Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

The CER and Water Regulation in Ireland

DOCUMENT TYPE:	**Information Note**
REFERENCE:	**CER/13/245**
DATE PUBLISHED:	**30 October 2013**
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Abstract:

Under Section 27 of the Water Services Act 2013, the remit of the Commission for Energy Regulation (CER) was expanded to include a function to prepare to become the independent economic regulator for the public water sector and to advise the Minister for the Environment, Community and Local Government (the 'Minister') on matters related to the economic regulation of the public water sector in Ireland.

The purpose of this paper is to introduce stakeholders to the expected future role of the CER in the Irish water services sector, to outline the CER's values, and to outline the benefits that independent regulation can bring to the sector.

Target Audience:

This information Note is for the attention of interested members of the public, the water industry and other concerned parties.

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1.0 Introduction to the CER

1.1 The Commission for Energy Regulation

The CER is the independent body responsible for overseeing the regulation of Ireland's utilities and was setup in 1999. Initially the CER regulated the electricity market. In 2002 the CER's role expanded to cover the natural gas sector.

Up until that point the CER was exclusively an 'economic' regulator. In 2006 our remit was expanded to include certain safety regulatory responsibilities in gas and electricity sectors. In 2010 these safety functions were further expanded to include exploration and extraction activities, and in 2012 to include liquefied petroleum gas (LPG) installations.

Finally with the enactment of the Water Services Act 2013 in March 2013, the CER's remit was expanded to include a function to prepare to become the independent economic regulator and to advise the Minister for the Environment on matters related to the economic regulation of the public water sector in Ireland. It is expected that the CER will fully become the economic regulator in the next batch of water services legislation.

The following sections give some more detail on the current activities of the CER in each of these areas.

1.2 Electricity & Natural Gas

The CER has many duties in relation to the electricity and natural gas sectors. These include the promotion of competition in electricity and gas markets, the continuity, security and quality of supplies of electricity and natural gas and the promotion of renewable, sustainable or alternative forms of energy. However, protecting the interests of final customers is central to the role of the CER in the energy sector, especially vulnerable customers including the disadvantaged and the elderly. This is done through a range of measures including:

- Ensuring that standards of services are set and codes of practices are in place to protect vulnerable customers;
- Ensuring that appropriate measures are in place for the monitoring, assessing and managing of the security of supply of electricity and gas and taking any necessary actions to protect the security of supply;
- Promoting competition in the electricity and natural gas sectors;
- Monitoring the activities of electricity and natural gas licensees to ensure that they are delivering good quality service; and
- Resolving disputes between customers and energy suppliers.

The CER licenses electricity and natural gas companies, including those companies that operate the electricity and gas systems, the companies that generate electricity and transport gas into Ireland, and the companies that supply energy to the final customer. The CER licences these companies on a fair and equitable basis and sets performance standards which are enforced.

1.3 Safety

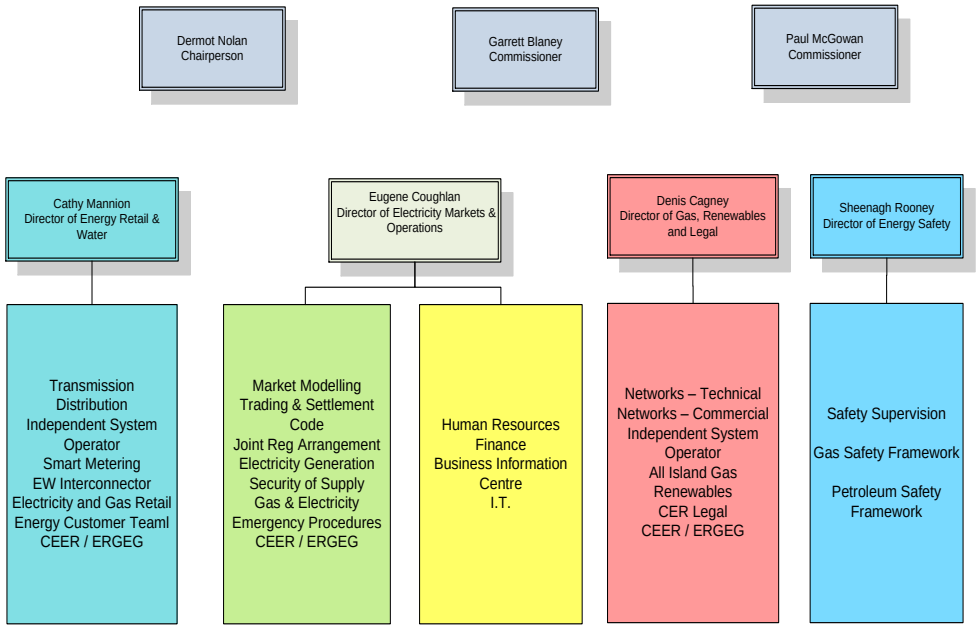
Since 2006 the CER has been given certain safety regulatory responsibilities. This covers electrical contractors, gas installers (both liquefied petroleum gas and natural gas) and natural gas undertakings. The CER was given further additional safety responsibilities under the Petroleum (Exploration and Extraction) Safety Act regulating petroleum exploration and extraction activities of petroleum undertakings (oil and gas exploration and extraction companies).

In effect the Act expanded the CERs safety responsibility to regulate Ireland's upstream petroleum - oil and gas - exploration and extraction activities. As a result, the CER now regulates downstream natural gas undertakings and upstream petroleum activities with respect to safety, with the focus on public safety. The obligation on natural gas undertakings and petroleum undertakings is to reduce risk from their activities to a level that is ALARP – to 'as low as reasonably practicable'.

1.4 CER Organisational Structure

The CER is lead by between one and three Commissioners at any one time. Currently the Commissioners are Dermot Nolan, Chairperson, Garrett Blaney and Paul McGowan. Each can serve a maximum term of 10 years. The Commissioners are assisted in their duties by a staff of about 70, including 4 directors.

The chart below summarises the current organisational structure.



The CER is currently reviewing its organisational structure and resources to see what changes are needed to deliver its water functions efficiently and effectively.

2.0 The Water System

Access to clean water is essential to life. Throughout history, the development of most societies relied on access to clean and potable drinking water. In the last two hundred years access to clean water for drinking and washing, as well as the removal of various forms of waste water[1], has led to significant improvements in public health and allowed for the development of large towns and cities. A water system normally contains the following elements:

Water Supply

1. Raw Water collection – The raw water can be collected from a number of sources, surface water, such as rivers and lakes, or underground sources, such as an aquifer or well. The raw water can be collected in a reservoir or dam or pumped from an aquifer.

2. Water treatment and purification – This step in the process takes the raw water and removes impurities and adds agents for disinfection.

