

**ESB Independent Energy's response to the joint  
NIAUR/CER K-factor Review and Tariff Structure  
Review Consultation**

**11<sup>th</sup> September 2009**

## Tariff Structure Review

ESB Independent Energy welcomes any initiative that will encourage, foster and ultimately deliver further competition in the retail electricity market by removing any barriers to retail competition. In terms of this particular PES Tariff Structure and K-factor Review initiative, we broadly welcome it and especially in the context of a harmonised North South approach if this, for example, results in one overall tariff setting process North and South in terms of timeliness and transparency, pricing methodology, cost reflectivity, frequency of tariff announcements and timeline alignment including alignment with UoS charges announcements.

In terms of the frequency of tariff announcements and the additional freedom that would be afforded to the regulated suppliers to change tariffs under proposals 2 and 3 of the K-factor Review we believe that many customers would still prefer only a single tariff change per year as opposed to the more frequent tariff changes as customers may prefer stability in tariffs for budgeting purposes. Also, from a supplier's perspective, more frequent tariff refinements and indeed disaggregation of tariffs may be costly in terms of system change but ultimately suppliers will make a call on this as part of customer strategies and competitive offerings.

We are also not sure, at this particular juncture, about actually harmonising or aligning the actual tariffs themselves North and South particularly given where both markets are individually at the moment in terms of metering infrastructure including existing interval profile meters and roll-out of new SMART metering technology. However, certainly in terms of, for example, timeline alignment and PES tariff/UoS charges change determination and announcement, we would welcome any such convergence of both PES retail tariffs and Network UoS tariffs. Notwithstanding some of the uncertainties we would have in relation to aligning the actual tariffs themselves, we do welcome any initiative in relation to tariff structure that gives or offers customers more options be that in terms of price, flexibility in terms of contract e.g. length of contract or tariff term etc, greater choice in terms of tariff type, innovative products and quality of products and customer service offering.

We also believe that in advance of any longer-term PES tariff structure alignment itself there are things that can be done in the relative shorter-medium term, some "quick-wins" if you like, for example:

- Timeliness and Transparency of the tariff setting process – In terms of current differences North and South whereby CER, after an extensive formal consultation process, directs RoI tariff and price setting whereas NIAUR approves NI PES tariff and price. A quick win in the short-term would be to align both PES tariff setting processes in terms of the tariff setting process itself including transparency of methodology and consultation in terms of the actual timing/announcement itself.
- Timeline Alignment with Network UoS charges – We also believe and would suggest that you also cannot attempt to review PES tariffs without also including or looking at Network UoS charges themselves and their cost component and their timeline alignment with PES retail tariffs North and South.

If some short-term initiatives such as those above were to come to pass sooner rather than later it would leave independent suppliers with a clear view of the market in terms of tariff/UoS charges structure, timeline alignment etc and would allow us all to compete on a level playing field in an open, fair and transparent manner through differentiation of innovative customer tariff product offerings, quality and customer service etc against the backdrop of the same transparent PES tariff and Network UoS charges setting process and timelines.

In this regard, in the medium to longer-term ESB Independent Energy would therefore recommend or opt for the regulatory authorities to pursue a combination of most or a good number of the individual proposals across all 3 groups of proposal categories under the Tariff Structure Review with a few caveats i.e.

- Improve CfD liquidity to provide a more liquid hedging contracts market
  - ESB Independent Energy believes this is good idea and supported this proposal in the past in previous consultations.
- Introduce system of global aggregation to create a more transparent settlement arrangement for suppliers with regard to distribution loss factors
  - ESB Independent Energy believes this is a good idea also from supplier's perspective.
- Align metering codes of practice through creating a common Metering Code of Practice
  - ESB Independent Energy believes this would also be a good initiative
- Create common programme of Profile Load Research
  - ESB Independent Energy believes this is a good idea
- Create additional SME profiles to more effectively cater for the varying demand profiles of SME customers
  - ESB Independent Energy believes this would also be a good idea
- Adopt a single model for network charging methodologies which would employ geographic cost signals
  - ESB Independent Energy would not be sure exactly how geographical cost signals might work. This could potentially damage Industrial & Commercial (I&C) customers outside the main business centres. Also, there have been significant

changes to the NI DUoS charges from October 2009 apparently to make them more cost reflective e.g. big reductions in Winter Peak DUoS charges and more costs spread over daytime. Some customers were upset over these particularly if they had moved production patterns out of peak hours as they will now pay more DUoS charges than before. Also, cost benefit of generators affected for those who have invested in on site generation.

