# Role of the Public Electricity Supplier and the Supplier of Last Resort in the De-regulated Electricity Market

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The Commission for Energy Regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.

[www.cer.ie](http://www.cer.ie)
Abstract: The CER is consulting on the role of the Public Electricity Supplier and the Supplier of Last Resort in the de-regulated market. This consultation reviews the duties and obligations associated with the roles and the continued designation of supply incumbent in the context of a more competitive deregulated market.

Target Audience:
This paper is for the attention of electricity suppliers, members of the public and all interested parties.

Responses to this consultation should be returned by email, post or fax and marked for the attention of Seán mac an Bhaird at the CER.

The CER intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately or enclose it in an Appendix, stating the rationale for not publishing this part of their comments.

Related Documents:

- CER 07/171: Supplier of Last Resort in Electricity under the Single Electricity Market, Decision paper
- CER/06/006: Supplier of Last Resort in Electricity Decision Paper & Response to Comments.

For further information on this document, please contact Seán mac an Bhaird (smacanabhaird@cer.ie) at the CER.
Executive Summary

In April 2010, the CER outlined the requirements to be met for the deregulation of the electricity retail markets (CER/10/058). The business markets were deregulated on 1st October 2010 and, based on current switching data, the deregulation of the domestic market is expected to occur in April 2011. With the full deregulation of the retail market Electric Ireland (formerly ESB Customer Supply) tariffs will no longer be regulated by the CER, and Electric Ireland will be free to compete in all sectors of the retail market. In 2010, the CER awarded Electric Ireland a new licence under which it could serve its unregulated business customers. With the deregulation of the domestic market, residential customers will also be supplied as part of Electric Ireland’s deregulated customer base.

However, Electric Ireland’s continues to be licensed as the PES which places very specific duties and obligations for regulated services beyond those of a generic supply licence. In parallel, Electric Ireland is also currently designated as the SoLR, and as such has specific duties and obligations in the event of a supplier withdrawal or market failure. The aim of the review is to explore how the PES and SoLR obligations will continue to be met in parallel with Electric Ireland’s operation as an unregulated supplier in the competitive market with the transition to full deregulation.

Firstly the CER is seeking comments from respondents on whether the provisions of universal service should continue to be discharged via the PES licence obligations or if a duty of supply should be contained in all supply licences? Furthermore, if all suppliers have a duty to supply should that duty extend to all customers or domestic customers only? The CER is also seeking comments on whether the roles of the PES and SoLR should be offered to the market in a competitive process, and if so should this be as separate functions or a single package. In either case the successful PES and/or SoLR would be selected based on its ability to meet the duties and obligations of the roles and the proposed costs to undertake the roles. However there may be merit in designating a particular party for a defined period or, in the case of SoLR, at the time of the event? The designation over an extended period may provide additional worth to suppliers in terms of marketing and potential access to customers. This could reduce the cost of providing the services.

In the context of the PES, the CER is seeking respondents’ views on a proposal that in the absence of the regulated tariffs, PES tariffs should be set to those standard tariffs charged under the supplier’s day to day supply business. This will ensure that the PES does not act “unfairly as between persons or classes of persons or between system users or classes of system users” while bringing the benefits of competition to its customers. The onus would be on the supplier to demonstrate to the CER that the tariffs charged are aligned with those under its day to day supply business.

The CER is also seeking comments on the proposed pricing options which consider how a supplier would bid in the cost to serve as the SoLR; by including a margin on its standard rate tariff and recovered from affected customers or by charging the standard rate and bidding in costs ex ante to be recovered via the TUoS mechanism from all customers. Any costs to be reimbursed through this mechanism would be subject to CER approval.
Respondents are also invited to comment on the proposal that where no independent suppliers are interested, should these functions still default to Electric Ireland? In the past, the CER has offered the role of SoLR to the market in 2005 and again in 2007. However, with no interested parties forthcoming, and the supply incumbent was designated to undertake the role. If under the above designation options, there was no interest in either the role of the PES or the SoLR, is it appropriate that the incumbent would be designated as the default supplier.

Finally, it should be noted that notwithstanding a CER decision which designated a party other than Electric Ireland as the PES and/or SoLR, a change to primary legislation would be required to remove the stipulation in S.I. No. 60 of 2005 that only the Board will be designated as the PES. Until such time as these changes are provided for, the role of the PES will remain with the supply incumbent, Electric Ireland.

