

David Naughton,
Commission for Energy Regulation
Plaza House
Belgard Road
Tallagh
Dublin 24

29th November, 2004

Re: Submission on Resuming Connection Offers to Wind Generators – Proposed Direction to System Operators (November 2004 CER/04/354)

Dear David,

I would like to put forward some suggestions on the above document that might help in the practicalities of processing connection applications from the industry. My submission is confined to Pg 7 & 8 of the "Commissions Future Proposal on Gate 2 and further Group Processing Approach Issues" Point 20.

Proposal

Additional conditions precedent or criteria for deeming an application complete in Gate 2 may include:

1. Planning Permission
2. Evidence that the applicant has a Power Purchase Agreement (PPA) with a licensed supplier (Section 14 of the Electricity Regulation Act) or ESB PES (e.g. AER)
3. Evidence that the applicant has funding
4. Land Lease
5. Application Fees
6. Intergrated Pollution Control License where appropriate (not applicable to wind projects)

I think that the inclusion of some or all of these additional conditions would be unnecessarily restrictive and impractical for the following reasons:-

1. Planning Permission:

Normal grants of planning permission cease to have effect on the expiration of a period of 5 years. If one of the criteria for application completeness is that the project has already secured planning permission, then, because projects would be at various stages of the five year period some projects may not have planning permission when the connection offers for that Group materialise - e.g. if the project's planning permission is a 2/3 years old and the planning permission for the

Group grid connection is granted circa 2 years from now these project's planning permission will be close to expiration or will have already expired. Some projects will have more recent planning grants and some are now in the planning process, but the vast majority, if not all the projects will have gone through the planning process before the planning for the group grid connection is in place.

I therefore suggest that a more useful approach would be to inform the projects within any particular group that:

- The Group has been defined and to which Group the project belongs
- The date on which the Group could expect a connection offer (as has happened for Gate 1 projects)
- An indication of when the planning application for the connection will be ready to lodge
- An indicative cost for that connection

This will give the developer time to either:

- Complete the planning process
- Gauge whether they need to apply for an extension of planning permission or
- Reapply for planning permission for projects close to expiration

whichever is necessary.

The risk posed to the Grouping Process by one or more of the projects failing to acquire planning permission in any particular group is limited by the fact that if capacity to take out wind generation is planned for and built in a particular area, this capacity will eventually be filled, either by the remaining projects extending their developments, or by installing more capacity by using larger turbines or by new projects in the area taking advantage of that spare capacity and entering Gate 3. The experience so far with the planning process is that where a project is granted planning permission by the Local Authority or An Bord Pleanala other projects are generally also considered favourably in that general area. The majority of wind farm planning applications are located in areas with a wind resource and which have been identified in the local County Development Plan as suitable areas for wind farms. The recent Department of Environment, Heritage and Local Government Planning Guidelines have also helped to identify suitable areas thus minimising the risk of stranded assets especially in a group situation. Therefore I suggest that a prerequisite for planning is too blunt and inflexible an instrument to apply to a constantly changing planning process.

2. Power Purchase Agreement

A requirement for a PPA at the moment would be a limiting condition for the many projects as the electricity supply companies at the moment are reluctant to enter into long term contracts prior to the new Market Arrangements for Electricity (MAE) commencing (which should be in operation before the majority of connections are ready to build) in which a "pooling" system, for all electricity generation, is being proposed. This means that in 2006 all generators will be required to feed the "pool" and will be paid the going price at half hourly intervals. This in effect will be a PPA albeit that there may be a requirement from the banks for some form of hedge contract from a market supplier. These "hedges" are as yet not available either from private suppliers or from the government (possibly in the form of some type of support mechanism) and a decision as to the optimum form and timing of entering into a contract should be left to the developer, when considering the commercial

realities at the time. In any case, a PPA would have to be in place prior to the developer drawing down funding for the 25% of the connection cost.

3. Funding

Every project will have to go through the due diligence process prior to any draw down of funds, so a requirement at this early stage of evidence of funding is not possible without all the costs associated with the project available (which would include grid connection costs). A letter from a bank stating that they would be willing to bank the project subject to due diligence is all that could be expected at this stage.

4. Land Lease

An Option to Lease as opposed to an actual Lease should be sufficient to meet any land lease requirement. Landowners are reluctant to Lease lands until all the other elements of the project are in place and the project is ready to start construction as a Lease can affect their land based EU payments i.e. REPS, forestry grants etc. To overcome this problem developers usually secure an Option to Lease the land and execute the Option just prior to commencing construction.

5. Application Fees

Applying significant fees to applications could be deemed anti-competitive as only the larger companies can access capital at the early stages of a project's financing and thus the smaller developer is unfairly treated. In addition to these costs a project has to cover planning costs (typically circa €50,000 for EIA and circa €30,000 for data collection and resource assessment for a medium sized project). Legal costs for land lease acquisition, title searches etc. are also a factor so applying high application fees as a means of discouraging speculative grid applications does not seem to make sense and is unfair to the vast majority of projects that have much work and expense already invested in their projects

A more inclusive method would be to apply a nominal registration charge to each project. Then, when the group is defined, a pro rata charge could be applied to each project to cover the cost of the grid connection planning application. When the grid planning is granted, each developer in the group should then pay the first 25% increment of the connection cost.

A flexible approach should be a key element of the grouping process because if the requirements for application completeness are too restrictive or costly, it could take out many projects, thus eliminating the need for a group processing approach in the first place. I trust that you will take my suggestions into account when you are reviewing the subject direction.

Yours Sincerely,

Pat Brett
For and on behalf of Ecopower Limited