

# DÁIL ÉIREANN

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## AN COMHCHOISTE UM CHUMARSÁID, GNÍOMHÚ AR SON NA HAERÁIDE AGUS COMHSHAOL

## JOINT COMMITTEE ON COMMUNICATIONS, CLIMATE ACTION AND ENVI- RONMENT

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*Dé Máirt, 19 Feabhra 2019*

*Tuesday, 19 February 2019*

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The Joint Committee met at 3 p.m.

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### MEMBERS PRESENT:

Deputy Timmy Dooley,	Senator Terry Leyden,
Deputy James Lawless,	Senator Tim Lombard,
Deputy Michael Lowry,	Senator Ian Marshall,*
Deputy Eamon Ryan,	Senator Joe O'Reilly.
Deputy Bríd Smith,	
Deputy Brian Stanley,	

\* In the absence of Senator Michael McDowell.

DEPUTY HILDEGARDE NAUGHTON IN THE CHAIR.

*The joint committee met in private session at 3.07 p.m., suspended at 3.43 p.m. and resumed in public session at 4.08 p.m.*

**General Scheme of the Miscellaneous Provisions (Withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019: Minister for Communications, Climate Action and Environment**

**Chairman:** This afternoon's session is a briefing on the provisions of the general scheme of the Miscellaneous Provisions (Withdrawal of the United Kingdom from the European Union on 29 March 2019) Bill 2019. I welcome the Minister for Communications, Climate Action and Environment, Deputy Richard Bruton, who will brief the committee on the provisions of the Brexit Bill insofar as they relate to the remit of his Department. I also welcome his officials.

Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against any person outside the Houses or an official either by name or in such a way as to make him or her identifiable. I remind witnesses and members to turn off their mobile phones or switch them to flight mode.

**Minister for Communications, Climate Action and Environment (Deputy Richard Bruton):** I circulated a note so I will not read from it exhaustively. The Department has been considering the contingency for all our various sources of energy in the context of a hard Brexit. We have looked at oil, gas, coal and electricity. We are content that the systems for oil, gas and coal will operate normally and without fear of significant disruption after careful examination by the regulators and various overseers.

Gas comes predominantly from Scotland and it is on what they call PRISMA software, which will continue to operate post Brexit. No tariffs are imposed by the EU on gas imports at the moment and that will continue to be the case. Having done a detailed analysis, GNI and the CRU are happy that there will be no change in cross-Border gas trade in the event of a no-deal Brexit.

The situation for electricity is more complicated. In 2007, a single electricity market was established and that is regulated under a single electricity market committee, which has regulators, North and South, and an independent and deputy independent member. They manage that platform. It is managed within European law and it is different to the gas market, which is operated on an independent software platform. There will be some impact on the sort of trading that can occur as a result of the departure of the UK from the European Union. Certain types of trade will not be able to continue. There will still be security of supply trades and what they call intra-day trades and it is believed that they will continue to support the vast majority of the flow of activity on it. However, it will not, strictly speaking, be compliant with European law and, if that continues into the medium term, we will have to negotiate and set out a new basis for the continuance of trade of the single electricity market. It is the desire of the UK, the EU and ourselves that the single electricity market should continue. It has brought great benefits, North and South. It is the only example of a fully integrated EU electricity market with a common trading platform and the UK has clearly signalled its intention, and has published legislation, to ensure, insofar as possible, that the UK will be compliant with the requirements of EU law. Nonetheless, over time, a medium-term platform will have to be put in place.

We are taking powers which we do not believe will need to be used in this legislation. They

are being taken in the event that there will be a severe disruption that will lead to some unexpected market activity. We are giving the CRU the power to alter licences in the event of certain events happening. This is clearly something precautionary, rather than something we believe will be necessary, but when the full evaluation was done by the CRU and EirGrid and so on, it was believed that this would be prudent legislation.

The provision to alter licences will be considerably constrained in that it will have to have ministerial approval to say it is justified. It can only last for one year and it can only be exercised in the context of a disorderly Brexit and its commencement would be contingent on an absolute necessity being established. The legislation, which will be published on Friday, will set out the provisions in a number of sections but these are the main provisions. It is intended to make doubly sure that the CRU will have this reserve power should there be activity in the market that is not anticipated. That is the position as I understand it. Officials accompanying me are experts in this market, including its legal and practical day-to-day dimensions. I hope we are in a position to answer any questions the committee might have.