- What we are really getting at here is that is that the customer impact of any proposed changes has to be analysed by the Regulatory Authorities before implementation to avoid “shocks” to customers.
- Separation of network and wholesale energy costs
  - This would basically means that PES would probably have move to “unbundled” billing. This may create a lot of transparency but would complicate the bill for most small customers (they are also talking about domestic here). Most small customers want a simple bill as opposed to a complicated one.
- Enable contract term and indexation to allow for contractual terms between supplier and customer to reflect movements in wholesale prices
  - ESB Independent Energy can see how this would work for independent/second tier suppliers but PES has to hedge, therefore we can't see how “triggers” relating to wholesale price movements would cause a review of prices. For example, NIE Energy Supply can offer “individual” prices to all customers above 0.15GWh but they have to financially hedge these. It also looks like the PES could “lock” customers into a contract period - something they can't do at the moment (other than for individually priced customers). Maybe this is something to be considered once full competition develops in all sectors.
- Employ Time of Use tariffs through using a price signal to customer to encourage efficiency
  - ESB Independent Energy fully supports this proposal. Most important aspect of SMART Metering is price signalling to change behaviour and Time of Use tariffs should not be set in isolation of outcomes of SMART Metering trials.
- Common NI & RoI Tariff Methodology statements to encourage transparency
  - ESB Independent Energy would also support this proposal and also suggest that common PSO and SSS setting methodologies be also to further encourage transparency.

In summary, in the short-term in the advance of any major PES tariff structure review, ESB Independent Energy believes tariffs should be cost reflective and it is critical that the tariff setting process does not undermine competition. While many customers may well prefer only a single tariff change per year, the current process of setting an annual tariff in itself has the potential to create risk for both existing independent suppliers and new entrants as they tend

to offer their own tariff products in a hedging market that offers products over multiple time horizons or different contract timelines. Therefore, at a minimum, we believe that there needs to be far greater transparency, timeliness and opportunity to input into the whole retail tariff structure setting process and price control exercise. We are of the view that there is a general lack of published consultative information on past tariff setting and insufficient time given to address consultations. ESB Independent Energy believes a full, open and timely consultative framework for setting retail tariffs would add significant value to the whole transparency of tariff setting consultations. In this regard, ESB Independent Energy welcomes the recent joint publication by NIAUR & CER of the 2009 Electricity Retail Tariff Timetable for the 2009/10 tariff year as evidence of co-operation between the regulatory authorities and transparency around the whole regulated tariff setting process North and South.

Also, in terms of data publication, ESB Independent Energy welcomes the fact that the NI Utility Regulator has outlined increased data publication as a step which is likely to have a positive impact on the market if it is implemented soon (previous consultations/SIGs etc). It is important however that data that may have a negative impact on the market is not published. While we would support and gladly welcome the publication of overall market data e.g. overall total customer numbers in different I&C, SME and Domestic sectors and corresponding total volume (GWh) figures in the different customer sectors, a set of data which may have a detrimental impact on competition is the market share or aggregate profile of individual independent suppliers. Other suppliers could use this information to make informed estimates of occasions when competitors have little or no capacity and use this to set their prices. ESB Independent Energy does not believe that independent suppliers in the market should have information relating to commercial activities published.

In conducting their review of revenue and tariffs for regulated businesses the regulators frequently cite commercial confidentiality as the reason why a more detailed breakdown of the information is not available. ESB Independent Energy accepts that this is warranted in certain situations but would prefer that there is a clear and unambiguous framework used to assess each piece of information so that a consistent determination is made about the data in each case. This framework should be included in any review of data publication.

