

Second response to draft CER direction “Resuming Connection Offers to Wind Generators” issued on 15/11/04

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Present position

Following on from our previous submission and subsequent discussions with CER, we note CER’s contention that those applicants complete before the imposition of the moratorium have a certain expectation of obtaining a connection offer without further changes in the requirements for completeness of the application. We conditionally (see below) accept that Gate 1 should be defined as those applications completed by December 3rd 2004. However, we note that this means that those who were not complete by December 3rd are in a different category and that new and more stringent requirements can be imposed on them. We also recognise that CER sees merit in a group processing approach and we do not see this as a bad thing in itself provided that the approach does not hinder those who can connect without needing new shared connections. Therefore, we would like to suggest the following approach.

Gate 1

We accept that Gate 1 should go ahead as outlined in the draft direction but with the following change. We suggest that those who have the ability to connect without a new shared asset are offered a connection first. We propose this because the group approach, if applied to all, will have a counter productive effect where the inherent delays will mean expiry of planning permission for many projects. This can be solved by asking participants if they wish to be included in a queue in Gate 1 and if they wish to put conditions on their offer. Those who wish to be in a queue should be processed and offered first. Any queue applicants who, for system operation reasons, cannot be offered according to their specified conditions are transferred to the group. The group will be “group-processed” and made offers but only after the queue is dealt with.

An example of the necessity of this approach is our Muingnaminnane site in Kerry (15.3 MW, DG25). We have had independent load flow studies done on this project and we are advised that there is sufficient network capacity in Tralee to absorb the project for the foreseeable future. We have also been advised that we can connect underground to Tralee and that this can be done in a technically acceptable manner. We are of the firm opinion that if this site is included in a group process, the planning permission for the site will have expired before it is possible to connect to a shared connection. Therefore, we would like to be included in a queue within Gate 1 for that reason. If we cannot be in a queue within Gate 1, we would like the project’s application to be dealt with outside of Gate 1; i.e. as a stand-alone project. Many other projects will be in a similar position. We contend that there is no evidence that it is

necessary within Gate 1 to force applicants into a group approach and so we see no reason to compel us to participate in a group, especially since we are likely to suffer significant loss as a result, through unknown and unpredictable delays inherent to the group approach.

If it is true, as CER argues, that pre-moratorium applicants have legitimate expectations of how their offers will be issued (without retrospective fees for example), then it must also be true that these applicants can legitimately expect to be processed in queue form. It is not consistent to say that conditions cannot be changed for this group in terms of fees and to then propose to change the entire processing method from queue method to group method. Using the CER's own argument, we contend that we have a right to having our Gate 1 Muingnaminnane site dealt with by way of queue.

We envisage that offers can be made to Gate 1 queue applicants once every few weeks if ESB is required to process applications more speedily and if offers are deemed accepted if they are in compliance with specified conditions. If all applicants in Gate 1 were dealt with in this way, we estimate that the Gate 1 queue could be cleared in as many steps as it takes to deal with the largest sub-group of interacting projects. The attached analysis shows that significant time saving can be achieved for many ready-to-go projects by adopting a queue element. For example, both the Kerry-Limerick sub-group and the Donegal sub-group have 8 members – it is assumed that these sub-groups do not interact with each other. If we also assume that there are 8 members in the longest sub-group queue and assume that offers can issue at the rate of one per month, this results in 8 months to completely clear the Gate 1 queue and have connection agreements signed (assuming that all queue participants are ready-to-go). This is a conservative figure and it should be possible to improve on it significantly. In comparison, the timescale for group processing is inevitably much longer, even if the most optimistic assumptions for ESB timescales are made – see attached timescale analysis. Delays will also arise in the group method if applicants must apply for planning permission for an export line to connect to a new shared asset. To do this, the applicant must be advised of the connection point. This is only advised to the applicant with certainty when an offer is made. The offer is made only after the planning process for the shared asset is complete. In turn, the planning application for the shared asset can only commence after the offer is made. The attached timescale analysis gives an idea of the significant delays that could occur if this approach is taken. The alternative is for ESB to construct the shared asset right to the point of connection at the wind farm. It is not clear which approach is envisaged by ESB/CER as part of the group processing approach.

It must also be remembered that, even if ESB (and/or the applicant) has obtained all necessary consents for a shared connection, there is still no guarantee that the required line can be built. About four years ago, ESB obtained planning permission for a 38 kV export line for the Tursillagh wind farm near Tralee but, despite being granted High Court injunctions, was unable to build the line because of landowner objections. The wind farm was eventually connected underground. All this occurred within a few miles of our

new Muingnaminnane site. We are therefore keenly aware of local sentiments and we see no reason to believe that ESB will now be able to construct a new power line for wind energy in this area when it was not possible a few years ago. It will be too late when, in two or three years time, ESB notifies CER that this shared asset cannot be built and the Muingnaminnane project cannot therefore go ahead. This is a strong argument for not forcing Gate 1 applicants to participate in a group process if they can connect individually by their own methods. If Gate 1 participants are forced into a grouped approach, CER must take responsibility if this results in loss of renewable energy projects. The risk of CER being found to have responsibility for some such losses seems large. On the other hand, it is quite clear to us that if applicants are processed in a queue initially, connections will be made more quickly and that the risk of not being able to connect due to landowner objections will disappear (because queue applicants should have sorted this aspect out beforehand).

