

**Modifications to Electricity Supply Licences to Facilitate
the Single Electricity Market**

Decision Paper

AIP-SEM-07-339

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1. Introduction

1.1 Consultation Background

On 16th May, the Regulatory Authorities published a consultation paper on the necessary changes that need to be made to supply licences in the Republic of Ireland as a result of the introduction of the Single Electricity Market. These proposed changes applied to the following Supply Licences:

- Supply Licence
- Interim PES Supply Licence
- Green Supply Licence
- CHP Supply Licence
- ESBIE Supply Licence
- ESBIE Green Licence
- ESBIE CHP Licence

On 19th June, following consideration of comments received, the Regulatory Authorities published a draft decision paper (AIP-SEM-07-302) setting out proposed modifications and amendments to the Licences and summarising comments received. Amended versions of each of the above licences were published with this paper. Two versions of each were published; one for the period from Go-Active to Go-Live and a second for the period from Go-Live.

Transitional conditions (which impose obligations on licence holders in respect of transition from the existing market to the SEM) will also form part of the Supply Licence. These were consulted upon separately on the 4th May 2007 (AIP-SEM-07-137) and a draft decision on these conditions was also separately published on 19th June.

Following publication on the 19th June, a letter was sent and to all supply licence holders to notify them of the supply licence draft decision and of the impending publication of the final licence and a final decision on the modifications on the 26th June. A public notice was also published in the newspaper.

DECISION

This paper sets out the Regulatory Authorities' decision on the necessary changes that need to be made to supply licences in the Republic of Ireland to facilitate the Single Electricity Market. A final consolidated version of each supply licence is published with this paper. Each licence contains transition conditions (Section A); conditions to apply from SEM Go-Active to SEM Go-Live (Section B); and conditions to apply from SEM Go-Live (Section C).

Please note no further amendments have been made to the supply licences published on the 19th June except for the consolidation of conditions set out above and minor consequential changes necessary to accommodate this consolidation of conditions into each licence.

Section 2 of this paper provides information on the licensing framework for the retail market. Section 3 sets out the RAs' decision on the PES supply licence modifications while section 4 sets out the decision on all other supply licence modifications. Section 5 discusses the transitional arrangements, including licence transition conditions, and Section 6 provides the next steps in this process.

1.2 Legal Basis for Licence Modifications

The licence modifications are made pursuant to the power to modify licence conditions contained in section 14A of the Electricity Regulation Act 1999 (to be inserted by section 13 of the Electricity Regulation (Amendment) (Single Electricity Market) Act 2007).

It must be noted that Section 14A(1) provides that the Commission may:

“modify the conditions of a particular licence where the Commission considers it necessary or expedient to do so—

- (a) for the purpose of implementing, or facilitating the operation of, the Single Electricity Market, or*
- (b) in consequence of, or for giving full effect to, those arrangements.”*

Thus, for clarity, only modifications to licences which satisfy the test in section 14A(1) are implemented at this time.

2 Other Regulatory Considerations

2.1 Licensing Framework

In relation to the overall licensing framework for the retail market the Regulatory Authorities considered two models in the SEM Regulation consultation paper. These options are:

- The first model would involve the development of a specific supply licence for the PES entity and a separate supply licence for all other suppliers. This is currently the model employed in both jurisdictions.
- The second model would involve the development of one supply licence for all suppliers in both jurisdictions

As part of the consultation paper the Regulatory Authorities proposed to opt for the second model. A further proposal is that in the absence of an alternative proposal from the market the Regulatory Authorities propose to designate ESB Customer Supply as PES in the Republic of Ireland.

In general there was support for the general principle of creating one form of supply licence in place of existing arrangements where many suppliers hold multiple licences. Further there was general agreement that ESB Customer Supply be designated to be the Supplier of Last Resort (SOLR) and carry the Universal Service Obligation (USO) in the SEM.

The Commission acknowledges the general level of support for these proposals and have decided that ESB will be the SOLR and USO provider in the SEM. Having consulted with participants it was agreed that ESB is the only entity in SEM that can take on this role. This decision will be reviewed on a periodic basis to take into account changes in the market.

3. Decision on Public Electricity Supply Licence

The RAs have approved the changes to the PES licence described in the consultation paper (AIP-SEM-07-302), published on 19th June 2007, and the Go-Active to Go-Live versions of the PES Licence document that accompanied the publication of this consultation paper.

A final consolidated version of the ESB PES supply licence is published with this decision paper. This licence contains transition conditions (Section A); conditions to apply from SEM Go-Active to SEM Go-Live (Section B); and conditions to apply from SEM Go-Live (Section C).

