



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Authorisation to Construct an  
Interconnector

Consultation Paper

CER/07/094

June 2007

# **1 Introduction**

The Energy (Miscellaneous Provisions) Act 2006 (the “2006 Act”) introduced, among other things, a regime for the authorisation and licensing of electricity interconnectors by the Commission for Energy Regulation (the “Commission”). It did this by way of amendments to the Electricity Regulation Act 1999 (the “1999 Act”). Prior to this there was no specific statutory powers relating to their construction or operation. Moreover, there was little evidence of immediate plans to invest in them. This situation has changed with the current plans to develop a regulated East-West interconnector through a competitive process and, separately, plans by Imera Power to develop two East-West interconnectors on a merchant basis.

This consultation paper sets out the Commission’s proposals with respect to the application procedure, the criteria used in assessing an application and the standard terms of an authorisation to construct an interconnector.

## **1.1 Structure of this paper**

The structure of this paper is as follows:

- Section 2 set of the legal basis for an authorisation
- Section 3 sets out the proposed application procedure
- Section 4 sets out the proposed criteria for determining an application
- Section 5 sets out the conditions of a generic authorisation
- Appendix 1 is a draft of the guidelines for the proposed application procedure
- Appendix 2 is a draft of the application form in accordance with the proposed application procedure.
- Appendix 3 is a draft of the proposed generic authorisation.

## **1.2 Request for Comment**

The Commission invites comment from interested parties on the proposals set out in this paper, in particular on the proposed application procedure, the criteria for determining an application and the conditions of an authorisation. The Commission intends to publish all comments received – those respondents wishing for certain sections of their submission to remain confidential should submit the relevant sections in an appendix marked confidential. Comments on this paper should be forwarded to David Egan, preferably in electronic form by 5.00pm on the 10<sup>th</sup> August 2007 at:

[DEgan@cer.ie](mailto:DEgan@cer.ie) or

Commission for Energy Regulation

The Exchange

Belgard Square North

Tallaght

Dublin 24

## **2 Legal Basis**

### **2.1 Requirement to be Authorised**

The requirement to be authorised by the Commission prior to commencing construction is set out in section 16(1) of the 1999 Act (as amended by section 8 of the 2006 Act) which states:

“16. (1) *A person shall not—*

- (a) construct or reconstruct a generating station for the purpose of supply to final customers, or*
- (b) construct an interconnector,*

*unless an appropriate authorisation has been granted to the person by the Commission.”*

### **2.2 Terms and Conditions of Authorisation**

Section 16(3) of the 1999 Act provides for the authorisation to be granted subject to terms and conditions as specified by the Commission. Section 17(2C) requires the authorisation to be in writing and provides for it to continue in force, unless revoked, for the term specified or determined in the authorisation.

“16 (3) *Subject to section 17, the Commission may grant or may refuse to grant to any person an authorisation—*

- (a) to construct or reconstruct a generating station, or,*
- (b) to construct an interconnector,*

*and where the Commission grants such an authorisation, that authorisation shall be subject to such terms and conditions as may be specified in the authorisation, including, as respects a generating station, the generating capacity of such station.*

17 (2C) *An authorisation granted by the Commission under this section, shall be in writing and, unless previously revoked in accordance with any term contained in the authorisation, shall continue in force for such period as may be specified in or determined by or under the authorisation.”*

### **2.3 Penalties**

Section 16(4) of the 1999 Act sets out the penalties for commencing construction of an interconnector without being authorised by the Commission.

*“16. (4) A person who contravenes subsection (1) shall be liable on conviction on indictment to a fine not exceeding £100,000.”*

## **2.4 Application Procedure and Fee**

Section 17(1) of the 1999 Act requires applications for an authorisation to be in writing and contain such information as may be reasonably requested by the Commission. Section 17 (1A) requires the Commission to publish the authorisation procedure in a manner that will bring it to the attention of those affected by it and Section 17(2) allows the Commission to charge an application fee.

*“17. (1) An application for an authorisation under section 16 shall be in writing unless that it is not required by virtue of an order made under section 16(3A) or (3B) and be in such form and contain such information as the Commission may reasonably request.*

*(1A) The Commission shall publish the authorisation procedures as determined by it in such manner as it shall determine so as to bring it to the attention of those likely to be affected by it.*

*(2) An application for an authorisation shall be accompanied by such a fee, if any, as the Commission may determine.”*

## **2.5 Criteria for Determination**

There are no specific criteria set down in statute for determining an application to construct an interconnector.

Section 17(2A) does require that the Commission shall determine an application in accordance with the criteria specified in a ministerial order made under section 18. However, section 18 of the 1999 Act relates exclusively to the determination of an application for an authorisation to construct or reconstruct a generating station. This is made clear in section 8(6) of the 2006 Act.

