



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Background Paper to Direction on
Resuming Connection Offers to Wind
Generators**

**23 December 2004
CER/04/380**

Introduction

1. This Background Paper accompanies the Commission's Direction of today's date to the Transmission System Operator (TSO) and to the Distribution System Operator (DSO) to resume issuing connection offers to wind generators. It summarises the thinking underlying that Direction.
2. The Direction follows extensive and detailed deliberations involving the Commission, the two System Operators and the Wind Industry. These deliberations date back to the introduction of the moratorium on wind connection offers in December 2003. Key milestones in this process include:
 - **3rd December 2003:** Commission Direction introducing moratorium on new wind connection offers at request of TSO
 - **1st July 2004:** Commission approval of new transmission Grid Code for Wind
 - **9th July 2004:** Commission Direction ending the moratorium, subject to certain conditions
 - **20th August 2004:** TSO workshop in which the concept of a Group Processing Approach was first introduced to the Renewables Industry
 - **5th October 2004:** Publication of Joint TSO/DSO proposal for Group Processing Approach for Renewable Generator Connection Applications
 - **6th October 2004:** Commission decision approving new Distribution Code for Wind
 - **1st November 2004:** Industry forum on Joint TSO/DSO Proposal hosted by Commission
 - **15th November 2004:** Publication of Commission Proposed Direction on Resuming Connection Offers to Wind Generators, incorporating elements of the earlier Group Processing Approach principles
3. The Commission's Direction of 9th July 2004 ended the moratorium – at least in principle – subject to certain conditions. These conditions were largely technical and were related to maintaining system security. They related to matters such as approval and compliance with new transmission and distribution codes for wind generators and submission of satisfactory dynamic models by applicants for connection. By this stage, however, there was an unprecedented build up of applications for wind generation connections, amounting to 1640 MW. This has since increased to 2494 MW. There is little doubt that this build up was triggered in part by the introduction of the moratorium itself. The task now facing the System Operators and the Commission was, and is, essentially an administrative one: how to deal with this unprecedented volume of applications in a manner

which is efficient equitable and generally in accordance with the Electricity Regulation Act 1999.

4. Up to now generation connection applications were dealt with on an individual case-by-case basis. This was never designed to handle the scale of applications now facing the System Operators. This was particularly true in view of the degree of technical “interaction”¹ between these applications. This interacting feature of connection applications had the potential in particular to frustrate the resumption of wind connections on a significant scale and in a speedy and efficient manner. It could also pose major financial uncertainty for individual developers.
5. The joint TSO/DSO Proposal (Group Processing Approach) published on 5th October would essentially have replaced the prevailing individual case-by-case processing of applications with a form of group processing. It was driven principally by the following objectives:
 - Removing the interacting feature of connection offers; this would, in turn, speed up the issuing of aggregate connection offers, remove the need for re-working offers and the eliminate the “race-to-sign” dilemma facing applicants;
 - Eliminating the risks facing developers of interacting offers and thereby increasing financial certainty;
 - Maximising the level of wind that can be connected to the system;
 - Making more efficient use of system manpower resources; and
 - Facilitating optimal network development and minimising the overall connection infrastructure required. This, in turn, would contain the associated financial costs, planning, landowner and environmental issues.

The Proposed Direction

6. The proposed Direction published by the Commission on 15th November followed receipt and consideration of comments from interested parties on the earlier joint TSO/DSO Group Processing proposals as well as the hosting by the Commission of an industry forum on 1st November. Industry players expressed strong views on the respective merits of a Group Processing Approach as well as on related policy issues. For example, should priority be given to parties with AER contracts? Should applicants be vetted to see how “ready-to-go” they were with their projects? A number of parties advocated, if possible, some form of two-tiered approach by the Commission in identifying how offers should resume and to whom they should be given in the first instance. The idea here was that applicants who

¹ For a description of what constitutes an “interacting offer” see explanatory box in the Commission’s Proposed Direction to the System Operators on Resuming Connection Offers to Wind Generators, published in November 2004 (CER/04/354).

satisfied some test of being ready and best placed, or most likely, to connect and develop their projects in the short- to medium-term should be identified and prioritised while more generic rules for working into the backlog of applications should also be developed at the same time.

