricity-Specific PSOs**

### **‘Universal Service’/ Supply Obligation**

Under S.I. 60 and under its supply licence, ESB PES, as the ‘default supplier’, must meet all reasonable requests for supply. The CER determines what constitutes a reasonable request for supply. No such obligation to supply is placed on the BGE in the gas market. As noted above the ESB PES must serve customers according to standard terms and conditions and shall charge tariffs approved by the CER.

### **Network Access for Rural Customers**

The Electricity Regulation Act, 1999, states that the CER should have regard to customers located in rural areas. Condition 2 of the Distribution System Operator’s licence (Connection to and use of the distribution system) stipulates that the DSO shall publish, and make available on their website, a statement of charges for connection to the distribution system. These charges

include standardised connection charges for domestic rural customers and are approved by the CER.

Again, no such obligation to supply is placed on the BGS in the gas market.

## **Environmental Protection/Fuel & Generation Security of Supply**

In Ireland, the term – ‘Public Service Obligation (PSO)’ – refers to the obligations placed on suppliers and ESB Power Generation in the areas of environmental protection and security of supply.

The objectives of the PSO are to:

- ensure reasonable self-sufficiency in electricity generation capacity by utilising peat as a primary fuel source and promoting the development and utilisation of renewable energy;
- promote renewable energy sources to help protect the environment.

This PSO is imposed by the Department of Communications, Energy and Natural Resources (DCENR) on the ESB PES and ESB Power Generation. The ESB PES is obliged under the PSO as wholesale purchaser of energy from renewable and peat-generating sources. The ESB PES purchase energy from renewable sources under the Alternative Energy Requirement (AER) scheme, as notified to the EU. ESB Power Generation receives support under the PSO in relation to the energy it is obliged to produce from its peat generation plant. The Renewable Energy Feed-In Tariff (REFIT) scheme (as notified to the EU) was introduced in 2006 and guarantees all suppliers participating in the scheme a minimum price in return for the support of renewable generation through Power Purchase Agreements (PPAs). The price is appropriate to the category of generation supported. The REFIT scheme is paid out under the PSO mechanism. The CER is obliged to approve the costs associated with the above under Section 9(2) and (3) of the Electricity Regulation Act 1999, (Public Service Obligations) Order (Amended) 2002, (SI No. 217 of 2002). The implementation of the PSO levy commenced on the 1<sup>st</sup> January 2003. The costs of purchasing the relevant energy (subject to the terms and conditions of the scheme/support involved) – above-and-beyond a modelled, estimated, time weighted *ex ante* market price – are levied on all customers via their supplier. The *ex ante* PSO levy figures are corrected *ex post* once actual market price, costs, inflation and plant output are verified and notified to the CER. Costs relating to the administration of the scheme are also included in the levy. At present, all suppliers, the DSO, ESB PES and Eirgrid as TSO are notified of the final determination of the above levy no later than two months in advance of the commencement of the levy period in a decision paper published on the CERs website. At present this date is August 1<sup>st</sup> of a given year.

Based on modelled market conditions and estimates of costs, plant output and inflation for the period 1<sup>st</sup> October 2009 to 30<sup>th</sup> September 2010, the CER has determined the PSO levy for that period to be set to zero.

## **Information on Energy Sources for Electricity**

As required by Directive 2003/54/EC and S.I. 60 of 2005 all suppliers must provide reliable information on all bills/ promotional material sent to customers regarding the contribution of each energy source to the overall fuel mix of the supplier concerned over the preceding year. In June 2006 the CER published a decision on how suppliers must publish this information. This decision stated that the following categories of energy source may be used for the purposes of fuel mix disclosure; Coal, Gas, Peat, Pumped Storage, Renewables, CHP, Heavy Fuel Oil, Distillate Oil and Other. The CER makes the final determination of what is to be placed on suppliers' bills. The fuel mix information currently on suppliers' bills relates to the 2007 year.

With the introduction of the Single Electricity Market (SEM) in November 2007, the requirement for how the fuel mix for suppliers was to be calculated changed because all electricity is now sold into and purchased from a gross mandatory pool. This replaced the old bi-lateral trading arrangements and fuel mix arrangements outlined for same. With the introduction of the SEM, the calculation of the fuel mix also became an 'all island' matter, requiring consultation with the Northern Ireland Authority for Utility Regulation (NIAUR). To facilitate the disclosure of fuel mix information for 2008, a joint CER/NIAUR 'interim' solution has been implemented and it is anticipated the 2008 fuel mix figures will be published by the end of September 2009.

The CER are working with the NIAUR on the implementation of an enduring method regarding fuel mix disclosure in the SEM. This will be used to calculate the fuel mix from 2009 onwards. This is an all-island fuel mix disclosure and will ensure the same rules regarding fuel mix disclosure apply to all suppliers in the SEM, whether they are based in Ireland or Northern Ireland.