The CER is seeing comments from respondents no later than close of business on Monday 21st March 2011.
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1 Introduction

1.1 The Commission for Energy Regulation
The Commission for Energy Regulation (CER) is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sectors. The CER was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the CER’s jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the CER additional powers in relation to gas and electricity safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the CER’s functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated by the CER and the Northern Ireland Authority for Utility Regulation (the Utility Regulator). The CER is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper
In April 2010, the CER outlined the requirements to be met for the deregulation of the electricity retail markets (CER/10/058). The business markets were deregulated on 1st October 2010 and, based on current switching data, the deregulation of the domestic market is expected to occur in April 2011. With the full deregulation of the retail market Electric Ireland tariffs will no longer be regulated by the CER, and Electric Ireland will be free to compete in all sectors of the retail market. In 2010, the Electric Ireland applied for and the CER awarded a new licence under which it could serve its unregulated business customers. With the deregulation of the domestic market, residential customers will also be supplied as part of Electric Ireland’s deregulated customer base.

However, Electric Ireland’s continues to be licensed as the Public Electricity Supplier (PES) which places very specific duties and obligations for regulated services beyond those of a generic supply licence. In parallel, Electric Ireland is also currently designated as the Supplier of Last Resort (SoLR), and as such has specific duties and obligations in the event of a supplier withdrawal or market failure. The purpose of this paper is to explore how the PES and SoLR obligations will continue to be met in parallel with Electric Ireland’s operation as an unregulated supplier in the competitive market.

1.3 Structure of this paper
• Section 2.0 outlines the transition to full deregulation and the roles of the Public Electricity Supplier and the Supplier of Last Resort
• Section 3.0 outlines the proposals in relation to the future administration of the Public Electricity Supplier and the Supplier of Last Resort in the deregulated market
• Section 4.0 outlines the conclusions and next steps.

2 CER/10/117. Roadmap to Deregulation - Legislative and Licence Changes, Information Note.
• Appendix A contains a summary of the duties of the Supplier of Last Resort under CER/06/006.
• Appendix B contains a summary of the consultation questions.

1.4 Responding to this paper
Interested parties are invited to comment on the issues raised in this consultation paper by close of business on Monday 21st March 2011.

As responses will be published in full on CER’s website, respondents should include any confidential information in a separate Annex. Submissions on this paper should be forwarded, preferably in electronic format, to:

Seán mac an Bhaird
Commission for Energy Regulation,
The Exchange, Belgard Square North,
Tallaght,
Dublin 24.
E-mail: smacanbhaird@cer.ie
2 Transition to the Deregulated Market and the Roles of the PES & SoLR

2.1 Introduction
Further to the sustained positive changes in the electricity market and consultation with the industry, the CER published a decision paper on a Roadmap to Deregulation (CER 10/058) in April 2010. Therein, the CER set out the criteria for deregulation of the business and domestic retail electricity markets. Based on the fulfilment of these criteria, as established by the Competition Review (CER/10/059), deregulation of all three business markets; Large Energy Users, Medium and Small Sized Business, occurred on 1st October 2010. Current market monitoring indicates that domestic tariff deregulation is likely to occur in April 2011.

2.2 Legislative Background
New legislation was required to allow for the cessation of tariff regulation and the deregulation of the business market on 1st October 2010. This was provided for by the enactment of S.I. No. 450 in 2010. The new legislation removed the explicit requirement for the CER to approve Electric Ireland tariffs in advance, but provided for later intervention if required. S.I. No. 450 shifted the regulatory framework from one of ex ante to one of ex post regulation, providing for the CER to take any actions that are necessary to —

“(i) prevent a distortion or restriction of competition in the supply of electricity to final customers, or

(ii) ensure that final customers are benefiting from competition in the supply of electricity”

The S.I. also requires the CER to monitor the retail markets in a number of key areas and to take action to ensure that final customers are benefiting from competition in the supply of electricity. The CER intends to review its current marketing monitoring framework and this will be guided by experience from other jurisdictions, ERGEG recommendations3 and relevant legislation. Market monitoring will provide the CER with a view of the levels of competition within the markets and assist in determining whether corrective measures, including a return to price regulation, are necessary to ensure their effective functioning.

2.3 Licence Allocation
Further to the publication of the Roadmap and, in preparation for deregulation of the business markets, ESB applied for a 3rd licence under Section 14 (1)(b) of the Electricity Regulation Act, 1999. In September 2010, the CER awarded Electric Ireland a (b) licence under which it could serve its unregulated business customers.