3. Storage – Generally water is stored after treatment and before being distributed and consumed. Storage can be in water tanks or water towers.

4. Distribution – Water is distributed to consumers through a network of pipes and, where additional pressure is required, some pumping stations.

Consumption

Water is used for a number of purposes in homes and in businesses - drinking, food preparation, washing, laundry, toilets, watering plants and lawns, washing cars, power hosing footpaths, etc. Businesses use significant quantities of water in particular the high tech industries, pharmaceutical, agri-food for a variety of purposes. The majority of water consumed by households and businesses is returned to the environment through the waste water system.

Waste Water

1. Waste water collection – Sewerage – Waste water is collected from households and businesses through a network of pipes, and where necessary pumping stations, and delivered to treatment works.

[1] This includes 'domestic wastewater', 'industrial waste water' and 'urban waste water' as defined in S.I. No. 254/2001 — Urban Waste Water Treatment Regulations, 2001 which can be found here.

2. Waste water treatment – Waste water is treated to remove substances that would be harmful to the population and the environment. It is then returned to the environment. This service can either be provided through a public service or by standalone/group systems. Standalone, in this context, refers to properties where waste water is treated by septic tanks or other onsite wastewater treatment systems.

2.1 Use and leakage on the Irish system

It is estimated that there are approximately 25,000 km of public water supply distribution network in Ireland, together with a significant wastewater network.[2] The exact overall length of the wastewater network is not known. Approximately 1.6 billion litres of drinkable water are produced daily in Ireland and each person, on average, uses about 150 litres of clean treated water per day.[3] This corresponds with figures for Great Britain where average daily consumption per person is also approx. 150 litres. The average in a number of European countries is less than 130 litres, for example in Belgium and the Czech Republic it is less than 110 litres.[4]

Leakage of water, i.e. the loss of water before it reaches the customer, is also a significant problem for the Irish Water network. Nearly half of all treated water is lost somewhere in the water network, whether that be through the distribution pipes or the pipes under our homes and businesses. Leakage rates vary widely in the EU, from approximately 7% to 50% or more[5]. The below table provides a comparison of leakage rates among other developed countries.

Table 1: Leakage rates among peer countries[6]

Country	Leakage Rates (%)
Singapore	5%
Netherlands	6%
Germany	7%
Japan	9%
France	26%
England & Wales	26%
Ireland	41%

Reducing our water usage and leakage rates will help improve the management and conservation of this vital resource.

2.2 Key stakeholders in water sector

There are a number of important stakeholders in the Irish Water sector.

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[2] Please refer to links here and here.
[3] Please refer to the following links here and here.
[4] Please refer to the following link here and here.
[5] Please refer to the following link here.
[6] Please refer to the following links: Singapore here; Netherlands here; Germany and France here, Japan here, England and Wales here, Ireland here.

Department of the Environment, Community and Local Government:
The DECLG is the Government department with overall responsibility for the Irish water sector and its reform. The goals of the DECLG include the protection and improvement of 'water resources and the quality of drinking water and achieve a high quality environment with effective environmental protection'.[7]

The DECLG is responsible for setting policy in the water sector and plays a role in controlling and managing the capital expenditure programme. It is also responsible for the preparation of legislation relating to water services and water quality. Furthermore, DECLG makes the decision on the annual allocation to the Water Service Authorities (WSAs) of funding for operational and capital expenditure.

The Water Service Authorities:
Under legislation 34 city and county councils in Ireland are designated as the WSAs. These WSAs are currently responsible for the production, distribution and monitoring of drinking water serving the majority of Irish households. Those houses and businesses that are not connected to the public water system are supplied by private group water schemes, small private supplies and private wells. Figures relating to this breakdown are provided in the next section below.

The WSAs are also responsible for the treatment of public wastewater. Wastewater is collected in towns and urban areas and treated at wastewater treatment plants. These plants also treat sewage that comes from single households in the countryside. Those households that are not connected to public sewers are generally treated on-site by private septic tank systems or individual household wastewater treatment systems. The WSAs are not responsible for these private treatment facilities.

The Environmental Protection Agency (EPA):
The EPA is an independent public body, established in July 1993, which acts as the environmental regulator of the water services sector. It protects the environment by regulating and policing activities that might otherwise cause pollution. The EPA engages in licensing and control of large scale waste and industrial activities to ensure that they do not endanger human health or harm the environment.

Facilities licenced by the EPA include waste facilities (e.g. landfills, incinerators, waste transfer stations), large scale industrial activities (e.g. pharmaceutical manufacturing, cement manufacturing, power plants) and urban waste water treatment plants.

The EPA also monitors the quality of drinking water, rivers, lakes, tidal waters and ground waters; measuring water levels and river flows.

[7] Please refer to the DECLG 'Statement of Strategy 2011-2014' document which can be found here.

2.3 Water Systems in Ireland

As noted above water is supplied to Irish homes and businesses in a number of ways, either publicly or by private means. There are five distinct categories of water supply in Ireland.

1. Public Water Supplies. These are schemes operated by the WSAs. They supply water to the majority of households in Ireland.

2. Public Group Water Schemes. These are schemes where the water is provided by the WSA, but responsibility for distribution of the water rests with the group scheme.

3. Private Group Water Schemes. These are schemes where the owners of the scheme (usually representatives of the local community) source and distribute their own water.

4. Small Private Supplies. This is a group of different types of supplies comprising industrial water supplies, such as those used in the brewing industry to boreholes serving commercial premises, e.g. pubs, hotels etc. and public buildings e.g. schools, nursing homes.

5. Exempted supplies. These are supplies serving less than 50 persons and not supplying water as part of a public or commercial activity. The majority of these supplies are private wells serving individual households.

The following table from the EPA details the statistics of supply across each of the five categories in 2011. The EPA breaks the categories down into the number of water supply zones (WSZs) and the corresponding percentage of Irish population served. The EPA defines a WSZ as a geographically area within which drinking water comes from one or more sources and water quality is uniform. Figures are not available for the number of exempted supplies.

Table 2: 2011 Water Supply in Ireland (Source: EPA)

Type of Supply	Number of WSZs	% of Total Population Served[8]
Public Water Supplies	939	80
Public Group Water Schemes	643	2.3
Private Group Water Schemes	486	4.7
Small Private Supplies	1429	0.7
Exempted Supplies		12.3

In August 2012 the Central Statistics Office (CSO) released a report from the 2011 census called 'The Roof over our Heads - Housing in Ireland' (CSO report).[9] The CSO report details further facts and figures about the supply of water (and the treatment of wastewater to households in Ireland), which should be of interest to all stakeholders of the water industry.

