

- 1. EIRGRID RECOGNISES THAT ESB SHALL BE RESPONSIBLE FOR ALL DETAILED DESIGN AND PROCUREMENT SUBJECT TO THE DIRECTION OF 20th NOVEMBER 2001 AND THE TERMS OF THIS DOCUMENT IN LIGHT OF THE TERMS OF THE REGULATOR'S LETTER TO WHICH THIS AGREEMENT IS ATTACHED.**
- 2. EIRGRID WILL BE FREE TO REVIEW AND ASSESS ANY ASPECT OF DETAILED DESIGN AND PROCUREMENT AND IN THE ABSENCE OF AGREEMENT REFER ANY DISPUTE TO AN EXPERT.**

EirGrid will undertake works including but not limited to such designs as are necessary to bring projects through the public planning process and achieve planning permission. However on those occasions where the detailed design is required in order to achieve planning permission ESB will prepare such designs at EirGrid's request and to a timetable and brief set by EirGrid. Notwithstanding the foregoing, it is clearly understood that all dealings with the planning authorities shall be solely within the remit of EirGrid

Following final grant of planning permission or equivalent stage ESB will undertake the detailed design for projects. ESB will facilitate EirGrid's ongoing review and assessment. Before proceeding to implement any detailed design EirGrid (including its client engineer as referred to in paragraph 5 below) will be afforded a reasonable time to consider and express a view on such detailed design, pending which ESB will not proceed to implement the same. EirGrid shall express its view (in writing or otherwise) to the ESB at or before the end of such period of reasonable time. If EirGrid's view is that all or any part of such detailed design does not meet the requirements of the Development Plan as described in Regulation 8(6) of SI. No. 445 2000, its functional specifications, its outline designs, and its generic standards then the ESB shall not proceed to implement such part of the design as is in dispute. If the parties are in dispute as to whether the said requirements are met, the parties will invoke the dispute resolution procedure (paragraph 6 below).

EirGrid shall at any time where it deems it necessary to do so vary its Development Plan with the prior approval of the CER, its functional specifications, its outline designs and its generic standards for a project in order to meet changing system requirements, environmental or other circumstances deemed necessary to discharge EirGrid's functions. ESB shall subject only to any necessary regulatory approval in relation to costs make the necessary amendments to the detailed design and/or changes to the construction project as required in order to give effect to the variations set out by EirGrid.

In the event of changing system requirements during the design and construction phases of the development process, EirGrid shall promptly document and inform ESB of any necessary changes to the project functional specifications, together with the technical reasoning behind such changes. Any additional costs associated with such changes shall be promptly identified by the Owner and advised to the Commission prior to implementation. An audit trail of such changes shall be maintained throughout the course of the project to facilitate any subsequent review by the Commission.

Where appropriate EirGrid may require at least one detailed design option (or more where reasonable) be presented to it by ESB as a precursor to planning applications and to subsequent project development.

3. ALL CHOICE OF THIRD PARTIES SUCH AS SUB-CONTRACTORS, SERVICE PROVIDERS, PROVIDERS OF GOODS ETC. ARE SIMILARLY SUBJECT TO REVIEW AND ASSESSMENT BY EIRGRID.

Please see paragraphs 2 and 4 herein.

4. ALL GOODS BEING PROCURED BY ESB ARE SIMILARLY SUBJECT TO REVIEW AND ASSESSMENT BY EIRGRID.

ESB will carry out the procurement process in an environment where EirGrid can satisfy itself that its requirements for quality, timeliness, economy and Health and Safety provisions are met and that arrangements for procurement in any individual case do not prejudice the TSO's ability to meet its overall responsibilities. The Regulations and the EU Directive statutorily provide that the ISO shall preserve the confidentiality of commercially sensitive information and within this context EirGrid requires to have open access to all procurement transactions and documentation throughout the entire procurement cycle. Within this understanding EirGrid will input to the process and will review and assess the procurement arrangements and documentation of ESB so as to establish whether or not such procurement provisions meet its requirements including but not limited to arrangements for inspection and testing.

ESB will seek to ensure that specifications for all goods meet the requirements of EirGrid's Development Plan, functional specification, outline designs and generic design standards. Such process will be administered through the Procurement Strategy Committee subject to the understanding that Eirgrid may review and assess any such decision in the same manner as outlined in paragraph 2 above. This is without prejudice to EirGrid's right of unrestricted access which is a further safeguard to give EirGrid assurance as to the quality of goods delivered.

EirGrid envisages that for the very large number of minor materials and small stock items which already comply with agreed standards and procurement arrangements between ESB and the TSO, an arrangement will be established to facilitate ESB in continuing its arrangements for such materials. It is envisaged that the arrangements for procurement for minor materials and small stock items will only become subject to the above where it becomes necessary to change existing specifications and terms and once re established for such items can continue in an automatic fashion until such time as further changes are required.

5. EIRGRID'S CLIENT ENGINEER SHALL HAVE UNRESTRICTED RIGHTS OF INSPECTION WITH RESPECT TO ALL ASPECTS OF PROJECTS.

EirGrid's Client Engineer will have unrestricted access and rights of inspection with respect to all aspects of Transmission projects. EirGrid's Client Engineer will inspect for the purposes of satisfying him/herself that the detailed designs, plant, materials and works including scheduling meet the requirements of its Development Plan, its functional specifications, its outline designs and its generic standards and the detailed designs and procurement. In the event of any of these being unsatisfactory EirGrid or its Client Engineer shall so notify ESB and ESB shall, save in the event of a dispute, with due diligence remedy the situation to the satisfaction of the Client Engineer.

6. PROCEDURE IN THE EVENT OF DISPUTE

EirGrid and ESB will as part of the Infrastructure Agreement, develop a joint dispute resolution procedure, other than arbitration, which will allow the concerns of each party to be heard and addressed with the aim of efficient and timely resolution to the satisfaction of both parties. Both parties undertake to adopt a bona fide approach and use all reasonable endeavours to achieve resolution.

It is envisaged that disputes be resolved initially by a Standing Committee, then if still not resolved the two Chairmen to meet, who in turn may seek the determination of a neutral technical expert agreed by the said two Chairmen. The aspect of the matter under dispute shall not be progressed pending resolution of the issue. If the parties cannot agree upon such an expert, the issue shall be referred to the President of the Institution of Electrical Engineers who shall nominate the neutral technical expert in question.

7. DEFINITION OF TRANSMISSION ASSETS

All 110kV assets are to be classified by reference to their functional characteristics as required under the Statutory Instrument.