The Commission does, of course, have a duty to treat all applicants in a non-discriminatory manner as provided in section 9(3):

*“9. (3) It shall be the duty of the Minister and the Commission to carry out their functions and exercise the powers conferred on them under the Act in a manner which –*

*(a) does not discriminate unfairly between holders of licences, authorisation and the Board or between applicants for authorisations or licences, and*

- (b) *the Minister or the Commission, as the case may be, considers protects the interests of final customers.”*

## **2.6 Refusal to grant**

In the event that the Commission refuses to grant an authorisation section 17(4) requires the Commission to notify the application in writing the reasons for the refusal and these reasons must be objective, non-discriminatory, well founded and duly substantiated. In this case an applicant has a right to appeal the Commission determination in accordance in section 29 of the 1999 Act.

- “17 (4) *Where the Commission refuses to grant an authorisation -*
- (a) *the reasons for such refusal shall be objective, non discriminatory, well founded and duly substantiated,*
  - (b) *the applicant for the authorisation shall be notified, in writing, by the Commission of the reasons for the refusal, and*
  - (c) *the applicant may appeal the refusal in accordance with section 29.”*

## **2.7 Modification, Revocation, Enforcement and Appeals**

As specified by section 17(3) an authorisation granted by the Commission is subject to modification or revocation. Section 17(3B) provides for the holder of an authorisation to appeal a modification in accordance with section 29.

- “17 (3) *An authorisation granted by the Commission shall be subject to—*
- (a) *modification in accordance with section 19, or*
  - (b) *revocation by the Commission in accordance with this Act.*
- 17 (3B) *Where the Commission modifies an authorisation or the terms and conditions of an authorisation the holder of the authorisation may appeal the modification in accordance with section 29.”*

Sections 19, 20 21 and 22 of the 1999 Act specifies the procedure to be followed when modifying an authorisation.

Sections 23, 24, 25 and 26 of the 1999 Act specifies the procedures that the Commission must follow when issuing and enforcing a direction or determination for the purposes set out in section 23(3).

Sections 29, 30, 31 and 32 of the 1999 Act specifies the procedures for appeal a decision of the Commission in the instances as set out in section 29(1).

### **3 Application Procedures**

The Commission proposes to base the application procedures on the procedures currently in place for the application for an authorisation to construct a generating station. Attached in Appendix 1 is a draft of the application guidelines and in Appendix 2 is a draft application form.

#### **3.1 Procedure**

The proposed procedure is broken into three steps: (1) Preparation and submission of an application (2) Assessment and determination of the application and (3) Grant of authorisation or notice of refusal to grant an authorisation.

##### **Step 1 - Application**

In step one it is the responsibility of the applicant submit a complete application form and to provide all the necessary supporting documentation. The Commission will acknowledge receipt of an application within 7 working days and the Commission will revert to the applicant within 2 weeks to confirm whether the application is complete or not. In the event that an application is incomplete, the additional information required will be highlighted to the applicant. The assessment of an application will only begin once a completed application is received.

##### **Step 2 – Assessment and Determination**

In step two the Commission will assess the application in accordance with the specified criteria. During this step the Commission may request the applicant to provide additional information or clarifications on the information previously provided. The Commission will endeavour to complete the assessment within 8 weeks from receipt of a complete application.

In this step that Commission may determine that an authorisation should be granted with the generic authorisation conditions or with additional special conditions.

### **Step 3 - Grant or refusal to grant an authorisation**

In step three the Commission will either grant or refuse to grant an authorisation. In the event that the Commission refuses to grant an authorisation the reasons will be stated in the refusal notice and the procedure for appealing such a decision will be outlined.

## 4 Criteria for determination

The Commission has a duty to carry out its functions in a manner that does not discriminate unfairly between holders of licences or authorisations or between applicants for licences and authorisations. In determining an application the Commission will act in a non-discriminatory and objective manner.

The 1999 Act does not detail specific criteria for use in the determination of an interconnector authorisation application. The Commission proposes to base the criteria, where appropriate, on the criteria used in the determination of an application for an authorisation to construct a generating station. Therefore, the Commission proposes to use the following criteria:

- Safety and Security of the System

The applicant must demonstrate that the construction of the interconnector will not jeopardise the safety or security of the system.

- Feasibility

The applicant must demonstrate that the project is feasible and is likely to be constructed in the proposed timeline. This would include the applicant demonstrating that it holds, has applied for, or about to apply for the necessary statutory consents and connections to the relevant transmission systems and has or is likely to have adequate funding to complete the project.

- Technical capability

The applicant must demonstrate that it has the technical capability to organise the construction of the interconnector.

- Financial capability

The applicant must demonstrate that it has the financial capability to arrange the funding of the interconnector.

The Commission believe that the criteria outlined above are reasonable and objective. It should be noted that in the granting of authorisation, the Commission is in no way endorsing the plans of an applicant. The authorisation cannot be

relied upon as an indication of the likely commercial success or otherwise of its holder.

## **5 Conditions of Authorisation**

A draft copy of an Authorisation is attached in Appendix 3. The following is a description of each of the conditions contained in Part II of the Authorisation.

