16th October 2009

RE: RESPONSES TO CONSULTATION ON DISTRIBUTION CONTESTABILITY

Dear Brid

DSO welcomes the opportunity to comment on the responses received on the recent consultation on Distribution contestability. DSO considers it a very positive indication on the part of the industry that a large number of responses were received to this consultation.

DSO compiled this response based on a consideration of how contestability can best be implemented while achieving the Government targets for connection of renewables to the electricity system. We believe a number of criteria flow from this.

1. Contestability is a desirable option in connecting generation. It is not currently in place for distribution. The priority is to make the same option as exists in transmission, available to all generators as soon and as efficiently as possible. This approach is most likely to most quickly provide the developer with direct control over the timelines associated with the above.

2. In any trade-off of costs between generators and the TUoS/DUoS user, transparency is important. Contestability should not result in any hidden extra costs being imposed on the DUoS/TUoS customers. Any subsidy from such customers should be allowed when justified in reaching the wind energy targets required.

3. The Electricity Network is national infrastructure which is used for the overall advantage of the population, with the CER ensuring fair access and pricing through Regulation. The Electricity Infrastructure may also use scarce national resources such as line routes in restricted areas. It is important that no barrier is placed on the future development of the network and that it remains within the established regulatory regime for the Distribution System.

For ease of review, DSO has grouped the responses by topic using the same order as in the ESB Networks Ltd. position paper.

Key principles

A number of the respondents commented on the key principles. The main areas responded on were as follows:

Timing of a decision to opt for a contestable connection
Some developers felt it was unreasonable to expect a developer to opt for a contestable or non-contestable offer by a minimum of 3 months prior to offer issue. From further discussions with some of these parties, DSO understands that the main issue is the level of information that would be available at this early stage.

DSO accepts that this is a genuine concern for developers and therefore proposes that the following information would be made available to a developer prior to requesting them to make a decision:

- The elements of the connection which are contestable
- The revised connection cost\(^1\) should the developer opt for a contestable connection

In the event that the above detail is not available (for example for early offers issued), DSO will undertake to re-issue any offer, where a request for a change from non-contestable to contestable is received within 30 business days of the date of offer issue, free of charge.\(^2\)

**Distribution Asset Owner (DAO) to have the option of taking ownership of any assets built contestably**

There were mixed responses on this issue with some parties insisting that DAO should take over the assets in all cases, and other parties stating that DAO should not be allowed take over the assets. Still another party was neutral on the issue, but felt that a clear rule should apply.

Having considered the responses DAO considers that it is best to take over all Distribution System assets built contestably. Clearly these assets, in any event, should be built to DSO standards and be deemed to be acceptable for connection to the network.

DAO’s revised position is on the basis that

1. Existing proposal was that all shared assets will be taken over. The nature of Group Processing is such that many assets eligible for contestable builds will be shared

2. A dedicated asset in the first instance could well become a shared asset in the future. It is impossible at offer issue stage to determine when this might arise, and therefore any developer will be uncertain as to how long they will be required to operate and maintain the asset

3. In the event that assets were taken over in the future, DSO would have no knowledge of, and would have had no control over, the maintenance regime which had operated to date

4. DSO consider that it is in the interest of public safety to minimise the amount of network being built which is not under the control of the licensed Distribution System Operator. In the event that extensive network was instead under the control of third parties, many essential services would have to be provided that are unlikely to be economic for generators:

\(^1\) Please note that – as with costs for a non-contestable connection presented at connection method meetings – such costs will not be final and will be subject to change

\(^2\) Please note that in the normal course a request to change from a non-contestable connection to a contestable connection (or vice-versa), assuming such a change was allowable, would be subject to payment of a modification fee. In addition where works have been undertaken by ESBN, the developer would be liable for costs associated with same
Standards

A number of parties commented on the standards to which contestably built assets would be required to be built. These included specific comments on the standard for cable installation and the standard transformer sizes.

