



***Firm and Non Firm Access to the Transmission System***

***A Direction***

***by the***

***Commission for Electricity Regulation***

**CER/01/72**

**19 June 2001**

## **Introduction**

In exercise of the powers conferred on the Commission for Electricity Regulation under Section 34 (1) of the Electricity Regulation Act, 1999 (No.23 of 1999) I, on behalf of the Commission, hereby issue the following direction to the Electricity Supply Board (“the Board”).

1. Prior to the Effective Date as defined in the European Communities (Internal Market in Electricity) Regulations, 2000 (S.I. 445 of 2000) the Board shall operate as both the Transmission System Operator (TSO) and the Transmission Asset Owner (TAO) in fulfilling the requirements of this direction. From the Effective Date Eirgrid shall take over the responsibilities of the TSO as set out in this direction.
2. From the date of this direction and for the period ending on 18 February 2003, the Board (operating as the Transmission System Operator (TSO)) shall offer to enter into an agreement with any generator applicant, that is subject to central dispatch under the terms of the Trading and Settlement Code (the Code), for connection to and use of the transmission system (the Offer) on terms which are the same as those offered to persons with whom such agreements have already been concluded in that regard or as otherwise revised.
3. In addition, the TSO shall, from the date of this direction and for the period ending on 18 February 2003, include the following terms in the Offer to be made to such generators with the TSO in all cases acting reasonably.

### Dates in Connection and Use of System Agreement

4. The Board acting in its capacity as TSO and TAO shall carry out its respective duties included in the Offer using economically efficient and prudent electricity utility practice.
5. The Offer shall specify the transmission assets required by a generator for its shallow connection to the transmission system (the Shallow Connection Works) and the assets required by a generator for its use of the transmission system (the Deep Reinforcement Works) in both cases as determined by the TSO.
6. Subject to Regulation 33 of S.I. No. 445 of 2000, the Offer shall include reasonable estimates for a Shallow Connection Date and a Deep Operational Date (“the Dates”) relating to the construction and completion of the Shallow Connection Works and the Deep Reinforcement Works. The TSO shall develop and publish a methodology for determining these estimates. The Offer shall also include a Deemed Firm Date determined in accordance with the principles set out in this Direction.
7. The Shallow Connection Date shall be the date when the Shallow Connection Works are expected to be completed. Subject to paragraphs 11 to 15, the Shallow Connection Date shall not be amended once the generator has signed the Offer. For the avoidance

of doubt, nothing in this Direction prevents a generator from exercising its right to construct the connection assets as provided for in Regulation 33 of S.I. No. 445 of 2000. All references to Shallow Connection Works and the Shallow Connection Date must be considered in this context.

8. The Deep Operational Date shall be the date after both the Shallow Connection Works and the Deep Reinforcement Works are expected to be completed. Subject to paragraphs 11 to 15, the Deep Operational Date shall not be amended once the generator has signed the Offer. The TSO and TAO, as appropriate, shall use reasonable endeavours to complete the Shallow Connection Works and Deep Reinforcement Works, as appropriate, by the dates specified in the Offer.
9. The Deemed Firm Date shall be the date on which the generator shall have firm financial access to the transmission system. Prior to signing the Offer and subject to the Deemed Firm Date occurring no earlier than 12 months before and no later than the Deep Operational Date (and subject to paragraphs 11 to 15 below), the generator shall choose either of the following as the Deemed Firm Date (and the Offer shall, accordingly, be deemed to include an offer incorporating the period so chosen and the conclusion of this period shall, for the purposes of this direction be the Deemed Firm Date):
  - a. 30 months after the date of signing the Offer; or
  - b. 24 months after the Commencement of Construction Date. This date shall mean the date possession of the site is given to any contractor for the purpose of commencement of the works where the works shall, in whole or in part, form part of the generating station.

For the avoidance of doubt, and subject to paragraphs 11 to 15, where the TSO reasonably expects the Deep Operational Date to be more than one year after the Deemed Firm Date, the TSO shall promptly refer the matter to the Commission. The Commission shall review the reasonableness of the dates provided by the TSO, the additional costs, if any, that might accrue to particular parties of a greater interval than 12 months between the Deemed Firm Date and the Deep Operational Date and advise the TSO of the appropriate Deemed Firm Date to be included in the Offer.

10. The TSO shall use reasonable endeavours to obtain all necessary consents, permissions, wayleaves, clearances and suchlike and shall take into account a reasonable estimate of the time required to obtain such in setting the Deep Operational Date and, as appropriate, the Shallow Connection Date.