- Condition 1 (Interpretation and construction) sets out the interpretation of the terms of the authorisation.
- Condition 2 (Construction of the Interconnector) sets out the details of the interconnector and requires the interconnector to be constructed in accordance with the details described in the Grantee's application.
- Condition 3 (Term for Construction) requires the interconnector to be constructed within seven years from the grant of an authorisation.
- Condition 4 (Consents) requires the Grantee to comply with planning authority and other statutory consents.
- Condition 5 (Environment) requires the Grantee to comply with relevant environmental legislation.
- Condition 6 (Compliance with the Grid Code, Distribution Code and Metering Code) requires the Grantee to comply with the Grid Code, Distribution Code and Metering Code in so far as it is applicable to it.
- Condition 7 (Directions and Determinations by the Commission and Court Orders) requires the Grantee to comply with any directions, determinations and court orders made pursuant to the Act.
- Condition 8 (Revocation) sets out the reasons why an Authorisation may be revoked by the Commission.
- Condition 9 (Provision of information to the Commission) requires the Grantee to furnish information to the Commission as may be considered necessary by the Commission in the light of the Conditions or as it may require for the purpose of performing the functions assigned or transferred to it by or under the Act. The Grantee is also required to provide a report every three months on the progress of the construction of the interconnector.

- Condition 10 (Assignment) requires the Grantee to seek the approval of Commission before assigning the authorisation.

## **Appendix 1 – Guidance notes for Applicants**



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

# **Application for an Authorisation to Construct an Interconnector**

## **Guidance Notes for Applicants**

## **Authorisation to Construct an Interconnector:**

### **Guidance Notes for Applicants**

Under the Electricity Regulation Act 1999 persons wishing to construct an interconnector must obtain authorisation from the Commission for Energy Regulation prior to commencing construction.

These guidance notes are to help you apply for an authorisation from the Commission. You should only use these notes in conjunction with the “Application for Authorisation to Construct an Interconnector” form. Full details of terms and conditions under which an Authorisation is granted can be found within the Authorisation.

A checklist to help you ensure that you have completed your application fully is attached to these notes as Appendix A.

If you need more information or advice after reading these guidance notes, please contact us on **+353 (0)1 4000 800**. We answer calls between 9am and 5pm, Monday to Friday. Alternatively, you can email your questions to us at **info@cer.ie**.

We may amend these notes from time to time to include changes and to improve clarity. Please contact us at the number given above for advice. These guidance notes and the Authorisation application form are also available on our website at [www.cer.ie](http://www.cer.ie).

#### ***Disclaimer:***

*Although every effort has been made to ensure the accuracy of the material contained in this document, complete accuracy cannot be guaranteed. The Commission for Energy Regulation cannot accept any responsibility whatsoever for loss or damage occasioned or claimed to have been occasioned, in part or in full, as a consequence of any person acting, or refraining from acting, as a result of a matter contained in this document.*

## **Requirement to apply for an Authorisation to construct an Interconnector**

1. You must apply to the Commission for an Authorisation if you wish to construct an interconnector.
2. Each interconnector you intend to develop will require a separate Authorisation.
3. As such, you will need to submit a separate application for each Authorisation you require.
4. If you commence construction activities prior to obtaining Authorisation from the Commission, you may be liable on conviction on indictment to a fine not exceeding €126,973.

## **Processing and Assessment**

5. We will only commence processing your application when we are satisfied that the application is complete (see Appendix A for Checklist) and that sufficient information has been provided.
6. The criteria we will use to assess your application for Authorisation are:
  - Impact on the Safety and Security of the System;
  - Feasibility of the project;
  - Technical capability of the applicant; and
  - Financial capability of the applicant.
7. During our assessment of your application, you may be required to submit additional information in respect of the application if we feel it is necessary for support or clarification purposes. Please respond to these requests within the time frame we specify.
8. If the Commission decides to grant you an Authorisation, you will be advised in writing and the Authorisation will be issued shortly afterwards.
9. If your application is refused, you will be notified in writing of the reasons for the refusal. Such a decision may be appealed. Please see paragraphs 45 to 46 below for details.
10. Please also note that in granting an Authorisation, the Commission is in no way endorsing the plans of an applicant. The Authorisation cannot be relied upon as an indication of the likely commercial success or otherwise of its holder.

## **Terms and Conditions of Authorisation**

11. An Authorisation will be valid for 7 years or until completion of the construction project. The Commission, at its discretion, may extend the Authorisation beyond the period of 7 years. This is subject to the Grantee complying with the terms and conditions under which the Authorisation is granted.

12. Details of terms and conditions under which an Authorisation is granted can be found in the Authorisation.
13. These authorisation conditions are subject to modification or amendment according to their terms or with Sections 17(3) and 19 of the Electricity Regulation Act 1999.
14. However, the Commission may revoke an Authorisation that has been granted to you if you fail to comply with the terms and conditions of the Authorisation. Your attention is drawn to the revocation terms that are detailed in Conditions of the Authorisation.
15. Please note that there would be significant dialogue between the Commission and the Grantee before such a serious provision was invoked.