Gate 2

Gate 1 is defined by date. We suggest that Gate 2 be defined by the payment of application fees and bonds within a certain time frame. However, in contrast to Gate 1, we believe that position in the Gate 2 queue should be based on the order of payment of the fee/bond. We believe that Gate 2 should also be run as a combined queue/group and that the gate should open in parallel with Gate 1. In Gate 2, when paying the fee/bond, all applicants are invited firstly to say if they wish to be included in a Gate 2 queue and secondly to specify conditions that they would like their offer to comply with (e.g. connection point within 10 km of the development). The Gate 1 and 2 combined queue is then processed with Gate 1 being made offers before Gate 2. Any queue applicants who cannot be offered in accordance with their conditions automatically go into the group. Once network connection points have been allocated to all Gate 1 and 2 queue applicants, processing of the combined Gate 1 and 2 group begins. Offers made to group participants, if in compliance with the conditions specified, are deemed automatically accepted. For example, an applicant specifies that the offer must be to a point within 10 km of the wind farm. If ESB then offers a connection point on a new shared asset within 10 km of the wind farm, the applicant can hardly refuse the offer.

We advocate this approach because we consider it fair. By defining the Gate 2 queue by the date of lodgement of significant fees/bonds, any project that is ready to go ahead and is willing to prove it, will be processed sooner than those who are not ready to go ahead. This is a desirable characteristic of the system. However it is also important that the system is speeded up. A commitment from ESB to speed up load flow studies and the issue rate for offers would help considerably. International experience shows that connection modelling can be carried out in shorter time frames than ESB's. Removal of the "consideration of offer" period will also free up much needed time. The end result is a streamlined processing of a slimmed-down queue. This will result in more rapid installation of more renewables than if the same projects were compelled to enter a group process. An exclusively group approach will result in significant delays and loss of some (most?) projects due to planning expiry. The alternative outlined here allows the best of both

worlds; almost immediate signing of connection agreements where possible followed by a group approach where it is warranted. No one is forced to unnecessarily participate in a group approach but those who require it can avail of its advantages.

Suggested rules

- Gate 1 participants (as defined in draft direction) should indicate the following by December 15th:
 1. If they wish to be processed in queue format in Gate 1 and, if so, specify any conditions that an offer of capacity should comply with.
 2. Acceptance that offers made to those who have opted for the Gate 1 queue will not include a period of consideration of the “offer”. If the offer is in compliance with the conditions specified by the applicant, it is deemed accepted and the applicant is allowed 20 days to sign a connection agreement. A bond of €10,000 per MW is payable on signing of the connection agreement.
 3. Acceptance that queue participants will be allowed two years from the date of the offer to connect the full capacity. Failure to do so will result in a loss of the bond.
 4. Acceptance that those not opting to be processed in a Gate 1 queue (and those in the Gate 1 queue who cannot be offered capacity in accordance with their specified conditions) will be processed as a group. Offers to this group will include a 30-day period for consideration of offer.
- Applicants outside of Gate 1 are invited to do the following within the Gate 2 opening period (Jan 15-30, 2005):
 1. Indicate whether they wish to be processed in queue format in Gate 2 and, if so, indicate any conditions that the offer should comply with.
 2. Pay an application fee of €3,000 per MW (non-refundable) together with a bond of €20,000 per MW (repayable only on connection of full capacity). Fee and bond to be paid together within the period Jan 15-30, 2005. The order of payment determines the place on the Gate 2 queue. Those paying on the same day are ranked in order of the date of their original application. Fee and bond also payable by those opting for a group approach.
 3. Accept that offers made to those who have opted for the Gate 2 queue will not include a period of consideration of the “offer”. If the offer is in compliance with the conditions specified by the applicant, it is deemed accepted.
 4. Accept that Gate 2 queue participants will be allowed two years from the date of the offer to connect the full capacity. Failure to do so will result in a loss of the bond.
 5. Accept that Gate 2 queue will be made offers after the Gate 1 queue is cleared
 6. Accept that those not opting to be processed in a Gate 2 queue and those in the Gate 2 queue who cannot be offered capacity in accordance with their specified conditions, will be processed as a group. Offers to this group will not include a period for consideration – offers are only made if they comply with the specified conditions.

Gate 1 timescale analysis

Group approach

	Months
Offers to all applicants (as per CER draft direction)	4
Design of all shared asset routes	4
Identification of landowners on all shared asset routes	2
Preparation of all necessary planning applications for shared asset	2
Time in local authority planning process for shared asset	6
Time in An Bord Pleanala planning process for shared asset	6
?Design of dedicated line (to connect with shared asset)	4
?Identification of landowners on dedicated line	2
?Preparation of all necessary planning applications for dedicated line	2
?Time in local authority planning process for dedicated line	6
?Time in An Bord Pleanala planning process for dedicated line	6
Total	44

Queue approach

(assume 8 members in largest interacting group and 1 month per offer)

Applicant 1	1
Applicant 2	1
Applicant 3	1
Applicant 4	1
Applicant 5	1
Applicant 6	1
Applicant 7	1
Applicant 8	1
Total	8

This analysis assumes the following:

That processing of non-interacting sub-groups is done in parallel. This means that, for example, offers are made to the Donegal sub-group and the Kerry-Limerick sub-group at the same time.

Entry into the queue is on the understanding that you are ready-to-go. Therefore, all those in the queue are in a position, once the connection agreement is signed, to proceed immediately to construction.

Offers, if made in compliance with the applicant's own conditions, are deemed automatically accepted.

It assumes that all members of gate 1 will opt for a queue approach. If it turns out that most want to be (or must be) in a group approach, the time to process the queue will be shortened accordingly and the group processing will start earlier.