As mentioned below, the standards can be and are reviewed regularly. A key point is that uniform standards are essential in DSO’s view. As a general rule, it would be undesirable for general public interest if contestable assets were constructed in such a way that they did not meet Distribution System standards and as such could not be taken over. If this were the case, and such asset routes needed to be used for connection of other parties in the future, then a duplicate asset would need to be built which would greatly outweigh the savings associated with building to non-DSO standards.

DSO facilitates the construction of, and operates, the Distribution System for all end-users and considers that the system is most efficiently developed by constructing same to a consistent set of standards. In addition there are significant savings to be made by setting up Framework contracts for large quantities of standard materials.

The objectives of DSO standards are to ensure:

- The safety of the general public
- Reliability of the network
- A minimum 45 year life span for the assets

These standards conform to international best practice, and line up with international standards.

DSO regularly reviews the standards applicable to ensure they represent the best fit for the system as a whole and the best value for the End-User. As part of this review DSO considers any submissions made by interested parties – including generators

Cable installation

As stated above, some respondents had specific comments on cable installation standards. As civil works for cable installation have for a number of years been undertaken by developers, queries on these standards have also been raised in the past. From our previous discussions with developers on this issue, we understand that the key issues are

1. the use of leanmix cover over the ducts
2. restrictions on cable routes

Use of ‘leanmix’
The DSO standard for the civil works requires ‘leanmix’ cover over the ducts. This offers the following key advantages to both the system operator and the developer:

- By using leanmix cover over the ducts we are "guaranteeing" the thermal rating of the cables. Sand, pea gravel, crushed stone, bog peat etc do not provide a constant thermal rating as these materials can dry out, and/or develop air pockets (amongst other issues) thus leading to the development of hotspots and possible thermal failure. In many cases these issues would only arise over time, and would lead to failure of the equipment and associated outages. Over the course of time, therefore, leanmix cover has been proven to provide best value.

- The use of ‘leanmix’ prevents future surface subsidence. Subsidence is another cause of cable failure, which would lead to outages. Most local Authorities will insist on leanmix to prevent subsidence problems.

- The use of leanmix protects the cable against 3rd party damage (for example erection of a fence post)

Cable Route:

The DSO standard is for cables to be laid in public roads and not across open ground. This standard achieves the following important outcomes:

- In the interests of public safety, route recording is critical for HV and MV cabling. If ducts and cables are laid across "open" ground we cannot be sure that surface reference points (ditches, field boundaries etc) on which these records are based will not change in the future. There is far less likelihood of this happening where cables are laid in public roadways.

- Joint bay walls and communication chamber covers are too close (or at) the surface and – in the event that cables are laid in farmland - these installations would interfere with normal farming activities. This is also the case with regard to marker tape and tiles.

- Joint bays could not be constructed in bog as they would be liable to "move" unless securely fixed to bed rock, or anchored to solid ground.

- Land access difficulties. Access to land with large machinery to find and repair a cable fault may not be acceptable to the landowner despite any agreement reached. Enforcing this agreement may be very difficult, and whilst the cable is out of service the windfarm is at a considerable loss.

Transformer Sizes

The limited range of transformer sizes used on the system has also been queried in responses to this paper, and from time to time in the past.

As previously stated DSO facilitates the construction of, and operates, the Distribution System for all end-users and considers that the system is most efficiently developed by building same to a consistent set of standards. In addition there are significant savings to be made by setting up framework contracts for large quantities of standard materials.

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3 For example where a cable fails over the summer and access is not available until the crop is harvested
DSO, through its rigorous and competitive tendering process selects materials that meet the functional requirements, cater for planned network development and also allow for a given item to be used in a range of applications - hence reducing the number of items that have to be carried in stock.

As transformers are expensive material items, carrying high levels of stock and emergency spares has a significant impact on the economic development and operation of the system and a consequent cost to the end-user.

Clearly where the transformer being installed is on the developers side of the connection point, the size of transformer used (regardless of whether the build is contestable or non-contestable) is a matter for the developer.

**Inspection and Supervision Charges**

These costs – once developed – will be subject to approval by CER and subsequently published.

