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FOR PUBLICATION

Attention: Aidan Kearney

Submission to CER

in response to consultation

"Standard Pricing Approach for Generators"

(cer05/004)

21st January 2005

on behalf of:
Simone O'Neill
Garrett Sinnott
Aidan O'Neill
Myles Kehoe
Lester Rothwell
Thomas Kehoe
Ian Bailey
and Myles Nolan
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otherwise known as the Ballycadden Group.

9th February 2005/final, gch

Further to submissions of October 25th and November 29th, in response to your consultations on the connection system. The Ballycadden Group has welcomed the fact that their projects have been taken into Gate 1, and look forward to individual offers within months. However, should the proposal as it stands be

adopted, alongside other unfortunate decisions already made, then the Ballycadden group of projects is most unlikely to proceed, for reasons we will now outline.

CER promulgated this consultation on January 21st. It appears that no email notification from CER accompanied the announcement on the website. As a result the wider industry (including its major players) was quite unaware of the consultation until approx 27th Jan, when it was discussed at the IWEA Council. On 31st January, a report in the Irish Times stated that CER has appointed PA Consulting to examine ESB profits, and in particular to review the profits of ESB Networks. Given the excessive costs of connections imposed by ESB Networks, in a non-contestable situation, we find these two events rather incongruous.

Excellent work carried out by Econnect (for IWEA) suggests that ESB Networks proposed 'Standard Pricing' is well above what is available on the market, by between 8% and almost 300%. It has been clear to the industry for some time that the quotations from ESB Networks were excessive when compared to quotes from other sources. The monopoly nature of the situation has left developers with no option but to either pay or cancel their projects, losing their investment up to that point in time.

In addition, developers face escalating costs as their relationship with ESB Networks deepens. Developers are now being asked to pay outrageous application fees, on top of fees for pre-feasibility studies. And yet they are told that, in return for these fees, their projects will be the subject of a desk study and one site visit only, which is apparently inadequate to ensure cost accuracy. The result is an inevitable rise in costs - we are not aware of a situation in which costs fall. Surely we are dealing with the body that owns, builds and operates the electricity network and which has vast experience of these issues. Why is it that despite paying up to twice for the situation to be studied, it is not possible to get a firm quotation from ESB Networks.

A further major issue relates to the proposed payment schedule. It cannot be over stated, again, that the requirement to pay 100% of shared asset costs upfront will lead to the complete cancellation of many projects. This requirement, coupled with the 30 days offer acceptance period, imposes impossible cost and timing issues on developers, and will most likely leave projects unfinanceable. In any case, as Econnect has pointed out, 100% is quite unnecessary to protect the final customer, and a more sensible staging of payments can be envisaged. The reaction of the financial institutions to this requirement, given the risks involved for developers, is to require BOTH asset security and external repayment capacity for the purposes of approving loans for such purposes.

The ESB proposal states that no refunds will be paid to developers, except where new projects connect to shared assets. And yet, ESB wishes to employ a probability factor to both TSO and DSO costs, to allow for failure to connect. This leads to the risk of overpayment for connection assets, where more projects than expected actually connect. Furthermore, where a project fails to connect for no reason under its control, why should at least part of its costs not be refunded, since ESB expects to recover those costs from others that do develop?

The current proposal illustrates, as no other situation has, why it is now essential as an interim measure, to allow full contestability in the Distribution system. The costs proposed are clearly way over the top, and it is not fair or reasonable to oblige developers to pay for assets they do not own at prices that cannot be challenged, which are set by those who will own them. It is necessary for developers to have the right to challenge the functional design of the proposed connection method, and to have contestability on both dedicated and shared assets. However, this approach can only be viewed as an interim step, as it does not deal with the underlying issue of connection charging policy, discussed below.

The current proposal raises serious questions as to the separation of functions between ESB Networks dual roles - DSO and TAO. The function of the DSO is to operate the distribution system, not to own it. This is a public service, which aims to facilitate electricity customers and generators. Presumably then, the TAO ends up owning any additional asset, in which case it is surely the recipient of the payments for connections, and so is the beneficiary of any excess cost (if not then DSO is overcharging). It is surely not in keeping with the remit of the DSO to make it more difficult for generators to connect. If it is doing so on the basis of providing excessive payments to a party from which it is supposed to be ring-fenced, then there is surely a breach of its licence, and quite probably a breach of the unbundling rules under the EU Directives. This issue is now in need of serious review by CER.

We can only conclude that what we see before us is the latest effort to prevent competition in the electricity market. At every possible hands turn cost is imposed on new generation, to prevent it from entering the market - a term generally used for this is 'barrier to entry'. For some reason, ESB and CER believe that all costs incurred by the public network in accommodating new generation (a public service) must be recovered from generators, while this was not the case historically with ESB. That is to say, new generation is disadvantaged. And even where those costs are imposed on new generation, they do not receive a good service. They are charged between €30,000 and 70,000 merely for the privilege of applying to connect, because of the alleged cost of processing these applications, which involves much detailed work. And yet, they are then told that their costs will most likely rise, not fall, because the costs could not be accurately predicted, despite ESB's vast experience at home and abroad. This is not credible, and suggests a deliberate attempt to exclude competition. This is followed by a requirement to pay huge sums up front and to meet unprecedented and costly technical hurdles to get connected. Yet the asset paid for by the generator is then handed over to the DSO, and may be used for public purposes, while it adds to the TAOs portfolio in any future sale. This does not even mention the huge delays which already existed before the moratorium, and which are now chronic. Why would any reasonable person ask or be asked to pay such huge sums of money for such lack of service. In truth, the banks are now saying that they do not feel it worth paying for. The tactic has worked, and competition has been prevented. CER is culpable in this matter.

At the root of all of these issues lies the myth, promulgated by ESB and supported by CER, that it is cheaper for the final consumer for the network to seek to recover all costs associated with connection from the generators. CER dismissed arguments on this point in its background paper on resuming

connections to wind (cer04/380, 23 Dec 2004, page 11). This is patently wrong for two major reasons:

1. Piling all connection related costs on new generation raises the cost of entry and thus raises the cost of power from the new entrants. If the network were to pay for these services and assets, they could recover their cost over a much longer period, thus reducing the annual cost to consumers as against that which the generator must charge for the same thing. Due to competitive forces, power from the generators would be cheaper by more than the increased cost of the TuOS;

2. Making generators pay all costs, and finance them up front, acts as a 'barrier to entry', and reduces competitive forces in the market. This absence of competition is a hidden cost to the consumer. In the absence of competition, prices have risen so much in recent years, with CER approval, that CER is now obliged to review ESB profits. This is the real cost to consumers.

Conclusion

We are forced to conclude that the CER review of ESB Networks profits is nothing more than window-dressing, designed to appease a Minister who is growing ever more unhappy with the state of the electricity market. The current proposal, and in particular how it has been handled, suggest that CER is not in favour of more competition to ESB, but against it, and seeks to help it salt away cash to resolve its pension issue and/or provide itself with a war chest to take on the big players in the EU.