The CSO report indicates that 76% of the occupied 1,649,408 permanent private households in April 2011 (from when the census was taken) were connected to the public water supply – a decrease of 4% on previous census data shown in table 1. However, it is the still the case the majority of the Irish population is served by the public water supply. Of the remaining households, 9% were connected to a public group water scheme and 13% were connected to a private source (Group, Small Private and Single), 3% of households did not fill in this section of the census.

Table 3 below sets this data out in pie-chart format.

[8] Please note that these EPA figures are derived from the 2006 CSO census data. The EPA data can be found on page 85 of 'The Provision and Quality of Drinking Water in Ireland – 2011', which can be found here.

[9] The report can be found here on the CSO website.

Table 3: 2011 Water Supply to Irish households

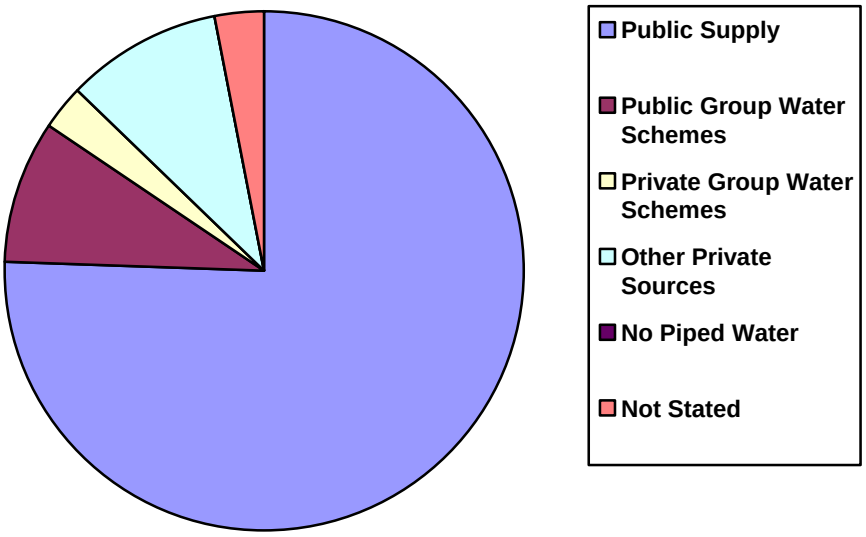


Table 4 below provides a breakdown by supply in ten of the WSAs according to data derived from the CSO report. The table also shows the combined percentage of households using the public water supply, both individual and group.

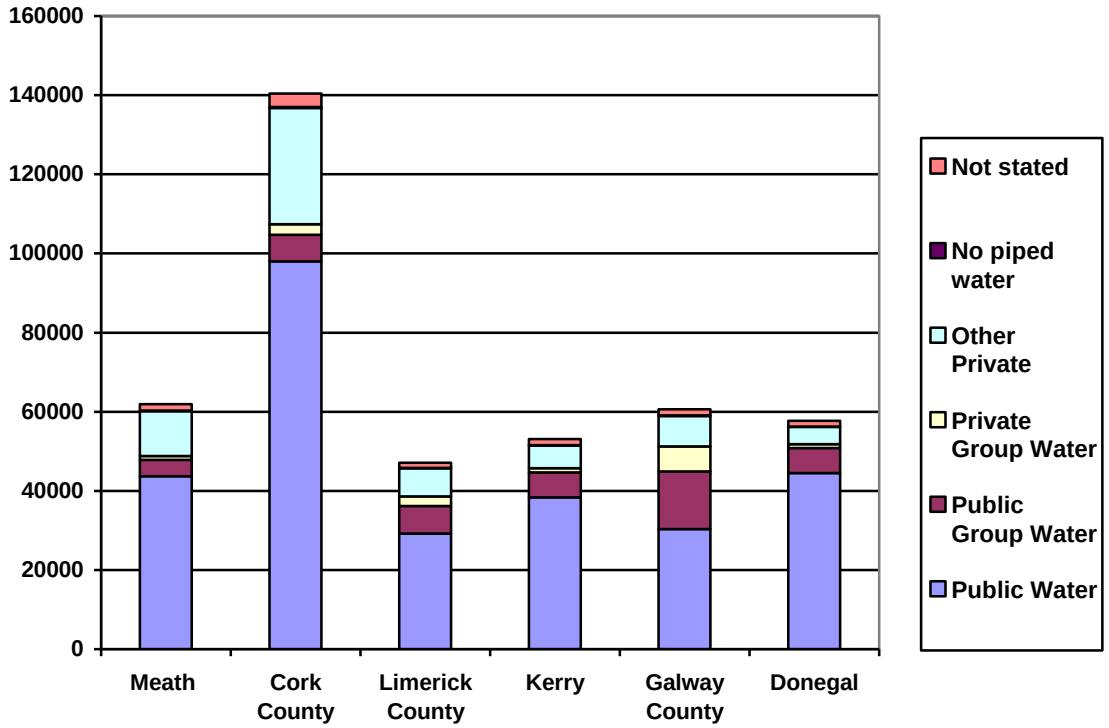
Table 4: Water supply to households within WSAs

Water Service Authority	Public Water	Public Group Water	Private Group Water	Other Private	No piped water [10]	Not stated	Total h.holds	% Using Public Water
Dublin City	189,663	8,982	427	241	84	8,450	207,847	96%
Dun Laoghaire Rathdown	70,144	3,132	107	289	7	2,107	75,786	97%
Fingal	84,972	4,277	135	299	18	3,250	92,951	96%
Meath	43,689	4,164	913	11,361	156	1,639	61,922	77%
Cork County	97,968	6,772	2,633	29,406	222	3,444	140,445	75%
Limerick County	29,256	6,945	2,378	7,112	84	1,346	47,121	77%
Kerry	38,380	6,272	1,035	5,816	87	1,498	53,088	84%
Galway County	30,311	14,592	6,297	7,724	149	1,571	60,644	74%
Mayo	25,377	11,902	6,196	3,217	67	1,173	47,932	78%
Donegal	44,542	6,298	919	4,436	89	1,437	57,721	88%

It is clear from the table above that the vast majority of the Dublin water supply is provided through public water supplies (the South Dublin WSA has similar statistics). The supply mix in the rural WSAs is more diverse across public and private supplies. Table 5 below sets this out in bar chart form for six of the rural WSAs. This data indicates that there is somewhat of an urban/rural divide between those connected to the public water supply and those households sourcing their own supply.

[10] The CSO have indicated that this category could include households supplied by private sources (e.g. private wells). Questionnaire data may have been incorrectly inputted by households during the census.