Please note the purpose of DSO supervision is

- to monitor the job being undertaken
- to advise where we see problems with the work practices which may lead to the asset build being unacceptable
- to be present for agreed milestones – for example for civil works

It is not intended that the level of monitoring is such that there would be a constant DSO presence on site. In addition DSO will not be responsible for supervising and taking responsibility for how the installation is carried out. Finally, and most importantly the level of monitoring is not and cannot be, such that acceptance of the asset is automatic.

In addition costs may be incurred in assessing and quality checking proposed new equipment to be used by developers. These costs may also be to the account of the developer.

**Right to refuse connection to the Distribution System**

One respondent put forward the view that DSO should not have the right to refuse connection to the system where a connection was not built to Distribution standards.

It is essential for the safe operation and efficient development and maintenance of the Distribution System that DSO have this right. This right is intrinsic to ESB Network Ltd.’s accountability as DSO license holder. However – as set out in the paper – the reasons for the refusal will be discussed with the developer, and the developer will have the opportunity to address the issues raised.

As with any issue, a developer will have the right to dispute any such decision to the CER.

**Non –Contestable works**

A number of respondents commented in particular on which elements of the connection should be eligible to be undertaken contestably. There was a particular focus on the areas of protection,
communications, metering and live work – which many respondents felt should be eligible to be undertaken contestably.

Please note that – with the exception of live work - the particular items being queried typically make up a very small proportion of the cost of connection

Protection

The DSO considers that it is imperative to the safe and secure operation of the Distribution System that protection works remain non-contestable.

The Distribution System Operator, has a duty to keep the networks safe for all users. The installation of protection on a connection is required to ensure protection of the plant installed, and also to ensure safe operation of the system it is installed to protect. In addition to the safety implications, protection that fails to operate correctly impacts on the security of supply of other customers. Potential issues include allowing faults to remain on the system, and importing said faults upstream thereby impacting on security of supply for other customers.

Protection is closely coordinated with the characteristics of the relays selected, matching those of others in use on the system, which means that introducing non-standard relays is not feasible. Furthermore protection is increasingly complicated and the manner in which relays operate is subtly different, yet the avoidance of such differences is critical to correct operation of the system for all users.

The introduction of new relays is a very major exercise and involves a lot of specialised work and training in the new relay and is likely to give rise to delays. Introducing further delays in the process is obviously not in the interest of developers, or in the interests of achieving government targets in relation to connection of renewables

In short this proposed change introduces risks in the operation of the system and is also likely to lead to delays.

Communications

As with protection the DSO considers that communications is vital to the safe and secure operation of the distribution system for all users, and therefore it is imperative that this aspect of the works remains as a non-contestable activity. In order for the DSO to manage disturbances on the network, up to and including a Black Start, a secure, communications network, backed up by resilient power supplies is essential as the control centres will rely on remote control of the generators via the RTU to restore system stability. Communications is a key enabler for the overall management of the distribution and transmission networks from the control centres to the station RTU. Without robust and secure communications and protection schemes the integrity of the distribution and transmission networks would be compromised.

Electric power utility communications is specialised. It comprises a diverse portfolio of communications equipment that provides clients with a robust service that enables them to provide a safe and secure electricity supply for all electricity customers for normal and adverse conditions. Resilience is a critical feature of such communications infrastructure and differentiates the service delivery from commercial services.

The communications network, up to and including the RTU must be fully managed and supported on a 24 x 7 x 365 basis. In addition maintenance contracts must be in place with all equipment suppliers and a stock holding of spares must be available. In the event that communications works were undertaken contestably, it is likely that the equipment used would not interface easily.
with existing communications infrastructure. In addition the overall management of a communications system which included a variety of equipment and possibly complex interface arrangements, is likely to give rise to higher costs in this area (much of which would be borne by the End-User). Unlike, for example, a circuit breaker – which is a stand alone unit – communication units have interdependencies with other units, often in remote sites, and therefore a consistent approach to such works, is imperative.