**Which form do I use to apply?**

16. All applications for Authorisation to construct an interconnector should be made using the “Application for Authorisation to construct an Interconnector” form.
17. You can download the application form and guidance notes that we have published at our website [www.cer.ie](http://www.cer.ie) for your own use.
18. Alternatively, you can get the application form and guidance notes by phoning us at +353 (0)1 4000 800 between 9am to 5pm, Monday to Friday.
19. You may make photocopies of the application forms for your own use. However, we will only accept copies/versions you produce if they are of good quality, clearly legible, A4 size and the design and content are the same as the printed version supplied by us.
20. Please note that applications must be submitted with original signatures.

**When should I apply?**

21. Once you have compiled the information requested and supporting documents for your application, you can apply whenever you wish to.

**How long will it take to consider my application?**

22. We will aim to acknowledge all applications within 7 working days of receiving them. The acknowledgement will include a phone number and a named contact for your enquiries.
23. We will process all applications as rapidly as possible and keep you advised of progress.

**What do I send with the application form?**

24. A checklist of all documents you should enclose with your completed application form is attached to these notes as Appendix A. The Authorisation application form also details these documents.

25. Additionally, an application fee must be included with your submission.

**What are the fees associated with submitting my application form?**

26. The application fee is €20,000

**Will information in my application be kept confidential?**

27. Information provided in your application form and supporting documents will be covered by Section 13 (Prohibition on unauthorised disclosure of information) of the Electricity Regulation Act, 1999. Your attention is also drawn to Section 46 (Amendment of Freedom of Information Act, 1997) of the Act.

28. We may publish a notice of your application in a newspaper (or newspapers) circulating in the area the generating station(s) is located, or is proposed to be located and/or a newspaper circulating in the State.

29. Any applications we receive may be made available to members of the public. You should indicate clearly in your application any information you would consider to be commercially confidential.

30. Commercially sensitive information from business plans will be kept confidential. You may mark other information as confidential. The Commission will discuss disclosure of this information with you should requests arise as provided for under the Freedom of Information Act 1997.

**Where do I send the application form?**

31. The completed application, together with all the support documents and application fee, should be delivered or sent to us at:

**Interconnector Authorisation**

Commission for Energy Regulation

The Exchange

Belgard Square North

Tallaght

Dublin 24

Ireland

**Where will the Commission send the Authorisation and any other letters?**

32. We will assume the lead signatory on your application form to be your nominated point of contact should we need to contact you, or when we respond to your queries, unless notified otherwise.

33. All correspondence with you will be sent to the address provided in your application form, or in the case of a body corporate, the registered or principal office.

34. If you are an overseas applicant, we will send all letters to the address in Ireland you have provided in your application form.
35. Please note that an Authorisation will be issued in the name of the owner of the proposed interconnector.

### **How do I get advice on submitting an application for Authorisation?**

36. If you want advice about completing an application form or clarification of these guidance notes, contact us at +353 (0)1 4000 800 between 9am to 5pm, Monday to Friday. You can also e-mail your questions to us at [info@cer.ie](mailto:info@cer.ie).

### **What you can expect from us?**

37. We will provide understandable, accessible information and guidance. A **checklist** to help you completed your application is attached to these notes as **Appendix A**.
38. We will aim to acknowledge all applications within 7 working days of receiving them. The acknowledgement will include a phone number and a named contact for your enquiries.
39. We will process all applications as rapidly as possible and keep you advised of progress. We expect to determine your application within 8 weeks of receipt of a complete application.
40. We will reply promptly to all enquiries and letters.
41. We will continually review our standards of service.

### **What we need from you**

42. Please make sure that you use the correct application form and answer all the relevant questions fully.
43. Please send in any documents or information we ask for with your application form. If you do not, this may delay the decision.
44. If you receive a letter asking for more information, please respond quickly and cover all the points raised. Replying by fax or e-mail may save time.

### **General rules about appeals**

45. If it is appropriate and you want to appeal against our decision to refuse an Authorisation application, the letter telling you about our decision will explain how to do this. Any appeal must be lodged with the Minister for Communications, Marine and Natural Resources within 28 days of our decision.
46. The appeal procedures are set out in Part IV, Sections 29 to 32 of the 1999 Act. If you need more advice on how to appeal, please take this up with our contact named on the letter.

## **How do you make a complaint**

47. If you are unhappy with the standard of service you have received, please take this up with the contact you have been dealing with. If you are not sure who to contact, please phone our general enquiry line for advice on +353 (0)1 4000 800
48. If you wish to make a complaint please write to the **Head of Energy Networks** at:

Commission for Energy Regulation

The Exchange

Belgard Square North

Tallaght

Dublin 24

Ireland

Fax: +353 (0)1 4000 850

Email: [info@cer.ie](mailto:info@cer.ie)

## **Authorisation Application Checklist**

**Date received:**

**Received by:**

**Date acknowledged:**

**CER Contact:**

**The Authorisation Application Form**

1. Are all questions in Part 1 answered fully and appropriately?
2. Has the declaration in Part 3 been filled in correctly and signed by all appropriate persons?
3. Has the applicant included the correct application fee?