**Deputy Brian Stanley:** I thank the Minister for his comments. The main concerns are an interruption to supply and cost. If I heard him correctly, he indicated there would be no impact from Brexit on the gas supply. I have a couple of questions on that. We agree that the single electricity market operating on the island as a whole has brought much benefit. It is beneficial for the North, as it is questionable whether enough power is generated within the Six Counties. It is very dependent in that regard. We have the fourth-highest electricity prices in the Union and prices are above average for gas. Will those prices increase? In the event of a no-deal Brexit, my understanding is there would be World Trade Organization, WTO, tariffs on gas. Will the Minister clarify whether this means energy prices will increase in a month or six or seven weeks, after Brexit?

I have raised an issue with him previously regarding the regulator. It is accepted that the companies operating utilities here are profitable and that is fair enough as it is the business they are in. They achieve substantial margins and the regulator can access those retail margins. It has also been said that the margins are higher than they are in other European countries. This must be monitored, particularly in the context of Brexit. Is it the intention of the Minister to have a review? There was another energy price increase for householders and businesses recently, and there was a wave of them last August, when the weather was very hot and people were not thinking too much about heat, power and light.

The Bill would make changes to the single electricity market and it is right to prepare from a legislative perspective for Brexit. As of today, we could toss a coin as to what way it will fall. We do not know if Britain will crash out or whether there will be a deal. It is looking more likely that Britain could crash out of the EU. The new market changes that came in with the integrated single energy market last October were meant to save householders and businesses €200 million but what will happen regarding those savings now?

To sum up, what will be the effect of WTO tariffs on gas and will its price increase? I asked about the escalating prices of energy in general and particularly in the context of Brexit. We raised before the genuine concern regarding retail margins. It has been reported that profit margins are higher than in other countries. Is a review or investigation of that planned, along with ongoing monitoring? That is required, particularly in light of Brexit. We were supposed to see €200 million in savings last October as well.

**Deputy Richard Bruton:** There is a WTO tariff in this respect but the EU does not apply

it. The EU has zero tariffs on gas imports. The price of gas will not be affected and the same is true of electricity. As such, no tariff is being applied to electricity.

On the issue of controlling the price, this is essentially a market system so the price is governed by supply and demand, under the oversight of regulators. Clearly, if we are trying to bring renewables onto the grid and rapid call-up capacity is needed, arrangements for such capacity payments can be made within the marketplace. It is a regulated market in which the regulator set the requirements in the public interest. The way it works thereafter is that trades occur on a day-to-day basis as a market to clear. The regulator's decisions are entirely independent. As Minister, I do not have any role in asking the regulator to carry out a review. If there was an issue of alleged collusion which people thought the regulator was not overseeing, the competition authority would be the port of call on price issues. This is essentially a regulated market with the regulators, North and South, directly involved in managing the market. The reason it may be more expensive than others is that we are a small market and have limited interconnection with the wider European market. Notwithstanding that, we have been very successful in integrating renewables in the market and we are regarded as something of a model of best practice for how a small grid can integrate renewables to a high level. Our ambition is to build that much further.

**Deputy Brian Stanley:** I have a question on the integrated single electricity market, ISEM. As I recall, there was a commitment last October to deliver overall savings of €200 million to customers. That does not appear to have happened. What we have had since have been further cost increases. In the context of Brexit, the real fear is that with interruption in gas supply in particular, the cost to householders and businesses is very high. The Minister will appreciate that in the context of increasing insurance costs and other costs that small businesses are facing, this is presenting real challenges.

**Deputy Richard Bruton:** The position is that the Commission for Regulation of Utilities, CRU, has examined margins and it is satisfied that the market is competitive. Two reports have been published and we can provide the Deputy with copies. It is also worth saying that it is a wholesale market and there is a volatility with world prices. World fuel prices will obviously impact on the market. The savings in capacity were based on having the interconnection. Two small grids would have to have more standby capacity. Money is saved by integrating the grids but the price increases are due to wholesale price increases of fuels so the issues are not related.

The Deputy is concerned about the margins. The CRU, which is independent in this, has done reports and is satisfied in this regard. I understand that if comparisons are made between prices here and elsewhere, there will be a difference but, in the view of the CRU, this is not due to excessive profit taking.