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3 ERGEG Final Guidelines of Good Practice on Indicators for Retail Market Monitoring for Electricity and Gas
With the deregulation of the domestic market, Electric Ireland will no longer be subject to ex-ante price regulation but to ex post monitoring as discussed in section 2.1. All licensed suppliers will be subject to market monitoring requirements, which may result in CER taking actions, or implementing market remedies, to prevent a distortion or restriction of competition in the supply of electricity. Electric Ireland is unique in the market as it continues to be licensed as the PES which places very specific duties and obligations on it, beyond those of a generic supply licence, in relation to the provision of regulated services. In parallel, Electric Ireland is also currently designated as the SoLR, and as such has specific duties and obligations in the event of a supplier withdrawal or market failure. In the context of a deregulated market, where all players are actively competing, the question arises as to whether Electric Ireland should continue to serve as the designated PES and SoLR.

2.4 Public Electricity Supplier

The role of the PES is provided for under S.I. No. 60 of 2005, and is exclusively a role that can be discharged by ESB. Regulation 16 specifies that the role can be discharged through licence but only to the Electricity Supply Board (‘the Board’). The PES licence was granted to Electric Ireland, in 2006 under Section 141 (h) of the Electricity Regulation Act, 1999. Electric Ireland is a ringfenced supply arm of ESB. Regulations 17, 18, 19, 20 and 26 of SI 60 prescribe the duties and obligations of the PES. The following sections outline how the relevant Regulations are captured in the PES licence conditions.

2.4.1 Regulation 17

(1) Separate Accounts for the Public Electricity Supply Business
Condition 2 of the PES licence, requires that separate accounts be prepared for the PES business, requiring the submission of regulatory accounting information that will:

(i) enable the CER and the public to assess the financial position of the Public Electricity Supply Business, distinct from any other Business of the Licensee and its affiliates or related undertakings; and

(ii) assist the CER in assessing the PES’s compliance with its licence.

(2) Prohibition of Cross-Subsidies
The PES may neither give any cross subsidy nor receive or disclose any commercially sensitive information. The licence condition also requires that the PES submit to the CER, for approval, a protocol detailing the transfer and dissemination of commercially sensitive information between the PES and any affiliate, or any related undertaking of the licensee, or any other Business of the Licensee, or the intermediary Activity, or any other person.

(3) Terms of Supply to Final Customers

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4 The CER is currently consulting on the requirement for an obligation on non discrimination (CER11/040)
Condition 3 requires the PES to comply with any direction given by the CER as to the terms on which it may supply electricity to final customers. It requires the PES to produce a Tariff Methodology Statement, outlining how tariffs will be calculated. This statement is to be submitted to the CER for approval. The PES must adhere to the approved Tariff Methodology Statement when calculating tariffs. The CER must also approve all tariffs to be charged.

(4) Economic Purchase Obligation
The Economic Purchase Obligation (EPO) placed on the PES is reflected in Condition 9 of the PES licence. The purpose of the EPO is to ensure that the PES conducts its financial hedging of price and volume risk in a manner that will:

   a) Obtain the best value for customers;

   b) Provide stability and price certainty for final customers; and

   c) Procure electricity in a fair, open and transparent manner.

2.4.2 Regulation 18 - Duty to Offer Supply
Condition 8 places an obligation of universal service on the PES, which requires that it meets;

   "all reasonable requests to supply electricity"

Although under this licence condition the reasonableness or otherwise of a request is ultimately determined by the CER, specific instances are detailed where the PES is not obliged to give a supply of electricity. In practice, the duty to offer supply sees the PES providing supply where a customer does not actively choose a supplier or cannot find an alternate supplier that is willing to provide supply to them at reasonable rates.

2.4.3 Regulation 20 - Non Discrimination
Regulation 20 of S.I. No. 60 of 2005 places a duty of non-discrimination on the PES. It states:

   "... the public electricity supplier shall not discriminate unfairly as between persons or classes of persons or between system users or classes of system users, particularly in favour of its subsidiaries, associated or affiliated undertakings, joint ventures or shareholders"

This is reflected in Condition 7 of the Public Electricity Supply Licence, which precludes the licensee "in supplying or offering terms for the supply of electricity to final customers in any market for the supply of electricity" that:

   (a) "show undue preference to any person (or class of persons) within such market;

   (b) exercise undue discrimination between any persons (or classes of
   person) within such market; or

   (c) set terms which are unduly onerous".
2.4.4 Regulation 26 - Standards of Performance for PES
In accordance with Regulation 26 of S.I. No. 60 of 2005, the PES is obliged to conduct its business to meet set performance criteria. This is reflected in Condition 10 of the PES Licence. The performance criteria are subject to approval by the CER and are subject to periodic review. The PES must report to the CER annually on its performance against the set criteria.