7. The proposed Direction would essentially have given priority to those 33 applications, totalling 330 MW capacity, deemed complete on 3rd December 2003 when the moratorium was introduced. These offers would be subjected to Group Processing with indicative connection offer dates covering the first four months of 2005. They would be given 30 business days to decide whether or not to accept an offer. The Direction would be designed to deliver a speedy, tangible and workable resumption in wind connections in a relatively short time frame. Specifically, it would ensure that up to 1250 MW of wind generation capacity could be contracted to connect by April 2005. The actual amount contracted would depend on the take up of the offers issued. The first 33 applicants would effectively constitute “Gate 1” for the purpose of the joint TSO/DSO Group Processing Approach. In tandem with this proposal - and this was a critical feature of the proposed Direction - the Commission would develop proposals with the System Operators for Gate 2 and later connection offers, these proposals to issue in early 2005.

8. The Commission favoured its “Gate 1” proposal principally for the following reasons:

- **Speed and Practicality**

The proposal was relatively straightforward, uncomplicated, and likely to deliver speedy connections to a significant volume of wind capacity by reference to alternative possible approaches. Any solution has to be manageable to be beneficial to the industry. If there were too many conditions attached, the whole resumption process could be delayed further. The cut-off date of 3rd December for Gate 1 was transparent and practical. The number of applicants involved (33) and the volume of associated capacity (330MW) was likely to be manageable by the System Operators, and particularly by the TSO, in terms of committing to offer issue dates.

- **Equity**

The Commission considers, that on the grounds of fairness, applicants whose applications have been deemed complete the longest had a strong *prima facie* for priority treatment by the System Operators in the deployment of their resources and resuming issuing connection offers. This was particularly true of those applications deemed complete prior to the introduction of the moratorium on 3rd December 2003.

- **Certainty by removing Interactions**

Applying the Group Processing Approach philosophy to these (and future) applicants was conducive to promoting development certainty as far as developers are concerned, as

parties are no longer exposed to the risk of interaction. Were this risk not removed it would take some years until all parties received a connection offer.

- **Relationship to Later Gates**

Reducing the time allowed for accepting offers from 70 to 30 business days would help keep a reasonable balance between the interests of Gate 1 and later applicants by reducing the scope for the former group to delay the issuing of offers to the latter group.

- **Meeting Ireland's EU Obligations**

The amount of MW contained in Gate 1 (330MW) would, as it happens, help considerably to ensure delivery on Ireland's EU renewables obligations.³

9. It must be remembered here that *any* approach to prioritising between the unprecedented 2494 MW of capacity in the connection pipeline would benefit some applicants more than others, at least in the short- to medium-term. That is unavoidable. Without prioritising, the resumption of connection offer processing would be deadlocked and this would be to the detriment of the majority of applicants. Accordingly, the challenge was to design prioritising rules that were basically fair, practical, and in accordance with the Act.

Overview of Submissions Received

Individual Cases

10. A number of respondents welcome the general thrust of the Commission's proposal but argued, not surprisingly, that their individual application should have been included in Gate 1 because of particular circumstances.
11. While the Commission can understand why some applicants would argue in this vein, and was anxious to reduce the risk of genuine hardship cases, this has to be balanced against the need to maintain the credibility and objectivity of the Gate 1 proposal as described in the proposed Direction. The Commission received clear documentary evidence of only one case where an application should have been deemed complete by 3rd December 2003 had ESB National Grid adhered to its approved connection processing rules and deadlines. In this case, a request for further information from the application issued after 12 working days, instead of the prescribed 10 working days, and this had the effect that the application was deemed complete by 5th December. On this basis, the Commission directed that this application – involving a capacity of 51 MW – be deemed complete by 3rd December and included in Gate 1. This had the effect of increasing the volume of capacity in Gate 1 to 381 MW. It also

³ More specifically, ensuring installed wind generation of the order of 1000 – 1100MW by 2010, to be consistent with the electricity consumption targets provided for in RES Directive 2001/77/EC.

meant that some of the indicative offer issue dates included in the Schedule to the proposed Direction would be set back somewhat. ESB National Grid did not dispute the Commission's position on this particular case.