**Documents to accompany application for Authorisation**

4. Environmental impact statement (if applicable)
5. Construction and commissioning programme (identifying the major milestones in the project development, from authorisation to completion)
6. Maps(s) or marine charts sufficient to identify the location of the interconnector and line/cable route to which the application relates
7. Statements of accounts for the last 2 years in respect of your relevant undertakings
8. A certificate from applicant stating that no adverse change has occurred, if more than 3 months have passed since the end of the accounting year covered by the accounts submitted
9. If the company is a special purpose vehicle, a statement of the relevant parent company accounts and guarantees

10. An outline 5-year business plan in relation to application, including information on project finance
11. Connection Offers from the Transmission System Operators
12. Planning permission or confirmation of planning exemption from relevant planning authority for both ends of the interconnector.
13. IPC licence(s) or equivalent (if applicable)
14. Foreshore licence/lease or equivalent for both shores (if applicable).

## **Appendix 2 – Application Form**



# **Application for an Authorisation to Construct an Interconnector**

## **Application Form**

**APPLICATION FOR AUTHORISATION TO CONSTRUCT AN  
INTERCONNECTOR**

**(UNDER SECTION 16 OF THE ELECTRICITY REGULATION ACT, 1999)**

**NOTICE**

The Commission for Energy Regulation, in exercise of its powers under Section 16 of the Electricity Regulation Act, 1999 (No. 23 of 1999) hereby gives notice that an application under Section 16 of the Electricity Regulation Act, 1999 for authorisation to construct an interconnector shall be made to the Commission for Energy Regulation in accordance with the procedures set out in this Notice.

**1. Interpretation**

(a) **"Act"** means the Electricity Regulation Act, 1999;

**"applicant"** means the person making the application;

**"application"** means an application for an authorisation to construct an interconnector under Section 16 of the Act;

**"Commission"** means the Commission for Energy Regulation;

**"owner"** means the person having a proprietary interest in the interconnector and any equipment essential to the operation thereof.

(b) References to an enactment shall include subordinate legislation and in both cases any statutory modification or re-enactments thereof.

**2. Form of application**

An application under Section 16 of the Act shall be in the form, and shall contain the particulars, specified in Part I of Schedule I to this Notice.

**3. Documents to accompany applications**

An application under Section 16 of the Act, shall be accompanied by two copies of the documents and particulars specified in Part II of Schedule I to this Notice and the declaration, duly signed, in the form specified in Part III of Schedule I to this Notice.

#### **4. Lodgement of applications**

All applications shall be delivered to or sent by prepaid registered post to the Commission at its principal office.

#### **5. Manner of publishing applications**

(1) Notice of the application may be published by the Commission;

(a) in a newspaper circulating in the State; and/or

(b) on the Commission's website.

(2) Where a map forms part of the documents and particulars provided in accordance with paragraph 3, there may be published together with the notice of the application a notice stating that a copy of that map is available for inspection by the public at the principal office of the Commission between 10.00am and 12.00 midday and 2.00pm and 4.00pm on any working day or by appointment with the Commission.

#### **6. Additional Information**

The Commission may serve notice on the applicant, requiring the applicant to provide such further information in respect of the application and within such period, as may be specified in the notice.

#### **7. Confidentiality**

The applicant's attention is drawn to the Commission's obligations under Sections 13 (Prohibition on unauthorised disclosure of information) and 46 (Amendment of Freedom of Information Act, 1997) of the Act.

#### **8. Criteria for assessing applications**

The criteria used to assess an application for Authorisation are:

- Impact on the Safety and Security of the System;
- Feasibility of the project;
- Technical capability of the applicant; and
- Financial capability of the applicant.

## **9. Fees payable with application**

- (1) The fee payable with an application shall be in accordance with the Guidance Notes accompanying the application form.
- (2) All fees shall be paid when the application is lodged. Cheques should be made payable to: **The Commission for Energy Regulation**

**APPLICATIONS FOR AUTHORISATION TO CONSTRUCT AN INTERCONNECTOR**

**(UNDER SECTION 16 OF THE ELECTRICITY REGULATION ACT, 1999)**

**SCHEDULE I**

PART I

*Where, for any question, insufficient room has been provided, the answer should be continued on a separate sheet.*

**General Details**

1. Full name of the applicant(s).

2. Address of the applicant(s), or in the case of a body corporate, the registered (and where different, principal) place of business. Also, in the case of an overseas applicant, address in Ireland for service of process and other notices.

3. Where the applicant is a company, full names of current directors and the company's registered number. If not incorporated in Ireland, the registration number which the equivalent of the Companies Registration Office in Ireland may have issued and the country in which the company is incorporated.

4. Where a holding of 10 per cent or more of the shares (see Note below) of an applicant is held by a body corporate or partnership or an unincorporated association or a co-operative carrying on a trade or business with or without a view to profit, the name(s) and address(es) of the holder(s) of such shares shall be provided.