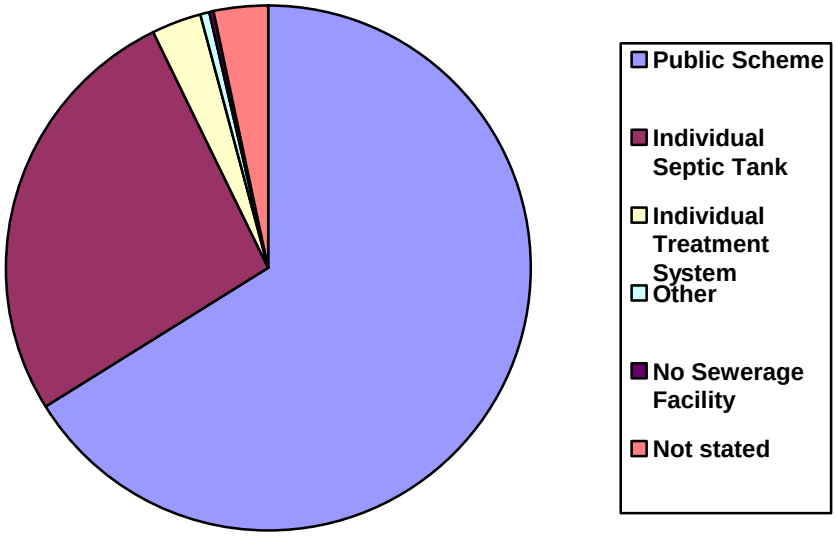
Table 5: Water supply breakdown in selected rural WSAs



2.4 The Wastewater System

Wastewater coming from Irish households and businesses is treated in a number of ways, either publicly or by private means. According to the CSO report 66% of the 1,649,408 households in Ireland are serviced by the public wastewater scheme and 30% of Irish households are serviced by an individual septic tank or treatment system. Table 6 sets this data out in pie-chart format.

Table 6: Treatment of wastewater in Irish households



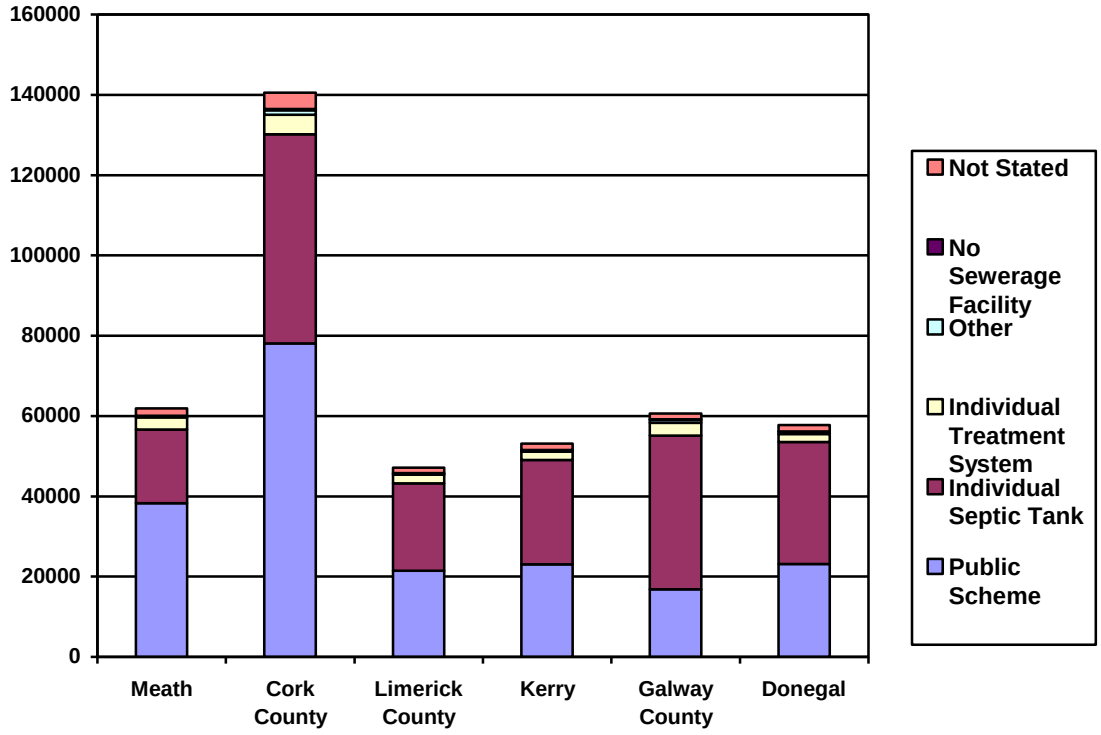
As with the supply of water, the treatment of wastewater differs along the urban and rural divide within the WSAs – with the distinction more apparent in the treatment of wastewater. Table 7 takes the same WSAs listed in Table 4 and shows the breakdown between treatment types, while Table 8 provides this in bar chart for the six rural WSAs. All figures are derived from the CSO report.

Table 7: Treatment of Wastewater within WSAs

Water Service Authority	Public Scheme	Indi. Septic Tank	Individual Treat. System	Other	No sewerage facility	Not stated [11]	Total h.holds	% on Public Scheme
Dublin City	194,333	1,591	266	861	252	10,544	207,847	93%
Dun Laoghaire Rathdown	71,381	1,480	223	225	32	2,445	75,786	94%
Fingal	83,488	3,657	1,151	405	58	4,192	92,951	90%
Meath	38,293	18,299	3,099	289	66	1,876	61,922	62%
Cork County	78,087	52,009	4,861	1,123	334	4,031	140,445	56%
Limerick County	21,430	21,813	2,102	292	109	1,375	47,121	45%
Kerry	23,090	25,976	2,040	261	125	1,596	53,088	43%
Galway County	16,840	38,262	3,229	670	143	1,500	60,644	28%
Mayo	19,906	24,640	1,868	151	101	1,266	47,932	42%
Donegal	23,155	30,383	1,976	596	80	1,571	57,721	40%

[11] The CSO have indicated that this category could include households serviced by private sources (e.g. septic tanks). Questionnaire data may have been incorrectly inputted by households during the census.

Table 8: Wastewater treatment in selected rural WSAs



2.5 Investment in the water network

All of our crucial infrastructure networks - electricity, gas, telecommunications, rail, road - require constant investment to facilitate changing population dynamics, return to economic growth, public health needs and environmental compliance issues. The Irish water services network is no different. It requires new build, replacement and maintenance, just like the gas or motorway network. Without such investment, levels of quality and service delivery will decrease, which could lead to increased health and safety risks. The job for the regulator is to ensure that this investment is efficient, is properly focused and provides value to the customer.