12. Some parties argued that planned extensions to their existing windfarms, existing connection agreements or to connection applications in Gate 1 should also be included in Gate 1, on the basis that they are either physically *in situ* or already in Gate 1 and ready-to-go.
13. There are approximately 13 applicants fitting this description, depending on how one categorises a request for an extension of capacity.² The Commission requested that the System Operators assess whether such proposals would have any material impacts e.g. in terms of timeframe for Gate 1 issuing etc. The System Operators have advised the Commission that:
 - Allowing in these projects *would* increase the time required for Gate 1 because of the need to set criteria and clearly identify who should or should not be included, and deal with any disputes arising. Hence the start date for processing Gate 1 would extend as well as the processing time, both of which would extend the offer issue dates for Gate 1.
 - It would mean that applications for extensions might get offers out of turn.
 - It might have implications for parties depending on the approach taken for constraining wind.

While the Commission has some sympathy for these applicants, it has to balance this against the interests of other applicants in Gate 1 and subsequent Gates. It has therefore concluded that these requests for inclusion of extensions in Gate 1 should not be accommodated.

Planning Issues

14. Concerns were raised regarding planning permission required for assets that could be at High Voltage (HV) and therefore would be more contentious to locals and more difficult to obtain planning for. Parties also queried who would obtain the planning for the shared connection assets.
15. The Commission considers that ESBNG or ESB Networks as appropriate should take the lead in securing these applications except where parties have already done so. While the Commission recognises that planning permission for a single HV line could be more

² For example, among the applications that could be considered as extensions, some applications are in regard to windfarms physically *in situ*, or connection agreements already issued, other applications for extensions refer to extensions to applications in Gate 1. There are also applications for extensions which are not in Gate 1 some of which are deemed complete, others are not yet deemed complete and others have yet to be processed. The operators have indicated that there would be a considerable delay associated with the addition of such a criterion.

problematic than planning for a single Low Voltage (LV) line, the comparison does not necessarily carry through for a single shared HV line versus multiple LV lines. The Commission considers that the construction of potentially unnecessary multiple LV lines would be reduced thereby improving the situation with the relevant planning authorities which should improve the probability of securing planning permission for the group of windfarms as a whole. Furthermore, it will also prevent the blocking of a potential line route by one single participant when it can be used to service a number of parties.

16. One respondent argued that parties whose planning is about to run out should be prioritised to as great an extent possible and included where possible without penalising the timeframe for Gate 1.
17. The Commission acknowledges that planning is a critical issue to getting more wind generation connected to the system. However, the analysis required to determine who is in this position and, if they are, how ready they are to proceed with their projects, would delay the commencement of delivering connection offers for Gate 1. Such a delay could unravel the present benefits associated with the speed and clarity of Gate 1. The Commission will consider the issue of planning in light of its approach for Gate 2.
18. In individual cases where an applicant who is not included in Gate 1 but likely, say, to be included in Gate 2 is requesting an extension to his or her planning permission, the Commission would certainly be available to give support to that request, if this were to be considered helpful. This could involve, for example, explaining the background to the moratorium and the build up of connection offers and the extent to which these are factors outside the reasonable control of the applicant for planning permission. The Commission would be happy to assist by sending a letter to the local authority in question.

Invoking a “Ready- to-Go” Criterion

19. A number of parties argued that the developers who are ‘ready-to-go’ should be prioritised. Various measures could be deployed to measure just how “ready-to-go” an applicant is. Obvious examples would include having planning permission in place, having financing in place or at least nearly so, having advanced negotiations with turbine suppliers, having a lease on a site which is not about to run out, having progressed physical works on the site etc. If such a general “ready-to-go” criterion were to be invoked, the argument goes, it could either replace or supplement the original criterion set out in the proposed Direction (i.e. application deemed complete by date of moratorium) by operating in parallel to it.
20. One difficulty with such an approach is that it would entail a considerable degree of time consuming evaluation and quite possibly subjective judgement by the Commission on matters such as likelihood of having financing arrangements in place, the degree of genuine commitment to individual projects, the prospect of planning permissions being challenged, the likelihood of such challenge being successful. Some parties have acknowledged this difficulty. The

Commission considers that to go down this route on Gate 1 would substantially delay the offer resumption process and frustrate the benefits of the proposed Direction. The purported solution could well become so lengthy and open to dispute as to be unworkable.