5. If the applicant is an agent acting on behalf of the owner of the proposed interconnector, full name and address of the owner(s). In the case of a body corporate, the address should be the registered (and where different, principal) place of business.

6. Where an owner(s) is a company, the full names of current directors and the company's registered number.

7. Where a holding of 10 per cent or more of the shares (see Note below) of an owner(s) is held by a body corporate or partnership or an unincorporated association carrying on a trade or business with or without a view to profit, the name(s) and address(es) of the holder(s) of such shares shall be provided.

8. Full name and address of the intended operator of the proposed interconnector (if different from the applicant or owner). In the case of a body corporate, the address should be the registered (and where different, principal) place of business.

9. Name, address and place of incorporation of ultimate parent undertaking(s) (if any) of the applicant.

**NOTE**

Reference to shares:

- a) in relation to an applicant and/or owner with a share capital, are to allotted shares;
- b) in relation to an applicant and/or owner with capital but no share capital, are to rights to share in the capital of the applicant and/or owner;
- c) in relation to an applicant and/or owner without capital, are to interests;
  - i) conferring any right to share in the profits or liability to contribute to the losses of the applicant and/or owner; or
  - ii) giving rise to an obligation to contribute to the debts or expenses of the applicant and/or owner in the event of a winding up.

**Details of proposed interconnector:**

10. A sufficient description specifying the actual proposed location of the interconnector in Ireland and the other jurisdiction including location of grid connection points, convertor stations (if any), route of cables/overhead lines, in the case of under sea cable landing points e.g. by reference to townlands, postal address, grid co-ordinates etc, the identity of sites owner(s) and the applicant's or owner's legal interest in the site (if any).

11. Desired date from which the authorisation is to take effect and date when construction will commence.

12. The date when the proposed interconnector is expected to be operational.

13.(a) The capacity (MW) (both import and export) as specified in connection agreements/applications and expected life.

13.(b)The technical specifications of the interconnector. At least the following should be specified. If Alternating Current interconnector – voltage of cable/line, cable/line rating, capacitance/inductance capability, temperature rating, configuration, expected reliability. If a Direct Current interconnector, inverter technology, cable technology, ancillary service capability, voltage of cable/line, cable/line rating, configuration, expected reliability.

14. A description of the measures to be taken by the applicant to ensure the safety and security of the electrical system.

15. Details of whom, on behalf of the applicant/owner shall, have responsibility for the engineering and construction of the interconnector, including details on relevant qualifications and experience of projects of a similar nature.

16. Details of all applicable statutory or other consents, permissions or licences held, applied for or being applied for by the applicant, or by affiliates of the applicant/owner, necessary for the construction and operation of the proposed interconnector, including planning permission (or exemption from planning permission).

17. Details of any connection agreements made or being sought with the transmission system operator in Ireland and the transmission system operator of the other system.

18. Confirmation that the applicant has consulted the relevant Chief Fire Officers on fire safety aspects of the planned building(s) and in relation to the provision of access and facilities for Fire Brigade/Emergency Services in the event of a fire or other emergency.

# **APPLICATIONS FOR AUTHORISATION TO CONSTRUCT AN INTERCONNECTOR**

## **(UNDER SECTION 16 OF THE ELECTRICITY REGULATION ACT, 1999)**

### **SCHEDULE I**

#### **PART II**

#### **DOCUMENTS TO ACCOMPANY AN APPLICATION FOR AN AUTHORISATION TO CONSTRUCT AN INTERCONNECTOR**

*If the applicant is not the owner, please attach relevant documents for both the applicant and the owner. Applicants are requested to submit two copies of each document with their application.*

#### **1. Financial history**

- (a) Statements of the accounts for the last two years kept by the applicant in respect of relevant undertakings carried on by him, showing the financial state of affairs of that undertaking and its profit or loss, together with copies of the latest audited accounts.
- (b) If more than three months have elapsed since the end of the accounting year covered by the accounts submitted, a certificate from the applicant stating that no material adverse change has occurred.
- (c) Where the applicant is a special purpose vehicle, a statement of relevant parent company accounts and guarantees.

#### **2. Project planning and feasibility**

An outline statement of the proposals for the business of the applicant to which the application relates, for the next five years, including:

- (a) Annual forecasts of costs, sales and revenues and project financing, stating the assumptions underlying the figures provided.
- (b) Details of any expected subsequent substantial capital outflows, including major decommissioning costs.
- (c) Estimates of net annual cash flows for subsequent periods sufficient to demonstrate the financial security and feasibility of the project(s) to which the application relates.
- (d) Information on the intended source of finance and (where relevant) confirmation from the relevant lender(s).