The DSO has a wide range of experience in dealing with IPP’s (in both green field sites, and as retrofits) and is committed to delivering the required infrastructure locally at the IPP site and remotely in associated stations and control centres.

The DSO has always endeavoured to meet customer targets even where delays are due to the customer not being ready for commissioning. Some problems which have been encountered included

- No secure AC supply on site
- No access to site or equipment rooms
- IPP facilities or personnel not available to progress the agreed work plan.

However based on experience gained to date and a review of all active and closed jobs, The DSO has developed a revised methodology and improved processes which, with the cooperation of the IPP and adherence to the SO standards, we expect to deliver successful commissioning of an RTU from the control centre to the IPP plant at the first attempt, in the majority of cases.

**Metering**

ESBN Ltd. bears the license obligation of providing meter data to the customer, the supplier, EirGrid and the SEM. We consider that the installation and commissioning of the metering is an essential part of maintaining clear accountability for data quality and the resolution of any subsequent issues. This concern is underlined by the increased complexity of metering for windfarms.

For these reasons, the installation of metering should remain non-contestable.

**Work in Live Stations and on Deep Re-inforcements**

In contrast to works undertaken in a green field situation, any work undertaken on the live electricity system has the potential to impact on the quality of supply, and lead to outages for existing customers connected to the Distribution System. As the DSO has a duty to connect the new customer to the system, as well as license and regulatory obligations to minimise outages to existing customers already connected to that station, any party working on the live electricity system must be directly and primarily accountable to the DSO.

Some of the respondents pointed out that DSO employs contractors already for work undertaken in live stations. This is correct – but within limits.

It is true that DSO has introduced contractors to some of this work. In order to assist in the discussion we have set out some background to the situations where contractors are used and those where they are not:
• **Works where contractors are in use**: Of all the work carried out by third parties for the DSO, work in live stations carries the most risk. As a result, it has the most complex procedures. The levels of control are more onerous. DSO adopts significantly higher levels of monitoring, control and intrusive assessment. In all cases we reserve the right to stop works, remove the contractor, insist that the contractor change resources on site etc. In short we carry substantial responsibility and control over these works proportionate to the heightened risk.

• **Where contractors are not in use**: There still remains a sizable portion of live station works where we do not engage contractors. These are situations where our assessment of the safety risks in having this work done in this way show a risk that is unacceptable.

In summary, it is the DSO’s responsibility to:

- Ensure continuity of supply to all customers
- Provide networks connections to all IPP’s
- Protect all parties and the general public from the dangers of electricity
- Maintain system security and stability.

These responsibilities are non-transferable. It is unreasonable to remove the DSO’s ability to manage these risks by introducing contestability in live stations. It is not a matter of who will execute the work but rather, it is a matter of who will be responsible for it and the implications of it, should it go wrong.

**Commissioning**

Some respondents suggested that the developer could provide resources to carry out the commissioning in order to reduce any potential for delay.

The commissioning process marks the point at which an asset is deemed to be fit for purpose, and marks the point at which DSO take over the risk of operating the asset. Once again, therefore, it is imperative that commissioning of assets be undertaken on a non-contestable basis and the party undertaking the commissioning works be answerable only to the asset owner.

DSO understands the concern underlying this suggestion i.e. that commissioning resources will not be available when required. We address this specific issue under the heading of ‘ESBN Resources’ below.

Please note that prior to handover for commissioning, the developer will be required to pre-commission the network and plant constructed as part of the contestable build. Pre-commissioning procedures and documentation will be included as part of the contestable build process. This is to ensure that the most effective and efficient use is made of all resources.

**FINANCIAL ARRANGEMENTS**

In general the responses on the proposal that a developer undertaking a contestable build would put a performance bond in place were favourable. In particular three respondents felt that the provision of a performance bond would remove one of the major barriers to contestability of shared assets.
Responses on this issue, however, also looked for more detail on the proposal and put forward some proposals of their own. In response to this, we provide some further detail in the next paragraphs.

