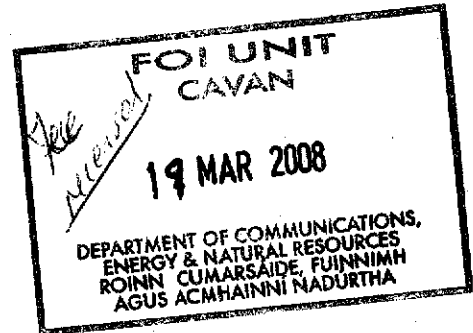


# PATRICK G FLYNN SOLICITORS

26 Pembroke Street Upper, Dublin 2, Ireland.  
Tel: +353 1 6373918 / 6620448 • Fax: +353 1 6373904  
Email: info@pgflynn.ie

Ms. Mary Rabbitte  
Department of Communications,  
Marine and Natural Resources,  
Leeson Lane  
Dublin 2



12<sup>th</sup> March 2008

**Re: Request for Access to Records under the Freedom of Information Act, 1997**

Dear Ms Rabbitte,

We wish to request access to your records under Section 6 of Part II of the Freedom of Information Act, 1997. Please find enclosed our Application Form in the prescribed form in addition to a cheque in the sum of €15.00 in respect of the fee payable.

We would like to get a copy of the letter of December 2007 from the Chief Executive of An Bord Gais, Mr John Mullins, to the Commission for Energy Regulation in Ireland. The letter related to the application of the tariff regime in the Irish natural gas market, known as the Regulated Tariff Formula (RTF), to An Bord Gais.

If you have any queries in relation to any of the above, please do not hesitate to contact Cian Crosbie of this office.

We look forward to hearing from you shortly.

Yours faithfully,

Patrick G. Flynn  
Solicitors

**REQUEST FOR ACCESS TO RECORDS UNDER THE  
FREEDOM OF INFORMATION ACT, 1997**

Please address this request to relevant FOI Contact

Please use **BLOCK** letters

**Details of Applicant**

Surname: Patrick G. Flynn Solicitors

First Name: \_\_\_\_\_

Postal Address: 26 UPPER PEMBROKE STREET  
DUBLIN 2

Telephone Number(s)

OFFICIAL USE ONLY

Home : \_\_\_\_\_

Date FOI request Received: \_\_\_\_\_

Business: (01) 6620448

Identity Verified: \_\_\_\_\_

Mobile: \_\_\_\_\_

Consent Confirmed: \_\_\_\_\_

**Personal Information**

My preferred form of access is: *(please tick as appropriate)*

to receive copies of the record by post  
 other - please specify Email copy would also suffice

**Details of Request**

In accordance with **Section 7 of the Freedom of Information Act**, I request access to records which are: *(please tick as appropriate)*

Personal  
Non-personal

*In the space provided below, please describe the records as fully as you can. If you are requesting **Personal Information**, please state precisely, in whose name those*

records are held. You will not normally be given access to personal information of another person unless you have obtained the written consent of that person.

I request the following records: \_\_\_\_\_

We would like to get a copy of the letter of December 2007 from the Chief Executive of An Bord Gáis, Mr John Mullins, to the Commission for Energy Regulation in Ireland. The letter related to the application of the tariff regime in the Irish natural gas market, known as the Regulated Tariff Formula (RTF) to An Bord Gáis

Please sign here: P. G. Flynn Date: 12/3/08  
SOLICITORS



Department of Communications, Energy and Natural Resources  
Roinn Cumarsáide, Fuinnimh agus Acmhainní Nádirtha

31<sup>st</sup> March, 2008

Mr. Patrick G. Flynn, BCL  
Patrick G. Flynn Solicitors,  
26 Pembroke St. Upr.,  
Dublin 2.  
foi/24/2008  
Dear Mr. Flynn.

I refer to the Freedom of Information request received from you along with the associated fee. This request was received in the Freedom of Information Unit on the 19th March, 2008.

The officer handling your request will be Mr. Daniel Shine, Electricity & Gas Regulation Division, Department of Communications, Energy and Natural Resources, 29 – 31 Adelaide Rd., Dublin 2.