**Deputy Timmy Dooley:** I would like a little clarification on what Deputy Stanley said. There is no tariff applied for the trade in electricity between the two jurisdictions and what will now effectively be a third country when Brexit takes place. That is just a straight, linear exercise driven by the market, capacity and requirements. The same applies to gas regardless of its origins. Its access to the country is tariff free so there are no concerns in that regard. The Deputy's only concern on the potential of this legislation is based on concerns that there may be some capacity for actors or players to distort the market in some way. I do not get this if there is no such tariff related requirement. In any event, we are giving more powers to the regulator to forearm it in that event. In light of the fact that Britain is exiting the European Union, is the Government still of a mind to try to further advance the Celtic interconnector so that we are connected to the European grid with the advantages that would pertain there? My understand-

ing was that our interconnectedness, particularly on the electricity grid, was more to the benefit of our friends north of the Border in the Six Counties than any great benefit that would accrue to the South. That was important and of course it is right that we would assist there. In terms of our long-term vulnerability from a requirement to get access to the wider European grid, I would have thought that we need to advance the Celtic interconnector, particularly in light of our climate change requirements. Clearly if it works to the extent that more of our transport fleet and more of our heating requirement is electrified, with a greater requirement around the storage of data, we will be using significantly more electricity so we need to be more resilient there and there is obviously a wider debate there about renewables, both onshore and offshore such as wind etc. Notwithstanding that, I would have thought that the Celtic interconnector was a major requirement that now comes into sharper focus as a result of Brexit.

**Deputy Richard Bruton:** We are very clear that we want to pursue the Celtic interconnector because, as the Deputy says, an interconnector with a non-member state is not as beneficial, even though it is an important connection and something we would continue to value. An interconnector to Europe would be very important for us. The Deputy expressed some wonder over whether disruption or market manipulation could occur in this event. He is probably right that it is unlikely. It is a fairly competitive market but to be assured that no manipulation of a market could occur in the event of a disorderly Brexit, we have been advised that it is prudent to give this power to the CRU so that it could manage the way different players operate within the market, should it need to.

While the Deputy is right to say that we supply the North, that is not to say that having the Celtic interconnector does not have mutual benefits because it does. It obviously permits both sides to have less standby capacity and it makes it easier to take renewables on board so it has benefits for everyone even though we are the net exporters in the present situation. That is the position.

**Senator Tim Lombard:** I want to acknowledge and welcome the Minister. This was always going to be the great imponderable question, namely how we will work the single electricity market in the case of Brexit or even a hard Brexit and it is very welcome for us to be teasing out these issues. The Minister did mention that there was no issue on oil in particular and that we have sufficient supplies of oil. On the Whiddy Island complex, is it at full capacity in light of Brexit and where exactly is the capacity of that terminal, considering the unique standing it has in the State for fuel security and oil security in particular? It has been questioned down south whether it is at full capacity if it were to come to a hard Brexit. On the market itself and the volatility that could emerge, it is important that this legislation will try to ensure that there is no volatility. Have there been any negotiations at UK level on how we will come to this agreement? Could the Minister elaborate on the mid-term view of how this agreement will come? Will it be a bilateral agreement or how does the Minister see these negotiations coming? Will they come through the European Union? Where and what will be the actors and where will the negotiations of this debate happen? Is a bilateral at this level the approach we will take or how does the Minister believe it will happen?

On the pricing structures, there would be a fear that a hard Brexit would increase prices to some degree. This legislation gives the CRU power in that regard. Is the Minister concerned that there may be a price increase or does he believe the legislation will strengthen the hand of the CRU to ensure that the market will not have volatility?

**Deputy Richard Bruton:** I will have to get the Senator information on the Whiddy status. We have 90 day cover for our oil supplies. There is 60 days of supplies in the Republic, with

some further days' supply in Northern Ireland, the UK and Europe. That diversity whereby we do not have all these supplies located here is not a bad thing. We are content that we have adequate cover. The oil markets are open and accessible and while we source much of the supply from the UK, alternative sources are accessible in Europe should we need to divert our source of supply. Tariffs are not applied to oil.

On the longer term arrangements for the single electricity market, I understand there are third country platforms, recognised by the EU, on which countries trade electricity. The move is to get that recognised. There would be some differences in that we know the UK is not recognised. Even if it had similar law to the European Union, that law might not necessarily be judicable in the European courts. There will be some differences to be worked out in establishing that. However, there is a strong belief among all players that this is what they want to do. The UK has signalled its intention to be compatible with the single electricity market which will continue to operate. The expectation is that this is something that can be worked through.

**Deputy Eamon Ryan:** I support the measures proposed for the legislation. While I acknowledge that this is legally complex, the Minister referred to trading North and South and the benefits we all derive from that. Can he give an update on the position regarding the North-South interconnector? It has been planned for the past 15 or 20 years. It has been stuck in our planning system and is now stuck in the political system in the North. I understand the absence of an Executive or Assembly may threaten its urgent delivery. Is it true that the North is in danger of blackouts and this is costing €30 million annually? Last week, the High Court in Belfast made a decision that may force the project to go back to planning, although I am unsure of the mechanism involved. Does the Minister have a note or update on this?