Firstly it may be useful to recap on the purposes that the bond is intended to address. These are two-fold

1. Where other developers are connecting to an asset which is to be built contestably, it ensures that there is finance available to complete a job, should the party undertaking the contestable works be unable to complete the works

2. Where the DSO is issuing an offer for connection to assets which are to be built contestably, and the construction of such assets is incomplete at the time of the offer issue, it ensures that there is finance available to allow DSO take over the build, in the event that the contractual longstop date isn’t met, without incurring additional costs on the end-user.

**Terms and Conditions of Bond**

This section sets out more detail on the Performance bond as requested by respondents.

1. The bond requested shall be an On Demand bond, with the following credit rating:

   Banks licensed by the Central Bank of Ireland or authorised in other Member States of the European Economic Area (EEA) to carry on business in the State under EU Directive, 2006/48/EC with a long-term credit rating of at least A (Standard and Poors) or A2 (Moody’s) or equivalent. A-/A3 will not suffice. Where a company has a split rating, the lower rating will be considered for the purposes of this definition.

   The Customer shall be required to procure a new bond within 30 business days if the rating of the financial institution providing the bond falls below this rating.

2. The developer undertaking the contestable works will be responsible for the bond. Obviously it is open to the sub-group to decide whether they wish to finance the bond in a shared manner.

3. In relation to performance bonds being required for assets which are dedicated in the first instance, some developers have queried the need for same. As outlined above DSO wish to deal with the scenario whereby assets which are initially deemed to be dedicated, are ultimately to be shared by another party, being issued an offer as non-GPA or in a subsequent Gate. In such a case, once an offer is issued, DSO will have an obligation to provide the connection to the new customer. In the event that the party undertaking the contestable build is unable to complete the works, DSO will be required to step in and complete the works based on finance only provided by the new customer. Consequently – in this scenario – there is a risk to the End User and of delay to generators. In order to minimise these risks, DSO propose that a performance bond is required for all contestable builds.

**Proposed Process**

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4 In the event that DSO has to take over a contestable build, a review of works completed to date will be undertaken. On completion of this review, it may be that some of these works will have to be redone.
Having reviewed the responses on this issue, DSO proposes the following process:

1. The bond should be put in place at offer acceptance. This is contrary to requests by various developers that the bond be put in place only post Planning Permission and consents are cleared. DSO’s experience is that Planning Permission and Consents can be the most contentious and difficult part of the work, and consequently can be the reason that a developer will pull out of a contestable build. DSO considers, therefore, that requesting a bond at offer acceptance will indicate a clear commitment from the developer to undertake all works associated with the build and will ensure finance is in place to complete the build if required.

2. The bond value should be set as 100% of the value of the shared connection assets (based on standard pricing). This is contrary to the request from a number of developers that the bond be based on a lesser %, on the basis of ongoing monitoring by DSO. With a 100% bond in place, should the lead developer for some reason fail to be able to complete the works, and DSO is asked by the rest of the group to complete the build, there will be finance available to do so.

   Please note, however that prior to DSO being in a position to step in, all parties will have to be re-issued with, and have accepted, a new non-contestable connection offer covering the remaining works.

3. Should DSO need to draw the bond to complete the build, the amount to be drawn should equal the amount required to do this. A refund may then be paid to the party that placed the bond.

4. As set out in our published position paper, DSO holds the view that any arrangements for payment for contestable assets should be a matter for the parties within the subgroup who agreed to contest the asset.

5. DSO propose to maintain the position that draw-down of the Performance Bond may be triggered by a failure of the developer undertaking the contestable build to meet the contractual long-stop date. The purpose of this provision is to avoid a situation where a developer might delay the contestable works to line up with timescales associated with his own project, and without any consideration of the impact on other projects sharing this asset. This is not required in a non-contestable build as DSO is not a market participant and is subject to license conditions to act independently.

   Should the developer show that the delays were due to circumstances beyond his control – such as wayleave issues for example - DSO will consider whether it is appropriate to draw down on the bond in this instance.