For example, if required investment on the Irish motorway network was ceased immediately road surface quality levels would begin to fall over the coming months and years. This would affect the quality of the journey for motorway users. More importantly it would increase the safety risk associated with travelling on the motorway (dangers associated with road chippings, potholes, fading road signage etc).

Similarly, if investment in the water network ceased immediately the quality of our public water supply or wastewater treatment would decrease which, in turn, would inevitably affect public health standards at some point. Hence the need to ensure that efficient investment is made in the water services network, both water supply and wastewater, investment that meets the needs of Ireland.

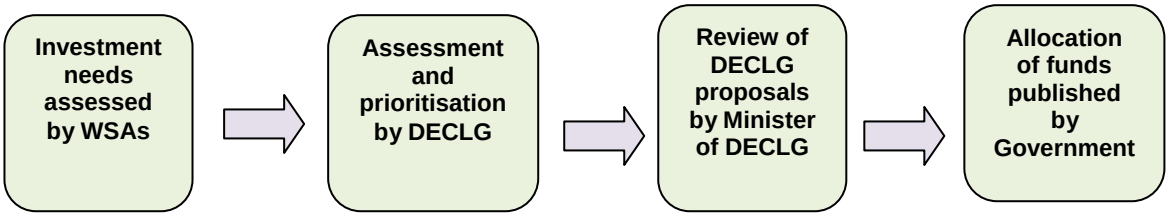
In November 2011 Price Waterhouse Coopers (PWC) published a study on the Irish water and wastewater system. The purpose of the report was to

provide an independent assessment of the transfer of responsibility for water services provision from the 34 WSAs to a water utility. The report also set out 'to recommend the most effective assignment of functions and structural arrangements for delivering high quality competitively priced water services to customers'.[12]

The PWC study examined the current state of investment in the Irish water network. According to the study, until recently, about €600 million per year, on average, was being invested in the Irish water and wastewater system through a capital expenditure programme. This annual investment can be broken down into three categories, (i) the Water Services Investment Programme (WSIP) of approx. €400 million; (ii) 'matching funds' from the WSAs of approximately €100 million and (iii) the Rural Water Programme (RWP) which has been investing approx. €100 million. However, the CER understands that levels of investment have decreased significantly in recent years predominately due to budgetary constraints.

The WSA 'matching funds' are financed through user contributions (e.g. fees for connection to the water system), development levies, borrowings and the revenue from non-household water customers. The PWC study sets this out in more detail. The WSIP and the RWP are funded by the DECLG. These are average amounts with the actual amounts fluctuating from year to year.

Investment decisions through the WSIP, is a step-by-step process between the WSAs, the bodies which manage the procurement of infrastructure assets for water and wastewater, and the DECLG who actually determine allocation of funds. This process is set out in the diagram below.



Obviously funding requirements between the 34 WSAs varies based on priorities, including issues of water conservation, environmental factors and economic objectives. Funding, in absolute terms, will also differ based on population within the WSAs – it is not divided out equally between the 34 WSAs. For example, the WSAs of the Greater Dublin area are allocated a greater share of the WSIP than rural ones. This is evident from the Water Services Investment Programme 2010-2012 document published by the DECLG.[13]

[12] Please refer to the following link here on the DECLG website for the PWC study.
[13] Please refer to the following link here on the DECLG for the Water Services Investment Programme 2010-2012.

Under the EU Water Framework Directive 2000/60/EC[14] (the 'Water Directive') all member states are committed to preventing deterioration and achieving at least 'good status'[15] in their rivers, lakes, estuaries, coastal and ground waters by the year 2015. It offers a degree of flexibility to each Member State in the way it is implemented. The Water Directive takes a unified approach around the concept of water as a precious natural commodity that must be preserved and regulated to a high standard.

The area of land that a river drains is called its catchment or basin. The basin contains all surface waters (rivers, lakes, reservoirs, estuaries and coastal waters) and underground waters, together with the lands that drain into them. The island of Ireland (classified under the Water Directive as 'Ecoregion 17') has been divided into eight river basin districts to help manage implementation of the Water Directive and a River Basin Management Plan has been developed for each river basin district.

The 2010-2012 estimated allocation of WSIP funds for the Eastern River Basin District (one of the eight regions on the island), between projects already in construction or projects starting in the period, was just over €1 billion. The District incorporates all or part of twelve WSAs, Dublin City, Meath, Kildare, Wicklow, Cavan, Dun Laoghaire-Rathdown, Fingal, Offaly, South Dublin, Westmeath and small parts of Wexford and Louth. The 2010-2012 allocation for the Western River Basin District, again between projects already in construction or projects starting in the period, was approx. €285 million. The District incorporates all or part of seven WSAs: Galway City and County, Mayo, Sligo, Leitrim and small parts of Roscommon and Clare. It should be noted that these allocations are estimated cost of contracts currently in progress and are subject to fluctuation.

As noted in the PWC report 'the current model for water service provision has been operating under significant constraints'. The study indicates that low levels of funding and an inability to access alternative sources of funding in the past have resulted in a 'backlog of investment and maintenance in the water services infrastructure'. The report goes on to state that 'the dependence on the Exchequer for Capital funding has in the past constrained investment in the sector. While approximately €600 million is provided annually in capital investment, it is estimated that there is currently a backlog of approximately €500 million for essential projects' (based on DECLG data).[16]

A downward trend in capital expenditure on the water and wastewater network due to financial constraints is evident from the accounts of the selected WSAs. The chart below provides a snapshot of the current level of capital investment in the Irish water network. It reflects, in aggregate form, capital expenditure figures across a number of selected WSAs (Dublin City, Meath,