#### Impact of Delays in Dates

11. In the event that the Shallow Connection Works are completed later than the Deemed Firm Date, the Deemed Firm Date shall be the Shallow Connection Date. In the event that the Deemed Firm Date falls on a date later than the date on which the Shallow Connection

Works and Deep Reinforcement Works are completed, the Deemed Firm Date shall be taken to fall on the date on which all such works are completed. For the avoidance of doubt the Shallow Connection, Deemed Firm and Deep Operational Dates cannot occur before the completion of the generator's plant.

12. After the generator has signed the Offer, the TSO may amend any of the Shallow Connection Date, Deemed Firm Date and Deep Operational Date, following consultation with the generator, and only where the TSO can clearly demonstrate that:
  - a. the generator (or its servants or agents) has caused the TSO or the TAO to be delayed in meeting these dates (but only to the extent of the delay); and/or
  - b. the generator (or its servants or agents) has delayed in completing the construction and commissioning of its plant or its shallow connection, or both as appropriate, by the relevant date.

provided that the TSO may not amend any of these dates for any delay arising from actions or omissions of the generator, its servants or agents are in fact caused by the TSO or TAO or both.

The TSO may not amend any of the dates to the extent that such amendment is disproportionate to the delays caused by the generator, its servants or agents.

13. The Deep Operational Date may be amended by the TSO, after consultation with the generator, in the event that the TSO (using reasonable endeavours) cannot obtain all necessary consents, permissions, wayleaves, clearances and suchlike or as a result of other reasonable force majeure events in the estimated timescales assumed in the setting of the Deep Operational Date. In addition, the TAO may request the TSO to amend the Deep Operational Date as a result of force majeure events that apply to the TAO (with the TAO using reasonable endeavours), provided that in either case such amendment shall be directly proportionate to the additional timescales involved in obtaining necessary consents, permissions, wayleaves, clearances and suchlike or as a result of a force majeure event as the case may be.
14. In the event that the Deep Operational Date is amended in accordance with paragraph 13 and that this has the effect that the Deep Operational Date occurs more than 12 months after the Deemed Firm Date as determined under paragraph 9, the Deemed Firm Date shall not be revised to take account of this delay. Any additional constraint costs arising in the period between the Deemed Firm Date to the date that is 12 months prior to the Deep Operational Date, as determined under paragraph 13, shall be recovered in the same manner as other constraint costs.
15. The Shallow Connection Date, the Deemed Firm Date and Deep Operational Date shall be amended by the TSO in the event that the

TSO and/or TAO and/or the generator, as appropriate, completes the Shallow Connection Works and/or the Deep Reinforcement Works in a shorter timescale than assumed in the setting of such dates.

#### Generator's Capacity and Access Rights

16. Subject to paragraphs 11 to 15 above, the TSO shall specify the amount of the generator's total capacity for which the generator shall have firm and/or non-firm financial access to the transmission system at each of the dates set out in paragraphs 17 to 19 below (in all cases acting reasonably) on the basis of a clearly defined and published set of principles.
17. From the Shallow Connection Date the generator will have firm financial access to the transmission system for the amount of its capacity that the TSO determines the transmission system can safely and reliably accommodate having regard to technical and financial considerations.
18. From the Deemed Firm Date the generator will have firm financial access to the transmission system for the amount of capacity specified in the signed Offer.
19. From the Shallow Connection Date the generator will have non-firm financial access to the transmission system for that amount of capacity over and above the capacity set out in paragraph 17, being the difference between the capacity specified in the generator's signed Offer and the capacity determined under paragraph 17. For the avoidance of doubt the generator shall have access for the purposes of commissioning its plant as provided for in its Connection Agreement.
20. For the purpose of this Direction, firm financial access to the transmission system means that the provisions of Appendix 7 to the Trading and Settlement Code (the Code) shall apply where the generator is instructed by the TSO to run a unit (or units) at a level above or below the value of its ex ante generation unit nomination (or nominations) (ANOME) in any trading period to relieve a transmission constraint. Non-firm financial access to the transmission system means that if a generator is instructed to run a unit below its ANOME in any trading period to relieve a transmission constraint, the lower of its ANOME and its Instructed Quantity (IQ) and its actual availability will be used to determine what the unit would have produced in the absence of the constraint (i.e., its XNOM and as determined by the EPUS run for that trading period), where the terms XNOM, ANOME and IQ are as defined in the Code.

#### Implications of the Board not meeting the Deep Operational Date

21. The Board (acting as TAO and TSO) shall be liable for a proportion of any additional constraint costs associated with the generator having firm financial access to the transmission system for the period from the Deep Operational Date in the signed Offer, subject to paragraphs 11 to 15 above, to the actual date that the Shallow Connection Works

and Deep Reinforcement Works have been completed where the latter date occurs after the Deep Operational Date.

Disputes

22. Disputes may be referred to the Commission for determination under Section 34(6) of the Electricity Regulation Act, 1999.

Dated this 19<sup>th</sup> day of June, 2001

Tom Reeves  
Member of the Commission