#### **3. Environmental impact statement(s) (if applicable).**

4. **Construction and commissioning programme** (identifying the major milestones in the project development, from authorisation to completion).
5. **Maps(s) or marine charts** sufficient to identify the location of the interconnector to which the application relates.
6. **Planning permissions** or confirmation of planning exemption from planning authority.
7. **IPC Licences** or confirmation that an application has been submitted to the EPA or confirmation that an IPC Licence is not required.
8. **Connection Offers** from the Transmission System Operators
9. **Water extraction Licence** (if applicable)
10. **Foreshore licence(s)/lease** or equivalent (if applicable)

**APPLICATIONS FOR AUTHORISATION TO CONSTRUCT AN INTERCONNECTOR  
(UNDER SECTION 16 OF THE ELECTRICITY REGULATION ACT, 1999)**

**SCHEDULE I**

PART III

**DECLARATION**

On behalf of the applicant, I hereby declare that:

- (a) the applicant shall at all times comply in every respect with the conditions attached to any authorisation that may be awarded to the applicant;
- (b) the applicant shall at all times comply with lawful directions of the Commission for Energy Regulation;
- (c) the information provided by me on behalf of the applicant is accurate and complete in all respects; and
- (d) I am authorised to make this declaration on behalf of the applicant.

Signed and Dated:

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Full name(s) of Signator(y/ies):

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Position held (if the applicant is a company, co-operative, partnership, unincorporated association or other body corporate):

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## Appendix 3 –Authorisation



# Authorisation to Construct an Interconnector

Issued to

[XXXX]

Authorisation Ref. No.

[Date]

**GRANT OF AUTHORISATION TO CONSTRUCT OR RECONSTRUCT AN  
INTERCONNECTOR BETWEEN POINT A AND POINT B**

**PART I**

**TERMS OF AUTHORISATION**

1. In exercise of the powers conferred on the Commission for Energy Regulation (the "**Commission**") by Section 16 of the Electricity Regulation Act, 1999 (the "**Act**"), the Commission hereby grants to **Company Name** (the "**Grantee**") an authorisation to construct an interconnector between **point a** and **point b** (the "**interconnector**") subject to the conditions set out in Part II (the "**Conditions**").
2. The authorisation hereby granted (hereinafter referred to as "**this authorisation**") shall be subject to modification in accordance with Sections 17(3)(a) and 19 of the Act.
3. This authorisation shall come into force on **26<sup>th</sup> April 2007** and shall continue in force for the term specified in the Conditions, unless and until revoked by the Commission in accordance with the Act and the Conditions.

Sealed with the common seal of the Commission for Energy Regulation on **26<sup>th</sup> April 2007**.

Member of Commission

Member of staff of Commission

## **PART II**

### **CONDITIONS**

#### **1. Interpretation and construction**

1.1 Unless the contrary intention appears:

- (a) words and expressions used in the Conditions shall be construed as if they were in an enactment and the Interpretation Acts applied to them; and
- (b) references to an enactment shall include primary and subordinate legislation and in both cases any modification or re-enactment thereof after the date when this authorisation comes into force.

1.2 Any word or expression defined in the Act for the purposes of any provision of the Act shall, unless the contrary intention appears, have the same meaning when used in the Conditions.

1.3 Unless otherwise specified:

- (a) any reference to a numbered Condition is a reference to the Condition bearing that number in this authorisation;
- (b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Condition in which the reference occurs; and
- (c) (without prejudice to any provision which restricts such variation, supplement or replacement) any reference to any agreement, licence, code or other instrument shall include a reference to such agreement, licence, code or other instrument as varied, supplemented or replaced from time to time.

- 1.4 The heading or title of any Part, Condition or paragraph shall not affect the construction thereof.
- 1.5 Where any obligation of the Grantee is expressed to require performance within a specified time limit that obligation shall continue to be binding and enforceable after that time limit if the Grantee fails to perform that obligation within that time limit (but without prejudice to all rights and remedies available against the Grantee by reason of the Grantee's failure to perform within the time limit).
- 1.6 The provisions of Section 4 of the Act shall apply for the purposes of the delivery or service of any document, direction or notice to be delivered or served pursuant to this authorisation and directions issued by the Commission pursuant to any Condition shall be delivered or served as aforesaid.

## **2. Construction of the Interconnector**

2.1 The interconnector shall be **200 MW High Voltage Direct Current Interconnector, comprising,**

**(a) A convertor station located at Point A, Ireland;**

**(b) A convertor station located at Point B, United Kingdom of Great Britain and Northern Ireland; and**

**(c) A cable rated at 500kV connecting both convertor stations to each other.**

2.2 Except where the Commission has given prior written consent to any proposed variation in design or construction of the interconnector, the interconnector shall be constructed in accordance with the details contained in the Grantee's application form dated **16<sup>th</sup> April 2007.**

2.3 The interconnector shall be situated as shown on the plans and maps annexed hereto.

**3. Term for Construction**

- 3.1 The Grantee shall complete the construction and commissioning of the interconnector no later than seven (7) years from the date this authorisation comes into force, or such longer period as the Commission may hereafter direct in writing.

#### **4. Consents**

- 4.1 The Grantee shall comply at all times with all planning authority and statutory consents, permissions or approvals, already made at the date of this authorisation or made subsequent to this authorisation, for the construction the interconnector.