2.5 Supplier of Last Resort
Regulation 21 of S.I. No. 60 of 2005 stipulates that a SoLR must supply electricity in the event where a supplier ceases or fails to supply electricity in line with its contractual obligations or where, on the back of representations made to the CER by a licensed supplier, the CER is of the opinion that circumstances exist that warrant a direction to the SoLR. The SoLR must then "strive to serve customers in the same way as it serves its own customer base".

Under Regulation 21 of S.I. No. 60 of 2005 the CER may offer the role of SoLR to the market. The regulation also provides for the designation of the PES as the SoLR in instances where the CER considers that the PES is the most appropriate licensee to serve as the SoLR. In 2006, further to an open competition which yielded no expressions of interests, the CER designated the PES (CER/06/006) as the SoLR. The CER offered the role to the market once again in 2007 but again there was no market interest, therefore PES continues to act as the SoLR.

In offering the role to the market the CER considered an auction process and allocation on a case-by-case basis. Case by case allocation was seen as the preferred option, and this was set out in CER/05/238. That approach would require CER to maintain a panel of eligible suppliers from which the SoLR would be selected at the time of a SOLR event. A supplier’s inclusion in the panel would be conditional on meeting set criteria. To aid in selection and allow the panellists to respond to variable market conditions, the CER would have periodically requested information regarding how the panellists would manage a forthcoming SoLR event. Specific details relating to extraordinary costs would be submitted once a SoLR event was identified as likely and information on the scale of the event was available. The specific duties of the SoLR are detailed in CER/06/006 and for ease of reference are appended to this document in Appendix A.

2.5.1 Current SOLR Processes
To call on the SoLR the CER must issue a direction. As detailed in CER/05/238, the CER recognises that the main reason for the SoLR to be initiated is supplier exit from the market. This can manifest itself in a number of ways, namely via:

i. Unplanned exit: e.g. a supplier exits the market due to insolvency

ii. Planned exit: e.g. a supplier exits the market of its own free will (however, in such an event, the exiting supplier should use all available means to inform customers of the supplier exit and to transfer customers to another supplier once timing of exit is known).
iii. Serious licence breach and subsequent revocation of licence: a supplier’s licence is revoked for serious or continuous breaches of its licence conditions.

The processes to be followed for supplier exist from the market, be it planned, unplanned or due to revocation of a supply licence, are covered under the Trading and Settlement Code\textsuperscript{5}. Under the Code, a supplier planning to exit from the market must obtain consent from the CER, provide the Single Electricity Market Operator (SEMO) with 90 working days notice and adhere to the deregistration process. If these obligations are fulfilled, the SEMO will then issue a voluntary termination consent stating the termination date (the date at which the party becomes deregistered and must cease trading in the pool).

With regards a licence revocation and or an unplanned exit, SEMO ultimately issues a termination order. However, this is preceded by a suspension order. A suspension order is issued with prior approval by the CER. A suspension order, unless subsequently withdrawn, suspends a supplier unit’s participation in the Pool – unlike termination the party is not deregistered and the suspension may be reversed. However, from issue of the order, a suspension delay period of 14 days applies. The process followed under the 14 day period is described in Agreed Procedure 1 of the Trading and Settlement Code\textsuperscript{6}. If the situation leading to the suspension order being issued is not rectified, the CER must then determine, no later than 5 days prior to the end of the suspension delay period, whether or not the SoLR will step in and supply the affected demand.

Once a SoLR has been called upon, they must then inform affected customers of their associated rights within 5 working days of the SoLR event. Specifically, customers must be informed of their right to choose an alternate supplier within 14 business days. Once this period expires and the customer has not nominated an alternative supplier, a ‘lock-in’ period of three months will apply from the date of the SoLR event. If a customer is still with the SoLR after six months, they must be transferred to a standard tariff appropriate to the category of customer in question (that is, moved from the regulated SoLR tariff, details of which are provided below).

\textbf{2.5.2 Cost Recovery}

With regard to cost recovery and tariffs applicable to a SoLR event, the CER decided in CER/06/006 that:

- The structure and level of Supplier of Last Resort tariffs would correspond with the regulated supply tariffs for the same category of consumer.

- Non-energy costs would be agreed based on costs submitted ex ante. However, energy costs will be provisionally agreed based on costs submitted ex ante and adjusted ex post.

\textsuperscript{5} CER and the Utility Regulator, Trading and Settlement Code Version 8.

\textsuperscript{6} CER and the Utility Regulator, The Single Electricity Market (SEM) Agreed Procedure 1: Participant and Unit Registration and Deregistration Version 8.0.
Costs above-and-beyond those recoverable in the SoLR tariff would be recovered ex post, subject to CER approval, via Transmission Use of System charges.