21. The Commission was also concerned that any possible parallel “second tier” regime which might supplement the original Commission proposal should not be at the expense of, or prejudice the actual delivery of, that original proposal.
22. Similarly some respondents advocated that parties with AER PPAs³ should get precedence in the offer resumption process. The Commission has a statutory duty to not discriminate unfairly between licence holders and does not consider it justifiable to discriminate between applicants holding AER contracts and others.

A number of alternative specific proposals were also submitted to the Commission which are considered below:

Specific Proposal 1

23. One proposal was that a new queue be formed based, essentially, on applicants’ willingness to take risk. Those most willing to take on this risk transfer would be those most committed and confident of their project going ahead and of securing connection arrangements which they could live with. This queue would replace the Gate 1 group process which had been proposed by the Commission. It was proposed that applicants would be required to pay a very high non-refundable application fee and to post an onerous bond up front in order to get access to Gate 1 in the first instance (i.e. as a criterion for application completeness). If the applicant did not take up the offer then he or she would forego the bond and the application fee.
24. The argument was that parties who were really ready-to-go and committed would be prepared to take these risks. This would ensure that they used the capacity which was a scarce public resource, rather than hoarding it or speculating.
25. The Commission considers that this approach would be too penal on smaller participants and to the benefit of parties with ‘deep pockets’ who could thereby, as it were, jump the connection queue. It also does nothing to resolve the interacting offer problem, although it might be counter argued that that only those willing to live with this risk of interaction would take up offers. On balance, the Commission does not consider that such an approach would be fair or appropriate.
26. However, the Commission did explore a variation on this theme. An option to keep, say, an additional 100MW (i.e. to the original 330 MW) available in Gate 1 for applicants who are willing to abide with a penal regime was examined to see if it could be made work for the benefit of those who are ‘ready-to-go’ right now and consequently prepared to pay penal rates.

³ Alternative Energy Requirement Power Purchase Agreement contracts.

27. The advice from the System Operators was that, leaving aside issues of principle and the prospect of take-up of such a “second-tier” route, it would materially set back the delivery of the original proposed Direction.

Specific Proposal 2

28. One respondent advocated that Gate 1 should include both an individual queue processing approach and a Group Processing Approach. It was proposed that applicants would be given the opportunity to choose which process they would like to be part of. Applicants who choose to be part of the individual queue process would be allowed to fix conditions to be included in the operator’s offer (referred to as a “notification” in the proposal). However, if the operator cannot issue such a “notification” for system reasons, then these applicants would be transferred to the Group Processing Approach. The Group would be processed only after the applicants in the individual queue are processed and have either received “notifications” or been transferred to the Group Approach.
29. Essentially, it was argued that this proposal would allow applicants who have the ability to connect without a new shared asset to be “notified” first and to proceed from there. The argument is premised on the belief the Group Processing Approach will entail inherent unpredictable delays and will mean expiry of planning permission for many projects.
30. On consideration of this proposal it appears to the Commission that there would be considerable delay arising from the time taken to administer the self-selection process and to conduct an assessment of all those parties in the individual queue to determine whether they could be given separate “notifications” or not for system reasons. In addition it appears to add considerable delay to parties who opt for or end up in the Group Processing Approach, as they will have to wait for all the other applications to be assessed. This does not appear to be equitable.
31. The Commission also notes that if, as per the example provided by the respondent, the first 10 applications were to be processed in a queue (assuming that they can be processed individually and are not put into a Group for system reasons), then the process would take 10 months to issue 10 connection offers. This contrasts with the Commission’s proposal of 34 connection offers issued in 4/5 months. This indicates that the proposal would in fact delay the issuing of overall connection offers and not improve the situation in terms of speed.
32. A key assumption of the proposal appears to be that to issue a connection point notification (as opposed to a standard connection offer) would only take one month per applicant. The TSO and DSO have advised that this is not possible. The respondent asserts that it would be possible were the “connection offer” changed to a “notification” which would only entail specifying a connection point.