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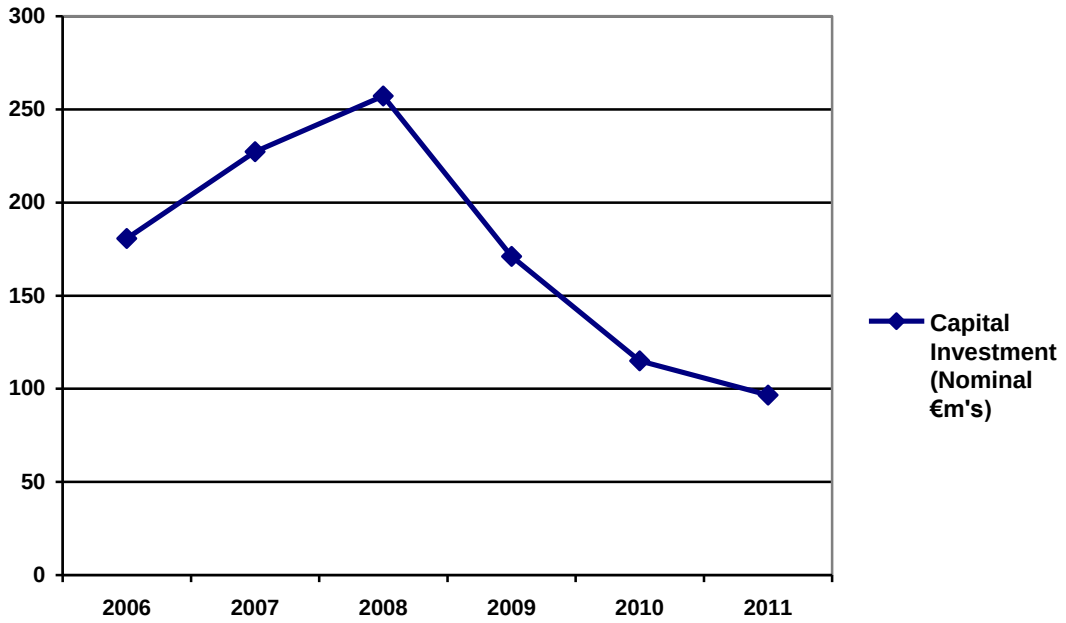
[14] Please refer to the following link on the European Commission website here.
[15] 'Good status' is defined in the Water Directive as 'the values of the biological quality elements for the surface water body type show low levels of distortion resulting from human activity, but deviate only slightly from those normally associated with the surface water body type under undisturbed conditions.
[16] Please refer to footnote 3 above.

Kerry and Mayo) for the years 2006 to 2011. These figures were obtained from the various annual reports/financial statements of the WSAs, which can be found on their respective websites.

Table 9: Capital Investment across selected WSAs (2006-2011)

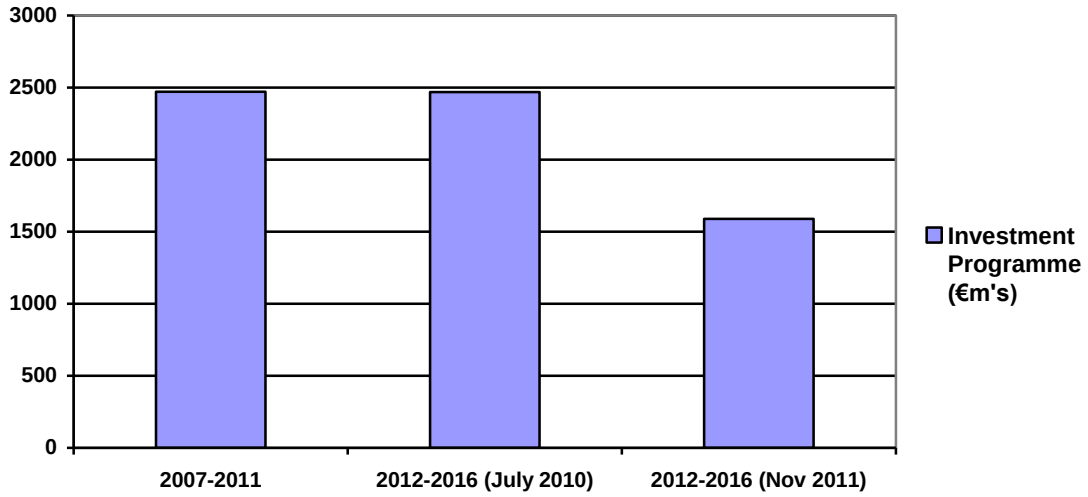


The figures reveal the dependent nature of investment in the water network on Exchequer funding, most of which comes from grants. It is clear that the economic downturn (from 2008 onwards) has affected the level of investment in the Irish water network – this is not as a result of say demand reduction[17] or the requirement for capital investment falling off. As noted in the PWC study, 'low levels of funding and an inability to access alternative sources of funding in the past have resulted in a backlog of investment and maintenance in the water services infrastructure' - approximately €500 million of essential water network projects. However, it should be noted that comment was predicated upon an on-going capital investment level of €600 million a year in water services infrastructure.

With further budgetary constraints anticipated for the coming years and less money being available from the Exchequer, projections of future investment show a similar picture. The table below reflects aggregate figures from the July 2010 Department of Finance publication, '*Infrastructure Investment Priorities 2010-2016'* and the November 2011 Department of Public Expenditure and Reform publication, '*Infrastructure and Capital Investment 2012-16',* which updated the July 2010 report.[18]

[17] For example, please refer to Figure E2 of the following report published by the Dublin City Council which can be found here.
[18] Please refer here and here for both publications.

Table 10: Capital investment in Water services - Exchequer framework



2.6 The benefits of independent regulation

The public water network in Ireland consists of water collection points (such as lakes and rivers), water purification facilities, pumping stations and a distribution network which ultimately delivers water to the customer's premise. The public waste water network contains the piping and pumping network, which moves the wastewater of households and businesses to the treatment facilities, and ultimately releases this water back into the environment.

Both public networks are considered to be 'natural monopolies' in that it would be considered wasteful and inefficient to have duplicate sets of the public water and waste network. For example, it would not be efficient to have two separately owned pipes providing water to the same household. Unregulated monopolies may be inefficient and impose prices that are too high on consumers. As a result, regulation is required to uphold the welfare of consumers.

Regulation will also offer Irish Water a clear and stable environment to make the necessary investments to ensure a modern, sustainable and efficient water network. Ultimately, regulation will reduce the dependency between direct Exchequer funding and required investment in the water network. Effective regulation will help ensure that investment in the Irish water network continues to meet the needs of Ireland.

It is worth discussing the benefits that regulation will bring to the Irish water customer in greater detail. Note some of the benefits would also result in the reform of the structure through which water services are delivered. However, it is considered that these benefits are further enhanced by having independent regulation to ensure that they are passed on to water services customers.

Efficiency gains

Water sector reform will bring savings in the average costs associated with the operation and development of the water network (e.g. eliminating tasks

that were previously duplicated across the 34 councils, more efficient procurement due to scale, etc.). These savings and increases in productivity will lower costs. It is the duty of the regulator to ensure that the utility has an incentive to seek out these efficiencies and to ensure that these efficiencies are passed on to the customer either in terms of lower bills or excellent customer service.

Investment in the network

The introduction of an independent regulatory regime will provide Irish Water with a stable revenue platform, which in turn will allow it to source funding for investment from international debt markets at reasonable interest rates. This access to capital is critical to ensure the continued necessary investment in the water network. Investment will mean an improvement in the quality of water services (including drinking water quality) and an improvement in the secure supply of those services. Independent regulation should allow IW to begin to address the capex backlog and issues such as the compliance gap in the provisions of the EU Water Framework Directive.

Customer Service

The standards of customer service will be mandated by the regulator. Failure to provide the required level of service will lead to penalties. In addition, the cost of providing to this level will be transparent and customers will have input into its formulation.