The non-energy costs, fixed before the event, are in relation to those costs incurred in transferring customers. Examples of such are communications with customers about the SoLR event, billing and ensuring that the affected customers can change to another tariff or supplier. Energy costs, inclusive of networks costs, are harder to predict than the non-energy element. By their nature, these costs vary with customer numbers/type/size and the market price at the time of the SoLR event. Although, to assist in planning, the SoLR is made aware of the size of the event, it does not have prior knowledge to customer type, size etc. In light of such, the energy costs are only provisionally agreed prior to the event.

2.6 Conclusions
The PES is licensed under Section 14(1) h of the Electricity Regulation Act, 1999, and currently, only the Board may be issued such a licence. The licence places, in accordance with the Regulations of S.I. No. 60 of 2005, specific duties and obligations on the PES. In addition to these specific duties and obligations, the PES is also currently designated as the SoLR as no other supplier, to date, has expressed interest in carrying out this function.
3 Future Administration of the Roles of the PES & SOLR in the Deregulated Market

3.1 Introduction
Section 2 set out the key duties and obligations of the PES and SoLR and how they are currently discharged. This section examines how those roles will be discharged in a deregulated market. It considers how the roles could be offered to the market and looks at how the specific duties could be administered.

3.2 Regulation of the PES
The core function of the PES is the duty to supply. In the context of the current regulated market, the administration of these roles is relatively straightforward. Electric Ireland, as PES, has regulated tariffs, a duty to supply and an obligation of non-discrimination; therefore it cannot discriminate between customer groups (with the same characteristics) in terms of tariffs as the PES. So if a customer cannot get service from any of the independent suppliers, they would currently default to Electric Ireland as the PES, albeit on approved Terms and Conditions. With full market deregulation, the regulated supply tariffs offered by Electric Ireland fall away. The question then arises as to what tariff will a customer of the PES will be charged?

In a fully deregulated market where customers have a choice of competing suppliers, under what circumstances will a customer need to default to the universal service provisions of the PES? In practice this is most likely to happen in the context of new connections. In Northern Ireland and the UK, all suppliers servicing the domestic market are obliged to offer supply. This is through licence condition (Condition 26 of the generic supply licence). The terms offered must be in line with the standard terms and conditions required under Condition 27 of the generic supply licence. The supplier may set different standard terms and conditions for “different cases or classes of cases or for different areas”. They must be fair for both the supplier and the customer.

Therefore the CER is seeking the view of respondents on whether in a deregulated market there is a requirement for a PES, or should all licensed suppliers have obligation of duty to supply. Furthermore, if all suppliers have a duty to supply should that duty extend to all customers or domestic customers only? In the current context of a regulated market, the costs of the PES are recovered through regulated tariffs. The proposal to impose a duty of supply on all licensed suppliers would see the costs of a duty to supply recovered across the entire market. If all suppliers have a duty to supply, is there an enduring role for a designated PES in a deregulated market?

Q1. Respondents are invited to comment on the proposal that all supply licences should have a duty to supply. Should this apply to all customers or domestic only? Outline reasons for agreement or disagreement. Are there alternative options which should be considered?
3.3 Offering the Roles to the Market

The roles of the PES and the SoLR were established in legislation to ensure that customers enjoy universal service. This aim has not changed. Section 3.2 asks respondents to consider if there is an enduring role for a designated PES in a deregulated market, or if all suppliers should have a duty to supply. If the conclusion is that yes, there is a role for a PES as single party designated with a duty to supply, how are those functions designated and discharged in the deregulated market?

The role of the PES is, by its very nature, a regulated service. It requires the PES to serve customers that might otherwise be commercially unviable, on terms and conditions that are subject to regulatory approval. Therefore, the tariffs charged to these customers have to date been subject to regulatory approval, and cost recovery is via the regulated tariffs. In contrast the legislation provides for any supplier to serve as the SoLR. In selecting the SoLR, ERGEG\(^7\) suggests a market-oriented approach (where competition between suppliers is evident for obtaining the role). CER has, in the past, considered this approach but no independent supplier expressed interest. Given the increased levels of competition, independent suppliers may now be interested in being the SoLR and/or PES roles given the potential benefits in terms of brand recognition, marketing and future sales associated with the roles. As such the CER is seeking the views of stakeholders on whether the role of the PES and the SoLR should be offered to the market in a competitive process?

It should be noted that in order to implement a decision which designated a party other than Electric Ireland as the PES and/or SoLR, a change to primary legislation would be required to remove the stipulation in S.I. No. 60 of 2005 that only the Board will be designated as the PES. Until such time as these changes are provided for, the role of the PES will remain with the supply incumbent, Electric Ireland.