A final decision on your request will normally be sent to you within 4 weeks of receipt of your request. This means that you can expect to receive your decision by **18<sup>th</sup> April, 2008.**

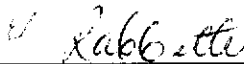
If you have not heard from us once the allotted time has expired, you are automatically entitled to appeal to the Department for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired.

You should also be aware that you are entitled to a review of the decision if your request is refused or if you are for any reason dissatisfied with the outcome of your request. The review is a full and new examination of the matter carried out by a more senior member of staff of this body.

In the event that you need to make an appeal, you can do so by writing to the FOI Unit, Department of Communications, Energy and Natural Resources, Elm House, Earlsvale Rd., Cavan.

Please note, the Department of Communications, Marine & Natural Resources has a policy of posting a summary of your request, your name and address and the subsequent reply on the Department's website for reference purposes.

Yours sincerely,

  
\_\_\_\_\_  
Mary Rabbitte  
FOI Unit  
Ph. No. 01 6782903



An Roinn Cumarsáide,  
Fuinnimh agus Acmhainní Nádirtha,  
Baile Átha Cliath 2.

Department of Communications,  
Energy and Natural Resources,  
Dublin 2.

1 April 2008

Mr. Patrick G. Flynn, BCL  
Patrick G. Flynn Solicitors  
26 Pembroke Street Upper  
Dublin 2.

**Re: Request for Access to Records under the Freedom of Information Acts.**

Dear Mr. Flynn

I refer to your request under the Freedom of Information Act 1997, dated 12 March 2008 and received by this Department on 19 March 2008. This request has been forwarded to me for consideration.

I wish to advise you that this Department does not hold a copy of the record referred to in your letter, specifically a letter of December 2007 from Mr. John Mullins of Bord Gáis Éireann (BGE) to the Commission for Energy Regulation regarding application of the Regulated Tariff Formula to BGE.

However, the Commission for Energy Regulation (CER) is subject to the provisions of the Freedom of Information Acts, and is the body most likely to hold a copy of the requested record. The CER is the body tasked under statute to assess charges / tariffs with respect to gas – this Department has no role with regard to the setting of such tariffs.

Given that the requested record is not in the possession of this Department, but is likely to be held by another public body, the provisions of section 7(3) of the 1997 Act are applicable in this instance. These state that:

**“(3) Where a request under this section is received by the head of a public body (“the head”) and the record or records concerned is or are not held by the body (“the first-mentioned body”) but, to the knowledge of the head, is or are held by one or more other public bodies, the head shall, as soon as may be, but not more than 2 weeks, after the receipt of the request, cause a copy of the request to be given to the head of the other body or, as the case may be, to the head of that one of the other bodies—**

**(a) whose functions are, in the opinion of the head, most closely related to the subject matter of the record or records, or**

**(b) that, in the opinion of the head, is otherwise most appropriate,**

**and inform the requester concerned, by notice in writing or in such other form as may be determined, of his or her having done so and thereupon—**

**(i) the head to whom the copy aforesaid is furnished shall be deemed, for the purposes of this Act, to have received the request under this**

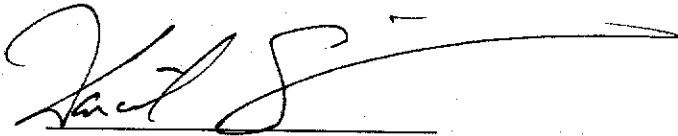
section and to have received it at the time of the receipt by him or her of the copy, and

(ii) the head shall be deemed, for the purposes of this Act, not to have received the request.”.

Given the above, I have forwarded your request to the CER (as the body most likely to hold a copy of the requested record) for its consideration (*see copy of e-mail attached*). The forwarding of your request to the CER effectively transfers responsibility for its consideration to that body – indeed, as per (ii) above, the FOI request is no longer deemed to be the responsibility of the Department.

Paul Brandon is the designated Freedom of Information Officer for the CER and should be in contact with you shortly with regard to your request. He can be contacted by telephone (01 4000800) or by e-mail ([pbrandon@cer.ie](mailto:pbrandon@cer.ie)).

Yours sincerely



Daniel Shine  
Higher Executive Officer  
Electricity / Gas Regulation Division  
01 678 3135  
[daniel.shine@dcenr.gov.ie](mailto:daniel.shine@dcenr.gov.ie)