Please note no further amendments have been made to the supply licences published on the 19th June except for the consolidation of conditions set out above and minor consequential changes necessary to accommodate this consolidation of conditions into each licence.

3.1 Notes on Modifications to PES 'Go-Live' Conditions:

As noted in the consultation paper, modifications to the PES 'Go-Live' conditions of the licence are currently being developed and will be consulted on separately. Detailed licence conditions will be published during the transition period between Go-Active and Go-Live.

Condition 3 - Terms of Supply to Final Customers

The SEM Regulation paper proposed that ESB PES and its Northern Ireland equivalent must produce a Tariff Setting Methodology and a Tariff Policy Statement for approval by the relevant regulatory authority.

Licence provisions concerning the above are currently being developed and will be consulted on separately. Details will be described as part of this other process, with the intention that the proposals will provide transparency in the manner by which wholesale electricity costs and other costs are reflected by NIE Energy and ESB Customer Supply when setting retail tariffs. Licence conditions will be published during the transition period between Go-Active and Go-Live.

Condition 9 - Economic Purchasing of Electricity

Condition 9 of the interim PES licence sets out that the licensee must engage in the economic purchase of electricity. In the SEM Regulation paper the Regulatory Authorities set out the principles by which these purchases will be governed.

A licence provision concerning economic purchase obligations will be the subject of a separate consultation. It is envisaged that detailed licence conditions will be jointly published during the transition period between Go-Active and Go-Live. Whilst the exact details will be discussed in this consultation, the existing economic purchase obligation may be replaced by a new condition which requires the licensee to adopt an approved methodology satisfying the general principles:

- The licensee shall procure contracts at the best price reasonably obtainable having regard to the contracts available to it;
- The licensees shall procure contracts in a fair, open and transparent manner

4. Decision on Other Forms of the Supply Licences

The RAs have approved the changes to the supply licences issued pursuant to Section 14(1)(b), (c), (d) of the Electricity Regulation Act 1999 described in the consultation paper (AIP-SEM-07-302) published on 19th June 2007, and the Go-Active to Go-Live versions of the PES Licence document that accompanied the publication of this consultation paper.

A final consolidated version of each supply licence is published with this decision paper. Each licence contains transition conditions (Section A); conditions to apply from SEM Go-Active to SEM Go-Live (Section B); and conditions to apply from SEM Go-Live (Section C).

Please note no further amendments have been made to the supply licences published on the 19th June except for the consolidation of conditions set out above and minor consequential changes necessary to accommodate this consolidation of conditions into each licence.

4.1 Notes on Go-Live condition of the non-PES licences:

As noted in the consultation paper an additional modification to condition 4 of the 'Go-Live' supply licences issued pursuant to Section 14(1),(b), (c), (d) of the Electricity Regulation Act 1999 are currently being developed and will be consulted on separately. It is envisaged that the detailed licence condition will be published during the transition period between Go-Active and Go-Live.

Condition 4A - Prohibition of Certain Contracts or Arrangements

As described in November 2006 paper on Directed Contracts, there will be a licence condition requiring that suppliers who elect to receive Directed Contracts will certify to the Regulatory Authorities that they have not and will not enter in to agreements with customers that pre-arrange for the supplier to serve a customer

for part of the year and have ESB PES serve the customer for part of the year or pre arrange for the customer to be switched to NIE Energy and return to the supplier.

A detailed licence condition will be published during the transition period between Go-Active and Go-Live.

4.2 Notes on change to Green and CHP Licences

The following additional change will to apply only to Green and CHP supply licences issued pursuant to Section 14(1)(c) and (d) respectively of the Electricity Regulation Act 1999.

Condition 21 - Additional Conditions for holders of licences under Section 14(1)(c) and (d)

The consultation on 16th May proposed to amend this condition by removing the requirement for the licensee to certify that the Licensee has, for the previous year to the anniversary of the date of issue of the licence, complied with the electricity balancing criteria, pursuant to the Trading and Settlement Code.

However, the RAs have decided to re-instate the certification in relation to electricity balancing criteria for the period from Go Active to Go Live. While such certification would not be appropriate in the context of the new market, the certification requirement will be in place up until Go Live.

5. Transitional Arrangements

The Regulatory Authorities' consulted on Transitional Changes to Licences in Ireland and Northern Ireland (AIP-SEM-07-137) on 4th May and a draft decision on these transitional conditions was published 19th June 2007. The Regulatory Authorities' have made a decision on these conditions which are incorporated into each supply licence published today.

6. Next Steps and Licensing Process

As noted above, modifications to conditions of the PES and non-PES 'Go-Live' licence identified in sections 3 and 4 of this paper are currently being developed and will be consulted on separately. It is envisaged that detailed licence conditions will be published during the transition period between Go-Active and Go-Live.