Q2. Respondents are invited to comment on the roles of the PES and the SoLR in a competitive market. Do you agree that the role of PES and SoLR should be offered to the market in a competitive process or should the incumbent continue to discharge these functions? Outline reasons for agreement or disagreement.

3.4 Designation of the PES and SoLR

Should the outcome of the consultation dictate that the roles of both the PES and the SoLR were offered to the market, either separately or as a package, the successful supplier would be selected based on its ability to meet the duties and obligations and the proposed costs to undertake the roles. There are a number of ways that could be used to select the successful supplier in terms of the timing and duration of the designation and the selection criteria used.

The options for designation of the roles depend on whether they are offered to the market as separate roles or as a package or as separate functions. It is proposed that where the roles of the PES and the SoLR were offered to the market as a single package, a single supplier would be designated for a defined period e.g. 2-3 years. Where the role of the PES was offered to the market, on its own, it would also be designated to a single supplier for a number of years to ensure continuity of service.

\(^7\) European Regulators Group for Electricity and Gas (2009). Status review of the definitions of vulnerable customer, default supplier and supplier of last resort, Ref: E09-CEM- 26-04.
In parallel, the role of the SoLR could be designated to a particular party for a defined period or alternatively designated at the time of the SoLR event. Sight of the event would provide for a more accurate estimation of the costs involved. This would, in turn, provide greater certainty to the CER when assessing costs in its selection of a SoLR. However, a dynamic designation may be less attractive to suppliers, weakening the potential benefits of the role to suppliers, in terms of marketing etc.

Irrespective of the approach to the designation or the PES and/or SoLR i.e. for a defined period or at the time of the event, the competitive tendering process would be the same for both. Suppliers would be invited to sit on a panel from which the CER could select the PES and/or SoLR. The successful supplier would be selected based on its ability to meet the duties and obligations of the roles and the proposed costs to undertake the roles.

Q3. Should the roles of the PES and the SoLR be offered to the market separately, or as a single package? If separately, do you agree that the function of the PES should be designated to a single supplier for a defined period of 2-3 years? Outline reasons for agreement or disagreement. Are there alternative options that should be considered?

Q4. Where the roles of the PES and the SoLR were offered to the market separately, respondents are invited to comment on whether the SoLR should be designated to a single supplier for a defined period of 2-3 years or designated at the time of the event? Outline reasons for your preferred option. Are there alternative options that should be considered?

3.5 Pricing Options for the Designation PES and SoLR

The successful PES and/or SoLR would be selected based on its ability to meet the duties and obligations of the roles and the proposed costs to undertake the roles. There are further options for assessment of costs.

3.5.1 PES Tariffs & Cost Recovery

In the absence of the regulated price benchmark, the CER proposes that the tariffs charged by a supplier, serving a customer, in its capacity as the PES, should be set to the supplier’s standard tariff for that category of customer. The onus would be on the supplier to demonstrate this to the CER. In the current context of a regulated market, the costs of the PES are recovered through regulated tariffs.

Q5. Respondents are invited to comment on the proposal to align the PES tariffs to that of the supplier's standard tariff. Outline reasons for agreement or disagreement. Are there alternative options which should be considered?
3.5.2 SoLR Tariffs & Cost Recovery

The duties and obligations of the SoLR are outlined in S.I. No. 60 of 2005 and CER/06/006. They do not appear in any licence and are general in nature - this provides for the designation of any licensed supplier (capable of undertaking the role) as the SoLR. This allowed the CER to offer the role to the market in 2005 and 2007 and will facilitate the proposal to continue offering the role to the market. Under the current arrangements, in the case of a SoLR event, customers would be moved to Electric Ireland and charged the standard regulated rates. As such, customers that are transferred in a SoLR event would not pay a premium for the service being provided. This is in spite of the extra costs that may be involved in supplying them, e.g. additional hedging costs. The additional costs are absorbed into the regulated customer base. There are two proposed pricing options for the SoLR based on the underlying cost recovery mechanisms. Both proposals would see a competitive tender process where the supplier is selected on the basis of its ex ante bid price, with no ex post cost adjustment mechanism.

SoLR Pricing Option 1

Option 1 would be where the supplier with the most economic standard tariff (at the time of designation) is selected – subject to all costs being fixed ex ante as part of the bid. At the same time the supplier provides, ex ante, a margin value to reflect any additional costs that are expected to be faced by the supplier. The margin of the successful supplier would be recovered through the TUoS charging mechanism.