**In the event that the lead developer cannot obtain an On-demand Performance Bond**

The DSO is aware that in the present financial climate some developers are having difficulties obtaining bonds. In the event that a bond cannot be obtained, two options are apparent:

The first option is that DSO would in this instance decline to allow the shared assets be built contestably.

The second option is that the contestable build would be allowed proceed. In the event that the lead developer was unable to complete the works and DSO was asked to step in, works would only be completed by DSO based on the following conditions:
1. DSO would assess the work carried out to date and cost the works required for completion based on standard pricing.

2. The DSO would issue new non-contestable connection offers to all parties sharing the assets. The timelines included as part of these revised offers will be based on the assessment of the works required for completion, rather than on any timeline established and agreed as part of the contestable arrangements.

3. Once offers are accepted and any required payments made, the work would then be scheduled.

4. Connection Offers in this instance would include a connection charge for the outstanding works – as assessed by DSO – and based on standard prices. Staged payments would be on the same basis as other non-contestable builds i.e. 10% to be paid pre-completion of detailed design and planning permission. Total of 65% to be paid pre-construction.

The DSO propose to adopt Option 2 as set out above as to do otherwise would potentially limit the works which can be done contestably, and this is not desirable from the point of view of the parties involved, including the CER and the DSO. We believe Option 2 would also best serve the intention of the legislation which – as set out previously – is intended to encourage and facilitate the connection of renewable energy to the electricity system.

ALLOWING THE SPLITTING OF WORKS AND A HYBRID SOLUTION

A number of respondents suggested that the provision of works should be split with – for example – planning permission and achieving consents being undertaken non-contestably and construction being undertaken contestably. DSO does not favour this approach as while the undertaking of PP and consents work should not be significant in the cost of a line construction in full, there could be large variances from project to project, and therefore it would be difficult to prepare a standard price for this element of the work.

The argument made by one of the respondents was based on some of the larger projects being required to obtain PP via the Strategic Infrastructure Board (SIB), and the associated difficulties. However this route would not be usual for Distribution works. Obviously if this was an issue in a particular case, DSO would support any application made by the developers.

In addition DSO’s experience is that the process works better where the one party undertakes both clearing of consents and construction.

ESBN RESOURCES AND COMMITMENT TO DELIVERY OF CONTESTABILITY

DSO is committed to delivering contestability where requested by developers. In relation to the specific issues raised, DSO can confirm that it will make generic specifications available to parties on request.

On a practical level, as with the introduction of any new process, there are likely to be start-up issues which will be resolved over time and as experience is gained by all parties.

With regard to turnaround time for reviewing of designs, for example, one respondent suggested a turnaround time of 10 business days. While this timeframe is unrealistic, the DSO accepts that...
once the processes are bedded in, and experience has been gained, a turnaround time would be agreed for these works.

In the recent consultation on connection policy, we set out our view that two-way information sharing between the system operator and developers is the best route to meeting connection deadlines. This is underlined by feedback from windfarm developers. As part of the consultation, DSO committed to providing program information and updates on connection works at regular project meetings. We believe these meetings present a major opportunity to make the connection process more effective through the developer reciprocating with his/her corresponding programme information. This will allow DSO to optimally schedule resources – including long-term resources such as for commissioning – to best meet the needs of contestable and non-contestable connections. In contrast, where this information is not available, or is only provided at short notice, avoiding scheduling conflicts becomes extremely problematic.

It has been the DSO’s Ltd experience in the past that where pre-commissioning works – which are undertaken by the developer – are incomplete, or not correctly complete, this will lead to delays both for the project in question, and for other projects awaiting commissioning. In order to minimise delays associated with these issues the DSO intends to provide information to each developer advising the works which are required to be complete before a project can be successfully commissioned and energised. Further to this, where commissioning resources arrive on site – as per timelines advised by and agreed with a developer – and discover a project is not yet ready for commissioning, these resources will be re-deployed on other jobs with the aim of reducing the overall delays. Commissioning of the site in question will then have to be rescheduled, and in some cases may be significantly delayed. Please note the same issues and conditions will arise where commissioning is postponed at short notice.