The “notifications” would not specify the route between the network connection and the generator, the connection method or the price. In short the “notification” would only specify if that point on the network is capable of accommodating the generation and is in compliance with the applicant’s preconditions.

33. The Commission considers that this proposal would remove much of the certainty for the developer (in terms of connection method and costs). Such a scheme appears to favour parties who can take such considerable variability and risk. This would penalise a lot of smaller participants. The Commission does not consider this to be equitable on this basis. In addition, a scheme that does not specify the method of connection leaves a lot of unknowns and potential risks for ESB Networks who would have a legitimate interest as owner of the transmission and distribution network. By extension, such unknowns also leave the final customer potentially exposed to additional costs. The resolution and clarification of such issues would significantly delay Gate 1.
34. For the avoidance of doubt, the ability of an applicant to connect to the network without sharing connection assets does not remove the strong possibility of electrical interaction, particularly in the same geographical area. Therefore, applicants may have to wait for deep reinforcements before they can export to the system even where they can connect without a shared asset.
35. The System Operators have stated that they do not wish to enforce shared connections where individual connections are the best option. If an applicant has a preferred shallow connection method or even planning permission for proposed network connection assets, the TSO and DSO would welcome the applicant sending them this information. However, it is reasonable to presume that if the best approach to connect a group of windfarms via a shared connection asset is identified, this should improve the probability of securing planning permission to accommodate all windfarms within the group. The concept of identifying shared assets, where appropriate, means that the construction of unnecessary lines will be reduced, improving the situation with the relevant planning authorities. Shared assets will also prevent the blocking of a potential line route by one single applicant when it can be used to service others. The cost to the TUoS customer is also reduced as the overall system costs are reduced via more optimal system development.
36. In summary there appears to be a number of difficulties with this approach both in terms of its fundamental viability and its fairness. The proposal would contribute to a delay in a substantial amount of connection offers issuing. It may well leave us back to square one of the problem of attempting to clear the huge build-up of applications. It is on this basis that the Commission has rejected this proposal.

Inefficient use of resources

37. Some parties argued that not filtering the first Gate applications leads to an inefficient use of resources as some of these parties may not build and may just seek to sell their connection offers. The Commission has dealt earlier (see paragraphs 20 and 21) with the issue of filtering Gate 1 applicants.

Generation Connection Policy

38. One respondent argued that the fundamental reason for the current level of interaction is due to inappropriate network development and charging policies. It believes that a more comprehensive review of connection policy is required to guarantee access to the network for renewable generation. Such a policy would include grid strategic planning and the revision of connection charging and cost recovery policies. The Operators would be required to plan and develop the systems in anticipation of renewable generation connecting.
39. The respondent's proposal entails a thorough review of generation connection policy with a view to maximising the connection of renewable generation in the long-term. However, the Commission believes that this must be balanced with the interests of the final customer who will pay directly for costs not covered by connection charges. Such a proposal could entail significantly higher network charges for the final customer. It is important to note that network charges faced by the final customer have increased significantly (approx. 40%) over the past five years primarily due to the funding of major network investment.
40. While open to further review of connection policy the Commission does not believe that such a review would address the current pressing issue of making inroads into the huge application backlog. The Commission considers that this is an issue which should be considered under the forthcoming multi-annual review of network investment bearing in mind, of course, the balance that always has to be struck between meeting Ireland's commitments to promoting renewable generation, developing efficient networks and containing costs for final customers.

Conclusions

41. The Commission considers that the arguments in favour of moving to a Group Processing Approach to deal with the unprecedented build up of wind generation connection offers still hold. These arguments have been set out above and in earlier documents. The Commission also considers that the criteria for identifying Gate 1 applicants and proceeding to issue offers to these applicants over the coming months as a priority is the most appropriate way to proceed in light of the prevailing circumstances and the requirements of the 1999 Act. It should prove a tangible measure of Ireland's commitment to deliver on its obligations under the RES EU Directive. The Commission appreciates that this approach will result in disappointment for some applicants. This is unavoidable in any solution.

42. The Commission will focus now on developing proposals, with the cooperation of the two System Operators, for Gate 2 and later Gates for the purpose of issuing further connection offers to wind generators as a matter of urgency.