In a regulated market, the CER specifies the price to be charged by the SoLR and the method for calculating the charges. In a fully deregulated market, there is no regulated tariff base to absorb any incremental costs associated with a SoLR event (over and above the supplier’s tariff) and an alternative cost recovery mechanism is required. The CER has previously consulted on a reimbursement mechanism through the TUoS charging mechanism. This option would see the additional costs of the role being recovered from all customers and not just the customers of the SoLR. An alternative, where only the customers of the SoLR pay these additional costs, is proposed in option 2.

SoLR Pricing Option 2

An alternative proposal would be that the SoLR would apply an additional margin to its day to day supply tariffs to reflect the likely extra costs associated with the role. This alternative proposal would see the additional costs of the role being recouped directly from the customers of the SoLR and not from the general customer base – the user pays principle. The level of the tariff would see customers paying a premium for being supplied by the SoLR. However, this premium may provide a greater incentive for customers to switch to an alternative supplier. The level of the premium could be determined by competitive bidding amongst suppliers. Suppliers would bid based on the margin they are willing to accept. The supplier with the lowest bid in margin would be selected provided that it complies with all other non financial criteria. In this scenario the successful supplier will only be able to recoup costs through the tariff charged and no further reimbursement mechanism will be made available.
Q6. Respondents are invited to comment on the pricing options for the SoLR. Which is your preferred option? If Option 1, do you agree that TUoS is an appropriate mechanism for marginal cost recovery? Outline reasons for agreement or disagreement. Are there alternative options which should be considered?

It should be noted that the 3rd Package requires that Member States ensure that customers can avail of universal service and that a SOLR event is catered for. Therefore in the event that no supplier should express interest in the roles, should the function default to Electric Ireland as the supply incumbent?

Q7. Respondents are invited to comment on the proposal that, where no other suppliers were forthcoming to undertake the roles of the PES and/or the SoLR, they would default to the supply incumbent. Do you agree with this proposal? Outline reasons for agreement or disagreement. Are there alternative options which should be considered?

3.6 Summary
The CER is consulting on a number of questions on the future administration of the roles of the PES and the SoLR. The CER is seeking comments from respondents on whether the provisions of universal service should continue to be discharged via the PES licence obligations or if a duty of supply should be contained in all supply licences?

The CER is also seeking comments on whether the roles of the PES and SoLR should be offered to the market in a competitive process, and if so should this be as separate functions or a single package. The successful PES and/or SoLR would be selected based on its ability to meet the duties and obligations of the roles and the proposed costs to undertake the roles. As such the CER has proposed a number of options for duration of designation of the PES and/or SoLR and pricing options. Respondents are invited to comments on the proposals with alternative proposals where appropriate.
4 Summary & Next Steps

4.1 Summary of Proposed Measures

With the full deregulation of the retail market Electric Ireland tariffs will no longer be regulated by the CER, and Electric Ireland will be free to compete in all sectors of the retail market. In 2010, Electric Ireland applied\(^8\) for and the CER awarded a new licence under which it could serve its unregulated business customers. With the deregulation of the domestic market, residential customers will also be supplied as part of Electric Ireland’s deregulated customer base.

As the PES, Electric Ireland has very specific duties and obligations for regulated services beyond those of a generic supply licence. In parallel, Electric Ireland is also currently designated as the Supplier of Last Resort (SoLR), and as such has specific duties and obligations in the event of a supplier withdrawal or market failure. This paper has looked reviewed the PES and SoLR obligations and considered how they will endure in fully deregulated competitive market. The aim of the review is to ensure that the roles are discharged in keeping with developments in competition and the transition to full deregulation.

The paper seeks the views of respondents on whether in a deregulated market there is a requirement for a PES, or should all licensed suppliers have obligation of duty to supply. Furthermore, if all suppliers have a duty to supply should that duty extend to all customers or domestic customers only? If not, should the roles of the PES and SoLR be offered to the market in a competitive tendering process, either separately or as a single package or obligations? How should this be designated interested party i.e. as a rolling designation for a defined period or at the time of the event in the case of spate SoLR designation? Designation would be on the basis of a supplier’s ability to undertake the role as well as proposed costs. Where no independent suppliers are interested, should these functions still default to Electric Ireland? The CER is also seeking comments on the proposed pricing options which consider how a supplier would bid in the cost to serve as the SoLR; by including a margin on its standard rate tariff or by bidding in costs ex ante to be recovered via the TUoS mechanism?

The paper also noted that notwithstanding a CER decision which designated a party other than Electric Ireland as the PES and/or SoLR, a change to primary legislation would be required to remove the stipulation in S.I. No. 60 of 2005 that only the Board will be designated as the PES. Until such time as these changes are provided for, the role of the PES will remain with the supply incumbent, Electric Ireland.