## **5. Environment**

- 5.1 The Grantee shall at all times comply with all applicable European Union and Irish Environmental Laws whether in force at the date hereof or in the future.
- 5.2 For the purposes of this authorisation, "**Environmental Laws**" means those laws which are from time to time in force whose purpose is the protection of the environment including the protection of human health, flora, fauna and the eco-systems on which they depend, and for the avoidance of doubt shall include but shall not be limited to the Planning and Development Acts 2000-2006, the Environmental Protection Agency Acts 1992 and 2003, the Waste Management Acts 1996 and 2003, and all relevant legislation relating to the assessment of environmental impacts, and the protection of air, land and water.

**6. Compliance with the Grid Code, Distribution Code and Metering Code**

- 6.1 The Grantee shall at all times comply with the provisions of the Grid Code, Distribution Code and Metering Code, from time to time in force, insofar as applicable to it.

**7. Directions and Determinations by the Commission and Court Orders**

- 7.1 The Grantee shall comply with any directions or determinations made by the Commission pursuant to Sections 23, 24 and 25 and court orders made pursuant to Section 26 of the Act.
- 7.2 Any costs associated with compliance with such directions, determinations and court orders shall be the responsibility of the Grantee.

## **8. Revocation**

8.1 The Commission may at any time revoke this authorisation by not less than 30 days' notice in writing to the Grantee:

- (a) if the Grantee agrees in writing with the Commission that this authorisation should be revoked;
- (b) if the Grantee fails to comply with a direction under Section 23 or Section 24 of the Act, a determination under Section 25 of the Act or an order under Section 26 of the Act;
- (c) if the Grantee fails to comply with any order made by the Minister under Section 39 of the Act;
- (d) if the Grantee:
  - (i) is unable to pay its debts (within the meaning of Section 214 of the Companies Act, 1963) or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission); or
  - (ii) has a receiver or an examiner within the meaning of the Companies (Amendment) Act, 1990, of the whole or any material part of its assets or undertaking appointed; or
  - (iii) passes any resolution for winding up other than a resolution previously approved in writing by the Commission; or
  - (iv) becomes subject to an order for winding up by a court of competent jurisdiction;
- (e) if:
  - (i) there is a change in the control of the Grantee; and

- (ii) the Commission serves notice on the Grantee stating that the Commission proposes to revoke this authorisation in pursuance of this paragraph unless such further change in control of the Grantee as is specified in the notice takes place within the period of three months beginning with the date of service of the notice; and
- (iii) that further change does not take place within that period;
- (f) if the Grantee shall have failed to notify the Commission as soon as practicable thereafter that a change in the control of the Grantee shall have occurred;
- (g) if the Grantee has not made material progress on the construction of the interconnector after a period of two (2) years after the granting of this authorisation except where the Commission is satisfied that this has occurred as a result of events beyond the reasonable control of the Grantee in which case the Commission shall substitute such longer period as it, in its sole discretion, considers reasonable in all the circumstances; and
- (h) if the Grantee ceases to construct the interconnector for a period of six (6) months except where the Commission is satisfied that this has occurred as a result of events beyond the reasonable control of the Grantee in which case the Commission shall substitute such longer period as it, in its sole discretion, considers reasonable in all the circumstances.

8.2 There is a change in the control of the Grantee for the purposes of paragraphs 0 and 0 whenever a person has control of the Grantee who did not have control of the Grantee when this authorisation was granted.

**9. Provision of information to the Commission**

- 9.1 The Grantee shall furnish to the Commission information in such manner and at such times as the Commission may require, and shall procure and furnish to it such reports as the Commission may consider necessary in the light of the Conditions or as it may require for the purpose of performing the functions assigned or transferred to it by or under the Act.
- 9.2 Notwithstanding the provisions of paragraph 9.1, the Grantee shall report to the Commission on the progress of the construction of the interconnector at three monthly intervals, the first report to be due on the date falling three calendar months after this authorisation comes into force.
- 9.3 The power of the Commission to call for information under paragraphs 9.1 and 9.2 is without prejudice to the power of the Commission to call for information under or pursuant to the Act.
- 9.4 In this Section, "**information**" shall include any permissions, consents, licences, (including any conditions attached to such permissions, consents or licences), surveys, investigations, documents, records (whether stored, maintained or preserved by means of any mechanical or electronic device or otherwise), accounts, estimates, or reports (whether or not prepared specifically at the request of the Commission) of any description specified by the Commission.

## **10. Assignment**

- 10.1 The Grantee shall not, without the prior written consent of the Commission, assign or transfer this authorisation.
- 10.2 Any consent of the Commission to any assignment or transfer of this authorisation shall be subject to the Commission being satisfied that the assignee will have the technical and financial capability to comply with:
- (a) the Conditions;
  - (b) any modification of this authorisation considered necessary by the Commission as a requirement of the assignment or transfer; and
  - (c) any other matters determined by the Commission to be necessary.