



STATUTORY INSTRUMENTS.

S.I. No. 645 of 2011



ELECTRICITY REGULATION ACT 1999 AND GAS (INTERIM)
(REGULATION) ACT 2002 (GAS) LEVY ORDER 2011.

(Prn. A11/2317)

ELECTRICITY REGULATION ACT 1999 AND GAS (INTERIM)
(REGULATION) ACT 2002 (GAS) LEVY ORDER 2011.

The Commission for Energy Regulation in exercise of the powers conferred on it by the Electricity Regulation Act 1999 (No. 23 of 1999) as amended by the Gas (Interim) (Regulation) Act 2002 hereby makes the following Order:

1. (1) This Order may be cited as the Electricity Regulation Act 1999 and Gas (Interim) (Regulation) Act 2002 (Gas) Levy Order 2011

(2) This Order comes into operation on 31 December 2011.

(3) The Electricity Regulation Act, 1999 and Gas (Interim) (Regulation) Act 2002 (Gas) Levy Order, 2009 (S.I No. 599 of 2010) is revoked as and from 1 January 2012.

2. (1) In this Order—

"the Act" means the Electricity Regulation Act, 1999 (No. 23 of 1999) as amended by the Gas Act;

"banking day(s)" means day(s) on which banks in Ireland generally are open for business (except in any event on Saturday or Sunday);

"Code" means the code of operations of Bord Gáis Éireann in relation to the transmission system of Bord Gáis Éireann as that Code may be amended or varied from time to time and any successor code or arrangement;

"the Commission" means the Commission for Energy Regulation established under the Act;

"Final Allocations" means Final Allocations at the Exit Points;

"the Gas Act" means the Gas (Interim) (Regulation) Act, 2002;

"levy year" means a calendar year;

"quarter" means a period of 3 months ending on 31 March, 30 June, 30 September, or 31 December;

"relevant percentage" for a Shipper in respect of any quarter means the percentage (rounded upwards to four decimal places) which the aggregate of the Final Allocations allocated to that Shipper in respect of the immediately preceding quarter represents of the aggregate of the Final Allocations allocated to all Shippers in respect of the immediately preceding quarter;

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 16th December, 2011.*

and any cognate words shall be construed accordingly.

(2) In this Order unless it is otherwise indicated-

- (a) all words and expressions defined in the Act or in the Gas Act shall have the same meanings when used in this Order and where in any case a word or expression used in this Order is defined in each of the Act and the Gas Act, the word or expression shall have the meaning given to it by the Gas Act for the purposes of this Order;
- (b) all words and expressions defined in the Code shall have the same meanings when used in this Order;
- (c) a reference to legislation is a reference to that legislation as amended from time to time;
- (d) a reference to an article or schedule is to an article of, or schedule to, this Order; and
- (e) a reference to a sub-article is to the sub-article of the provision in which the reference occurs.

3. This Order shall apply to the classes of natural gas undertakings set out in the Schedule to this Order ("relevant undertakings").

4. (1) A levy is hereby imposed on each relevant undertaking. This levy will be payable in respect of each levy year.

(2) The levy imposed by sub-article (1) shall be payable in quarterly instalments in each case no later than the day which is 15 banking days after the date on which a request for payment of the levy instalment is made by the Commission.

5. (1) The levy imposed shall be payable by the relevant undertaking separately for each activity of transmission, distribution, or shipping of natural gas, as the case may be, that is carried out by the relevant undertaking in Ireland.

(2) The amount of the levy imposed on a relevant undertaking in respect of any quarter shall be as follows:

- (a) in the case of Bord Gáis Éireann, in respect of such transmission activities, a fixed payment of €271,733;
- (b) in the case of Bord Gáis Éireann, in respect of such distribution activities, a fixed payment of €271,733; and
- (c) in the case of a Shipper, the relevant percentage of €271,733.

6. On or before the last day of the first month of each quarter Bord Gáis Éireann shall supply to the Commission the information required to calculate the relevant percentage for each Shipper in respect of the immediately preceding quarter. In the event that Bord Gáis Éireann fails for any reason to supply any

of the information required for this purpose the Commission shall be entitled to calculate the relevant percentage for any shipper in respect of the last quarter for which such information was available.

7. (1) Where any amount falling to be paid under Article 5 is not paid within the period for payment specified in Article 4, interest thereon shall accrue at the prescribed interest rate compounded monthly from the date when such payment is due until the same is made.

(2) In this Regulation, "the prescribed interest rate" means a rate 2% per annum above the Euribor rate.

8. (1) All payments shall be made in Euro on the due date by direct bank transfer or equivalent instantaneous transfer of funds to the bank account specified by the Commission.

(2) Relevant undertakings shall notify the Commission as soon as payment has been made, indicating the date on which payment was made and the name of the bank effecting payment.

(3) A request for payment by the Commission to the relevant undertakings under this Order shall be made to the relevant undertaking in accordance with Section 4 of the Act.

Schedule

The relevant undertakings for the purposes of this Levy Order are a class consisting of any person engaged in the transmission or distribution of natural gas or as a Shipper.



Sealed with the common seal of the Commission for Energy Regulation,
15 December 2011.

DERMOT NOLAN,
Chairperson of the Commission.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This order imposes a levy on certain specified classes of natural gas undertakings, for the purpose of meeting expenses properly incurred by the Commission for Energy Regulation in the discharge of its functions under the Gas Acts 1976 to 2002.

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