Co-ordinated National Planning

The creation of Irish Water will allow for a more co-ordinated and integrated investment programme in the water network. As the single utility responsible for the development, operation and maintenance of the water network Irish Water can look to implement national strategies and national development plans. This should lead to a more efficient investment programme.

Regulation, by extension, will facilitate this process. In the energy sector the CER places licence obligations on the network companies to devise and publish long-term development plans (e.g. 5 years plus) for the energy networks to meet population growth demands, economic development, government policy objectives etc. It is envisaged that a similar requirement will be put in place by the CER for Irish Water.

Improving the management of this vital resource

Regulation will support the sustainable management of Irish water resources by placing efficiencies on Irish Water. These efficiencies will drive the company to look for ways to improve how it abstracts, treats and delivers water to the customer. These efficiencies will mean that, hopefully, less treated water is needed to meet the demands of the Irish water customer. As noted in the DECLG paper,[19] 'Ireland's rich water resources will become of

[19] Please refer here on the DECLG website for the policy paper.

increasing strategic importance to the Irish economy as the value of water increases globally. Water is a vital requirement to support economic growth, social stability and environmental protection'.

It is probable that climate change will alter our weather patterns and affect the physical and economic infrastructure of Ireland, e.g. by way of flooding or through extended periods of cold weather, which we experienced a number of years ago (e.g. the winter of 2010/2011). Therefore Ireland needs to explore all opportunities for using our water resources in a sustainable way to support economic growth and competitiveness. Regulation can facilitate Irish Water taking advantage of these opportunities.

2.7 2011 Reform of the Irish Water Sector

The Government of Ireland (the 'Government') has embarked on a programme to reform the public water and waste water sector. This reform is part of the programme for Government and the Programme of Financial Support for Ireland with the EU/IMF/ECB (the 'Programme'). As noted in the 2011 Programme for Government, the aim of these reforms is to ensure that water users in Ireland receive 'a better quality of water and environment'.[20]

The context of this objective was set out in a position paper entitled '*Reform of the water sector in Ireland',* published by the Department for Environment, Community and Local Government (DECLG) in January 2012. The DECLG is the Government department responsible for delivery of this programme of reform.

The DECLG paper proposed to achieve this objective by:

- creating a single water utility, Irish Water (a State owned company), to provide the water services currently provided by the 34 WSAs. Irish Water would take over the water investment and maintenance programmes of the 34 WSAs with the key aim of supervising and accelerating the pace of delivery of planned investments needed to upgrade the Ireland's water and sewerage network;
- embarking on the rollout of a universal water metering programme;
- levying charges on users of the Irish water system to fund the costs of operating and investment; and
- expanding the statutory role of the CER to cover economic regulatory functions of the water sector, as opposed to creating a new economic regulator.

In March 2013 the Water Services Act was passed by the Oireachtas which created Irish Water, a subsidiary of Bord Gáis Éireann. It is envisaged that responsibility for the provision of water services, currently carried out by the

[20] Please refer here of the Department of Taoiseach website for the 2011 Programme for Government.

34 water services authorities, will be transferred to Irish Water in the near future. The Act also provided the CER with the powers to 'do all such things as are necessary or expedient for the purposes of the performance by it of water regulatory functions', including 'functions relating to the fixing of charges in respect of the provision of (...) water services, and the specification of minimum standards of service as respects the provision of (...) water services'.

It is on the basis of these powers that the CER will now begin preparing for the development of an economic regulatory framework for the Irish water system, a framework which will have the interests of the Irish water customer central to its purpose. How the CER intends to perform its new water regulatory functions, within this framework, is discussed in the next section.

3.0 CER's Expected Role

3.1 Independent Economic Regulator for public water sector

The Government has decided to establish an independent economic regulator for water services and this function will be assigned to the CER. It is expected that the economic regulator will have the following objectives:

- protect the interests of the water services customer;
- set revenue, tariffs and charges and performance targets, that allows for the financing of Irish Water to invest efficiently in the water network, ensures efficiencies are driven in the operations of Irish Water, costs are reduced and that collectively these benefits are passed on to customers;
- put in place a set of measures to ensure that water services customers receive a high level of service in terms of delivery of water services and the quality of such services;
- ensure that Irish Water can finance its operations, having regard, inter alia, to the level of ongoing Exchequer funding in the medium term;
- provide a stable and predictable regulatory environment for Irish Water to finance and undertake long term investment;
- put in place a system to resolve complaints or disputes between water service customers and Irish Water; and
- review the long-term strategy of Irish Water having regard to the overall water policy objectives set by Government, and ensure that the regulatory framework permits and requires the development of the correct strategy. This will include examination and monitoring of the capital expenditure plans developed by Irish Water.

The establishment of the economic regulator is a key and necessary characteristic of the new model of delivery of water services. The need for economic regulation of the water sector to protect the customer's interests was identified by PWC in its study.[21] It is also considered that economic regulation of Irish Water would facilitate the regulated company being able to source private finance for investment in capital projects.

The regulatory process will evolve in line with the transitioning from local authority provision of services to delivery by Irish Water. It is anticipated that there will be an interim regulatory price control coinciding with the commencement of household water charging. The CER has operated to date, in the energy sector, price control periods of five years in length. Regulatory decisions made in these price controls are based on significant amounts of data and analysis collected over a one-to-two year period. This data is

[21] See bookmark 8 and page 32 of the report.

collected in advance of the price control start date. The CER will not have sufficient time to collect this level of data for the water sector in advance of the introduction of household water charging.

Therefore, it is anticipated that the first full regulatory price control period for water is likely to be from 2016. It will most likely be timed to facilitate the river basin management planning cycle (six years).

3.2 Values

The CER's intend to undertake a review of its values in the coming months, in light of its expected new role in the water services sector. Stakeholders will be asked for input in this process. However, until that review is complete, the CER will apply the same values to the water industry as it has done to the electricity and gas sectors, with protection of the customer paramount, both in the short-term and in the long-term. These values interlink and support one another.

- Regulate in a fair, transparent and consistent manner.
    - Fairness means that the CER will regulate the water industry in an even-handed balanced manner, treating all stakeholders without bias.
    - Transparency means that the CER will conduct its activities in an open manner so that those who are affected by our decisions can clearly see how we came to those decisions in the first place.
    - Consistency means that the CER will regulate the water industry with steady continuity by adhering to the same values outlined in this part of the paper, values which have guided the CER since 1999.
- Act with integrity and respect.
    - Integrity means that the CER will act in an honest and ethical fashion when regulating the water industry, as it does in the energy sector and as safety regulator. We will adhere to our values at all times.
    - Respect means that the CER we will value the opinion and viewpoints of all stakeholders, both those who agree with our decisions and those who disagree. When regulating the water industry the CER will always respect the right of all stakeholders to their own viewpoint and to communicate that viewpoint to the CER.