## **K-factor Review**

The matter of K-factor review has been under consideration by the Regulatory Authorities for a number of years now. In that time competition has increased in all sectors particularly in the lower end business market and more lately in the domestic market and this is very much welcomed as are the requirements on PES suppliers to provide increased transparency of their hedging positions. ESB Independent Energy is fully supportive of measures that will further increase competition in the retail markets for the benefit of customers but we also recognise that the K-factor is only one component of the overall set of regulatory measures imposed on PES suppliers in the market, with other contra obligations such as Universal Supplier and Error Supplier licence requirements also being applicable. In this regard, ESB Independent Energy welcomes the decision by the Regulatory Authorities to engage in Autumn in a consultation on a "Roadmap for De-regulation" in all sectors, including consideration of transitional mechanisms that may apply. Thus, in our considered view, the removal of or alteration of the K-factor in isolation of consideration of other key mechanisms such as Global Aggregation should not be further considered at this time but should be considered in a holistic manner with other regulatory controls under the proposed "Roadmap" consultation.

In this regard therefore, ESB Independent Energy requests that any resulting Regulatory decisions arising from the forthcoming "Roadmap" consultation be completed in a sufficiently timely basis well in advance of the 2010/2011 Retail Tariff Timetable.

## **Other areas which ESB Independent Energy believes would facilitate further retail competition**

In terms of other options relating to furthering retail competition, while ESB Independent Energy recognises that the regulators are responsible for protecting consumers and that they place a high value on competition as a means to deliver consumer benefits, we believe that an All-Island Retail Market Framework offers both regulators North and South the best opportunity to protect their customers over the medium to long-term. In our view this would be best achieved through the development of a joint NIAUR/CER retail strategy specifically addressing the issues affecting the further development of an All-Island Retail Electricity Market post-SEM, particularly given the relative small size of the NI market and indeed an All-Island market.

We believe that the most efficient way to safeguard customer interests and the interests of all market stakeholders is through effective sustainable competition in an All-Island Retail Market. The key to this is ensuring a level-playing field for all market participants within the market in as many areas of operation as possible. This would also encourage new entrants to the market who are unlikely to want to consider either NI or the Republic of Ireland (RoI) in isolation.

In this regard, ESB Independent Energy would strongly urge the regulators to work to ensure that where practicable, all retail arrangements are harmonised with those in the RoI on an All-Island basis. All-Island harmonisation of certain retail issues is being examined at the moment e.g. K-factor and Tariff Structures Review (in this particular consultation), Fuel Mix Disclosure (from 2008) but ESB Independent Energy would like to see this taken further and for all measures to be examined in the context of All-Island retail harmonisation, specifically e.g. harmonisation of market processes & market systems, tariff setting and regulatory oversight (similar to SEMO).

For example, currently suppliers have to operate and manage two separate Networks retail market messaging business processes and systems North and South for dealing with new customer registrations, de-energisations & re-energisations and meter readings processing etc. Harmonisation of these systems would, firstly, reduce the cost of doing business in both markets especially in relation to reducing the cost of entry into the market since, as mentioned already, a new entrant is unlikely to consider the Republic of Ireland or Northern Ireland in isolation. Secondly, it is likely that by harmonising the two systems, the overall cost of providing the Networks market messaging service could be reduced. Therefore, ESB Independent Energy believes that the logical conclusion to this particular process is a single retail market system managed by a single entity under joint regulatory oversight.

Also, ESB Independent Energy are involved in the recruitment of a number of our own customers in RoI for participation in a comprehensive pilot testing scheme in advance of the main roll-out of SMART Metering across all of RoI. This requires the development of a comprehensive functional specification. This is being conducted without the inclusion of NI who is also now beginning to separately investigate the roll-out of SMART Metering across NI

in the future. Notwithstanding the different junctures that RoI and NI are in relation to their respective SMART Metering projects,

ESB Independent Energy believes that the benefits and costs associated with SMART Metering must be studied and determined from an All-Island Retail Market perspective and that a consistent approach to SMART Metering on an All-Island basis would be good for customers in terms of e.g. future costs, SMART Tariffs being offered. This would also be consistent with the proposal above as part of Tariff Structure Review i.e. Employ Time of Use tariffs through using a price signal to customer to encourage efficiency.