More broadly, I asked Mr. Manley about UK wholesale prices. My recollection was that they were 50% above the north-west European average wholesale electricity price. When I checked the latest figures the sterling price converts to approximately 75 cent, while the EU wholesale price is roughly 50 cent when rounded up. The UK electricity market has been 50% more expensive than those of its neighbours for some years. The risk for us in the medium to long term is that we will get tied into a UK regional electricity market because we are such close neighbours and there is an interconnection and cross-dependence because of the price of gas influencing our electricity price. Has the Minister had any dialogue with his counterparts in London, whether it is the Secretary of State for Business, Energy and Industrial Strategy, Greg Clark, or whoever is the key person now, about UK policy or strategy will take post Brexit? If the UK continues to operate in isolation, its electricity prices will continue to be 50% higher than its continental competitors. Over time, that would result in the mass migration of the digital services industry which is very sensitive to electricity prices. Has the Minister been given any indication from the British side that the UK will seek to maintain membership of the North Sea offshore grid initiative which would result in much greater interconnection between Ireland, the UK, Norway, Denmark, the Netherlands, Belgium and France? The UK only has 4% interconnection now. If it was abiding by European rules, that figure would be 15%. Apart from that, if the UK wants to reduce its wholesale price, it must have a massive level of interconnection because building yet more nuclear power stations such as Hinkley Point will only make its system more expensive. From negotiations or discussions with the UK, does the Minister have any sense of Britain's medium or long-term objectives in the electricity market? If the UK decides to go isolated, there is a risk that we will be connected to isolated system and we will import these high electricity prices which will place us at a disadvantage to our continental cousins. Has the Minister examined this as a medium-term strategic issue for the State?

**Chairman:** Senator O'Reilly wanted to raise a particular issue.

**Senator Joe O'Reilly:** What are the implications for the North-South interconnector in a post no-deal Brexit scenario, particularly in light of the rejection of planning for the interconnector in the North? Would a new agreement between North and South be necessary following a crash-out, no deal Brexit? Would we be back to the drawing board?

What would happen to the interconnector if there is an agreed withdrawal? Business is very tight. Brexit will have major consequences for the part of Ireland in which I live and work and which I represent. One implication will be the tightening of margins on many fronts. If energy prices rise, it could put firms out of business because many would not withstand energy price increases. Will the Minister comment?

**Chairman:** In case the Senator is not aware, there is a vote in the Seanad. If he needs to leave, he will find the Minister's response in the Official Report.

**Deputy Richard Bruton:** I will respond first to Senator O'Reilly. If there is an agreed withdrawal, the continuance of the North-South single market is recognised in the withdrawal agreement. There is a strong commitment among all concerned to ensure it continues. In the event of a crash-out, certain trades on the single electricity market will no longer occur. However, the expectation is that the remaining trades - the security and supply trades and intra-day trades - will continue to support normal business on the system and that it will not lead to any short-term problems. The CRU is taking this power which we hope to enact to give it additional capacity to alter licences to ensure the market is protected. That is the position. A longer-term new agreement would have to be worked out along similar lines to those with Finland, Norway and Switzerland, which have third-party recognised grid interconnection and market operations. There are precedents for integration of markets that are recognised by the European Union. That would have to be worked out. Obviously, we have been engaged in discussions at EU level in that regard.

On the point raised by Senator O'Reilly and Deputy Eamon Ryan regarding the North-South interconnector, the Supreme Court this morning cleared the project in the South to proceed. However, as Deputy Eamon Ryan stated, last week the Northern Irish authorities requested that planning permission for the project be quashed in light of the fact that it was wrongly given the go-ahead in the absence of a ministerial presence. New legislation has been introduced in Northern Ireland and it will allow the secretary general to provide the necessary approvals. It appears that the Northern Ireland Department for Infrastructure is considering restarting the planning process, although I am unaware of the details of that.

**Deputy Eamon Ryan:** Is that equivalent to the start of the ministerial consent process?

**Deputy Richard Bruton:** It is more than that, but I cannot be categorical as to what will be the next steps in the planning process.

**Deputy Eamon Ryan:** Does the Minister have a timeline in that regard?

**Deputy Richard Bruton:** I do not. It was only on the Friday before last the Department signalled to the court that it was withdrawing its application in light of a judgment regarding a similar frailty on another project.