4.2 Next Steps

Following the receipt of responses to this consultation in March, the CER will publish a decision in March. The CER will then undertake a general review of all supply licences. That review will take into consideration the changes necessary for the adoption of relevant decisions. The CER will also further engage with the

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\(^8\) CER/10/117. Roadmap to Deregulation - Legislative and Licence Changes, Information Note.
Role of the PES and SOLR in the Deregulated Electricity Market

Department of Communications, Energy and Natural Resources in relation to the requisite legislative changes further to the outcome of this consultation.

Appendix A - Supplier of Last Resort Duties

The duties and obligations of the SoLR as well as the process behind a SoLR event are detailed in CER/06/006. The salient points as to the duties of the SoLR detailed in that decision paper are provided below.

In the event of a SoLR Direction, the designated SoLR is obliged to perform the following duties:

   a) send a notice to all affected customers that the SoLR mechanism has been initiated from the date of the Commission’s Direction. This notice shall inform affected customers of the SoLR event, the SoLR process, their rights in respect to changing supplier the tariff that will apply to them as well as other information customers may require.

   b) provide the SoLR facility for all customers of an exiting supplier from the date of the Direction set out in the notice referred to above.

   c) co-operate with the Distribution System Operator (DSO), (or Transmission System Operator (TSO), and the Meter Registration Service Operator (MRSO) in managing the process for transferring and communicating with affected customers i.e. the SoLR shall share responsibility with the DSO, TSO and MRSO for ensuring that customers are transferred transparently and seamlessly.

   d) maintain normal conditions of supply to customers for 6 months after the date of SoLR event on the SoLR tariff or until customers are registered to a different supplier or tariff9. The SoLR shall be responsible for all transferred customers’ usage from the date included in the SoLR Direction unless the customer moves within 14 business days of the issuance of the SoLR notice. The SoLR will be required to comply with the de-energisation code of practice for this 6 month period.

   e) supply the customer from the date on which the Direction took effect (unless, as stated above, the customer informs the SoLR within fourteen days of the date included in the notice referred to in (a) above that the customer does not wish to accept supply of electricity from the SoLR ). After this, the SoLR shall provide the opportunity for customers to switch to another supplier or tariff on request from 3 months after the SoLR event.

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9 The term ‘normal conditions of supply’ means that the Supplier of Last Resort applies the same conditions of supply and codes of practice to its Supplier of Last Resort and its regular customers.
f) after six months, transfer remaining SoLR customers (who have not already transferred to another supplier or tariff) onto a regular tariff of the SoLR that is appropriate to their customer category.

g) use all reasonable endeavours to secure a meter reading at each of the premises specified or described in the SoLR Direction within 14 days of the Direction taking effect.

h) provide a clear accounting separation between SoLR costs and other parts of its business i.e. between the SoLR activities and other regular supply activities.
Appendix B – List of Consultation Questions

**Q1.** Respondents are invited to comment on the proposal that all supply licences should have a duty to supply. Should this apply to all customers or domestic only? Outline reasons for agreement or disagreement. Are there alternative options which should be considered?

**Q2.** Respondents are invited to comment on the roles of the PES and the SoLR in a competitive market. Do you agree that the role of PES and SoLR should be offered to the market in a competitive process or should the incumbent continue to discharge these functions? Outline reasons for agreement or disagreement.

**Q3.** Should the roles of the PES and the SoLR be offered to the market separately, or as a single package? If separately, do you agree that the function of the PES should be designated to a single supplier for a defined period of 2-3 years? Outline reasons for agreement or disagreement. Are there alternative options that should be considered?

**Q4.** Where the roles of the PES and the SoLR were offered to the market separately, respondents are invited to comment on whether the SoLR should be designated to a single supplier for a defined period of 2-3 years or designated at the time of the event? Outline reasons for your preferred option. Are there alternative options that should be considered?

**Q5.** Respondents are invited to comment on the proposal to align the PES tariffs to that of the supplier's standard tariff. Outline reasons for agreement or disagreement. Are there alternative options which should be considered?

**Q6.** Respondents are invited to comment on the pricing options for the SoLR. Which is your preferred option? If Option 1, do you agree that TUoS is an appropriate mechanism for marginal cost recovery? Outline reasons for agreement or disagreement. Are there alternative options which should be considered?

**Q7.** Respondents are invited to comment on the proposal that, where no other suppliers were forthcoming to undertake the roles of the PES and / or the SoLR, they would default to the supply incumbent. Do you agree with this proposal? Outline reasons for agreement or disagreement. Are there alternative options which should be considered?