- Proper consultation with stakeholders and customers.

    - Proper consultation means that the CER will engage meaningfully with those who are affected by our decisions before coming to those decisions. Meaningful engagement can come in the form of talking with people, be accessible with people, meeting with people, listening to people and being pro-active in the communication process.

    - Proper consultation seeks advice or information from people that will help promote confidence in them that the CER is regulating the water industry effectively. The CER is most credible when it listens and shows that it is listening to those affected by our decisions.

- Accountability to customers and stakeholders.

    - Accountability means that the CER is answerable to stakeholders for the decisions we make in the water industry.

    - Accountability also means that the CER will take responsibility for those decisions in the public and private sphere.

    - Accountability places an obligation on the CER to explain our decisions, act in a professional manner, to lay out the reasons why such decisions were made and to show why these decisions were made in the best interests of the water services customer and in a balanced fashion.

- Making informed decisions

    - Making informed decisions means that the CER will base decisions on the best available evidence, and with the objective of meeting our primary goal – the protection of the water services customer.

The CER believes that these are important and appropriate values for an independent economic regulator. In order to establish a credible and effective regulatory regime the CER will have to demonstrate these values from the outset.

3.3 The economic regulatory framework

The CER will develop an economic regulatory framework within which the water utilities' (Irish Water) costs will be examined and approved. These costs will comprise operational and capital expenditure. Approved costs will be charged to water customers.

The economic regulatory framework to be established by the CER must:

- ensure that only reasonable and appropriate costs for the provision of water services by Irish Water are charged to customers;

- ensure that Irish Water, as the single water utility in Ireland, has a strong incentive to improve service and reduce costs from the outset of regulation;

- ensure all water services customers are provided with secure supplies of high-quality water, as well as excellent customer service;

- ensure that Irish Water is operating, and providing water services, in an environmentally-friendly and sustainable manner;

- ensure that Irish Water, operating efficiently, can raise finance from private sources for investment in the medium to longer term;

- provide for the transition from the initial model whereby the 34 WSAs are contracted to Irish Water to provide water services, to the ultimate model where Irish Water has the capability to provide water services to its customers from its own resources and subcontractors; and

- take into account the evolution of the sector and the need for interim measures.

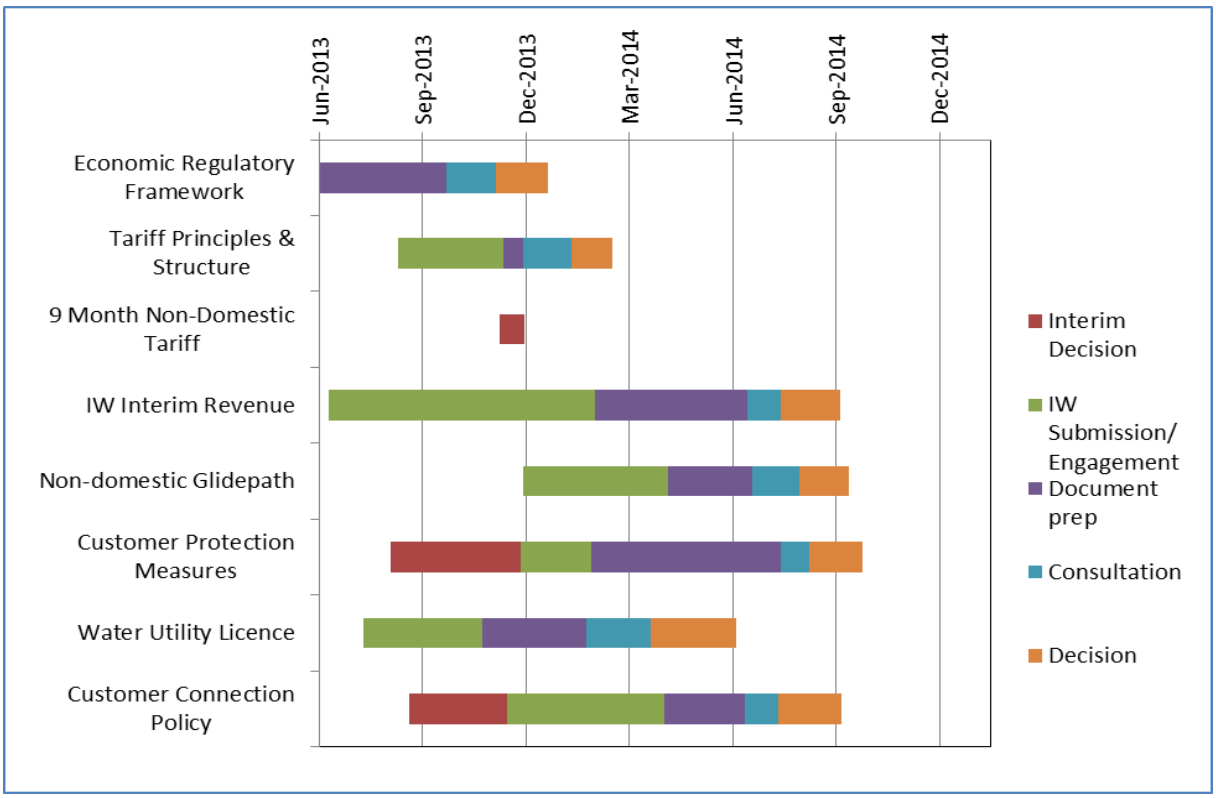
The CER expects to largely replicate the framework it currently has in place for the electricity and gas networks. However, it should be noted that given the current structure of the public water sector and the changes expected in the coming years, the CER may put in place an interim control, as outlined earlier in the paper.

Similar to companies operating in the electricity and gas industry, it is expected that Irish Water will be issued with a utility licence by the CER and will have to abide by the conditions of its licence. Finally, the CER anticipates that it will be given powers to resolve disputes between Irish Water and its customer.

3.4 CER Workstreams

The CER, working with DECLG and Irish Water, has identified a number of deliverables considered necessary over 2013/2014 to facilitate the reform programme outlined by Government. The indicative timelines and phases for their delivery are out in the table below.

Table 11: CER deliverables



4.0 Next Steps

The Water Services Act 2013 requires the CER to begin preparations to become the water regulator.

The CER expects to develop advice for the Minister for Environment on the regulatory policy to be adopted. In the development of this advice the CER expects to consult the public on elements of this advice. We will advance this consultation process with stakeholders over the coming months.

4.1 Queries

If you have any queries on any of the above please contact us.

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