**Deputy Eamon Ryan:** Does Northern Ireland risk blackouts from 2021? I presume such risk would result from the shutdown of Cookeeragh power station.

**Deputy Richard Bruton:** My understanding is that there are standby plants which can be brought into operation. These are coal-fired plants that were identified for decommissioning and may not be ideal. However, I do not think blackouts will occur. Obviously, the continuing operation of the Single Market will address that issue. All involved are determined that it will continue to operate.

I do not wish to be categoric about the UK strategy but, insofar as I can tell, it recognises the importance of being connected to the European Union market and wishes to maintain that benefit. The statutory instruments on electricity cross-border trading matters it published signal its desire to maintain interconnection and engagement with the European market. It wishes to continue to avail of the benefits of interconnection in this area.

**Deputy Eamon Ryan:** If there were to be a dispute on the operation of our current existing east-west connector from north Dublin to north Wales, would the British Government accept the European Court of Justice as the final arbiter in terms of the European legal system? Would it accept the jurisdiction of the court regarding any other matter, such as its ongoing presence in a developing north west regional European electricity market?

**Deputy Richard Bruton:** The UK has gone so far as to seek to replicate the legislative arrangements but it would not be adjudicated upon by the European courts.

**Deputy Eamon Ryan:** My understanding, from talking to German and other authorities, is that they would insist upon any country in a regional electricity market having to accept the final jurisdiction of the ECJ. Is that the understanding of the Minister?

**Deputy Richard Bruton:** That may not be the situation in the cases of Russia, Finland, Norway and Switzerland. Although Norway and Switzerland probably accept the rulings of the EC, I doubt that Russia does likewise.

**Deputy Eamon Ryan:** There is a significant difference in the relationships with Russia and Switzerland.

**Deputy Richard Bruton:** That may be so. I do not wish to speculate on what final arrangements may emerge. There are no tariffs or regulatory obstacles in this area. Consideration must be given to how a new platform can be worked out. There is a desire in Europe, the UK and here that the North-South single electricity market should continue to operate. The wider relationship of the UK to Europe is a somewhat separate issue. For example, the continuing operation of all interconnection is not noted in the withdrawal agreement as an objective or a desired objective. I do not wish to speculate on this issue.

**Deputy Eamon Ryan:** We should be honest. The withdrawal agreement has little detail on the energy market. In effect, it is part of a future arrangement. We should be honest. The message I have from Brussels, Berlin and elsewhere is a point-blank insistence on any members of the single electricity market playing by the rules and accepting the ECJ as the final arbiter of those rules. We would be better off being upfront and honest about that from the start. There may be some legal hook by virtue of which the EU will allow the UK to get the benefit from that. If we are not honest and straight about this, we could end up in an isolated UK and Ireland electricity market, which would be 50% more expensive than a continental equivalent and dramatically affect our digital, medical device and other industries as well as consumers. It would be better to keep the UK in the market and be honest about what that entails.

**Deputy Richard Bruton:** The Deputy is leaping forward somewhat. Wanting to protect



the single electricity market, North and South, does not mean we do not wish to rapidly proceed with a Celtic interconnector, as referenced by Deputy Dooley. Later this year we will make a joint application with France for EU support for that project. Maintaining the benefits of the single electricity market on the island of Ireland is not mutually exclusive from developing full integration into a wider European market. Although the withdrawal of the UK is, of course, changing the situation on the east-west interconnector, we are alert to the point made by the Deputy. We wish to maximise the benefits of EU membership without undermining the obvious benefits of being on an island and having an interconnected electricity system that has conferred significant benefits.

**Deputy Eamon Ryan:** I am thrilled that there will be progress on the French interconnector but it will not provide the full extent of the interconnection we will need. We will probably need several other interconnectors, particularly with the UK. Another planned interconnector which will connect Wexford to the Welsh coast is imminent. This is not an insignificant issue. We should be honest and clear as to what is our strategic intent. It should be the development of a north west European regional electricity market. It is vital that the UK forms part of that market. We should be upfront on its rules to avoid ending up with a fractured system in five or ten years. It is necessary to think five or ten years ahead on this issue.

**Deputy Richard Bruton:** I thank Deputies and Senators for the opportunity to explain this issue. We are seeking a reserved power under the legislation, but we hope that we will not have to use it.

**Chairman:** I thank the Minister and his officials for appearing before the committee.

The joint committee adjourned at 4.50 p.m. until 4 p.m. on Wednesday, 6 March 2019.