

**Final Modifications to Electricity Supply Licences in  
Ireland to Facilitate the Single Electricity Market**

**Consultation Paper**

**AIP-SEM-07-472**

**17th September, 2007**

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# 1. Introduction

## 1.1 Consultation Background

On 26<sup>th</sup> June, the Regulatory Authorities published a decision paper<sup>1</sup> on the necessary changes that need to be made to supply licences in the Republic of Ireland to facilitate the Single Electricity Market. These changes applied to the following Supply Licences:

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

A final consolidated version of each supply licence was 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).

The decision paper also noted, however, that a number of outstanding modifications to the supply licence conditions would be developed subsequent to the decision paper of the 26<sup>th</sup> June and would be consulted on separately during the transition period between Go-Active and Go-Live. These modifications concern:

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<sup>1</sup> “Modifications to Electricity Supply Licences to Facilitate the Single Electricity Market Decision Paper”, AIP-SEM-07-339, 26th June, 2007

### **(1) ESB PES supply licence modifications**

- Condition 3 - Terms of Supply to Final Customers
- Condition 9 - Economic Purchasing of Electricity

### **(2) Generic supply licence modification**

- Condition 4A - Prohibition of Certain Contracts or Arrangements

This paper sets out the Regulatory Authorities' proposed modifications and amendments to the Licences and invites comment. Amended versions of each of the above licences will be published with this paper with all changes explicitly marked.

## **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.

### 1.3 Responding to this consultation

The Commission requests comment from interested parties in relation to the proposals set out in this document. All responses should be forwarded, preferably in electronic form, to <mailto:cjohnston@cer.ie> or to:

Caroline Johnston  
Commission for Energy Regulation  
The Exchange,  
Belgard Square North  
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Tel: 01 4000 800  
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Comments received may be published on the Commission's website; therefore any comments that are deemed confidential should be marked as such and, where possible, placed in an annex to the comments. Relevant responses to comments made will be covered in the next published paper on this issue. The deadline for receipt of comments is 17.00 on **Friday 5th October 2007**.

## **2. Public Electricity Supply Licence**

This section presents proposed changes to the PES licence and is required to implement the Single Electricity Market. These changes will impact directly on the PES supply licence issued to ESB Customer Supply only. Similar changes will be made to the equivalent licences in Northern Ireland via a separate process

### ***2.1 Condition 3 - Terms of Supply to Final Customers***

In the SEM Regulation paper<sup>2</sup>, the Regulatory Authorities decided that ESB PES and NIE Energy in must each produce a Tariff Methodology Statement for approval by the relevant Regulatory Authority.

These documents, which form part of the new regulatory framework imposed on both ESB Customer Supply and NIE Energy, will provide transparency in the manner by which wholesale electricity costs and other costs are reflected by ESB Customer Supply and NIE Energy when setting retail tariffs.

### ***2.2 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. These principles are now reflected in the licence condition.

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<sup>2</sup> Regulation of ESB and NIE in SEM: A Decision Paper (AIM/SEM/304/07)

In the SEM Regulation paper, the Regulatory Authorities also required that ESB Customer Supply and NIE Energy must each produce a Hedging Policy Statement for approval by the relevant regulatory authority.

These documents, which form part of the new regulatory framework imposed on both ESB Customer Supply and NIE Energy in the SEM, will describe both the manner in which the Licensee will hedge against risks associated with the Public Electricity Supply Business. The documents will also set out the approach the Licensees propose to adopt in relation to the procurement of contracts for the purposes of their hedging requirements which take account of the economic purchase principles referred to above.

### **3. Decision on Other Supply Licences**

This section presents proposed changes to the supply licences issued pursuant to Section 14(1)(b), (c), (d) of the Electricity Regulation Act 1999 and are required to implement the Single Electricity Market. Similar changes will be made to the equivalent licences in Northern Ireland via a separate process.

#### ***3.1 Condition 4A - Prohibition of Certain Contracts or Arrangements***

In the paper on Directed Contracts<sup>3</sup> in November 2006, the Regulatory Authorities decided that a licence condition may be included requiring that suppliers

*“... who elect to receive Directed Contracts will certify to the Regulatory Authorities that they have not, and will not, enter into 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.”*

This condition was intended to prevent suppliers from “cherry-picking” regulated supply tariffs. However, on further consideration, the RAs consider that it would not be necessary that the licensee would need to enter into an agreement with a customer that it will be supplied specifically by the PES [ESB Customer Supply] in Ireland or NIE Energy in Northern Ireland (in each case as the regulated supplier). Nor is it necessary that the licensee should hold Directed Contracts in order to take advantage of cherry-picking regulated Supply prices. It is necessary

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<sup>3</sup> Market Power Mitigation in the SEM. Directed Contracts: Price, Form and Allocation: Supplemental Decision Paper (AIP/SEM/165/06)



only that regulated Supply prices are constant throughout the year whilst the cost of serving customers through purchases from the SEM pool vary seasonally. Accordingly the RAs propose an alternative additional provision to apply in all supply licences that prohibit the licensee from entering (or offering to enter) into an arrangement with a customer to be supplied by another supplier (or which has the effect of the customer being supplied by another supplier) for a period after which it is supplied again by the licensee.

## **4. Next Steps and Licensing Process**

A notice of the accompanying licence modifications was served on each of the licence holders in June. Following the conclusion of the consultation period and in consideration on comments received, the RAs will make a decision on the final modifications to the conditions of the supply licence. The Commission will issue a final version of the relevant supply licence to each licence holder in October.