The issue of modification requests raised in this consultation has also been raised at Gate 3 Liaison Group meetings. DSO has considered this and intends to publish information on the status of modification requests on their web site. Once again, we commend a co-operative approach between all parties in order to facilitate the speedy processing of such requests.
DEVELOPER TO PROVIDE SPARES & TRAINING WHERE EQUIPMENT PROPOSED TO BE USED IS NOT IN USE BY DSO

One developer stated that if equipment passes assessment by the materials standards committee, then it should be good enough for use throughout the system, and therefore should be used throughout system. On this basis developers should not be required to provide spares and training.

This is not quite correct as the materials standards committee would be concerned with the technical suitability, and with undertaking some quality control testing, rather than other factors such as the cost of installation. For example, porcelain insulators might be technically acceptable but more costly to install and maintain than composite ones. In cases where DSO consider suitability of same for use on the system as a whole these issues would obviously be a factor. Similarly DSO might have stocks and tooling to deal with one type of product and would only incur extra expenditure in changing to another. Type Tests for new products would be another factor in introducing extra varieties of equipment for general system use.

In addition DSO operates framework contracts whereby we tender for long-term contracts and consequently achieve good terms and conditions. DSO does not deviate from these contracts mid-term as to do so would undermine the cost-effectiveness of these contracts, and possibly lead to litigation.

Obviously should any developer propose use of equipment which ultimately is in use throughout the system, and is interchangeable with the original equipment purchased by the developer (following, possibly, the next revision of the framework contract) the developer would no longer be required to hold spares.

Please note that this provision was inserted in the process in order to allow DSO be as flexible as possible when considering proposals from developers. The alternative would be to only allow equipment for which we had contracts and/or spares already or where our staff was fully trained in its use.

For clarity, in the event that equipment is not compatible with spares held for system use, the developer will be required to store the spares and make them available where required. It would not be practical for DSO to hold such spares for multiple different connections – specifically taking account of the short shelf life of some equipment where not energised.

STEP IN RIGHTS

This issue was not dealt with specifically in either the position paper or the responses. However DSO considers it appropriate to provide some clarity on this issue now, in particular as it relates to the contestable build of shared assets.

Original Request for a contestable build

As noted above present policy for Transmission shared assets being built contestably, is for all parties sharing these assets to advise in writing that they wish assets to be built contestably, and to nominate the lead developer. In addition the developers will be asked to indicate whether – in the absence of a performance bond being put in place by the lead developer – they still wish to opt for the contestable build. The default is that non-contestable offers will be issued.

Change in lead developer
In the event that – for some reason – the group agree that the lead developer should change, then all parties sharing the assets should advise this change to the DSO. In the event that the original developer has posted a bond, then this bond will only be released when a new bond has been put in place. In the case of a lead developer changing on a contestable build, DSO may have to re-issue offers to parties sharing the contestable asset.

DSO is requested to step in

Where there is a unanimous request from all members sharing the assets for DSO to take over the construction works, DSO is prepared to do so. However, as set out in the section on financial arrangements this will be based on:

1. All parties accepting a revised non-contestable offer for construction of the remaining works
2. Where a Performance Bond is not in place, all parties paying a connection charge as invoiced by DSO, for the remainder of the connection works as assessed by DSO

CER’S PROPOSAL RE THE DUOS/TUOS CUSTOMER COVERING THE COST OF A DEVELOPER ‘CHOOSING NOT TO PROCEED

DSO notes that this proposal by CER has generally met with a positive response from the industry, and also considers that CER will respond on this particular issue. However one respondent did propose that the amount to be covered by the TUoS/DUoS should be limited to the contestable element of the contract, as the parties sharing the cost of the contestable build may decide to allocate the costs in an alternative manner.

DSO considers, however, that the cost to be covered by the TUoS/DUoS would have no relationship to the cost share agreed between the parties themselves, and as stated above DSO consider that any arrangements for payment for contestable assets should be a matter for the parties within the subgroup who agreed to contest the asset.

DSO proposes that the cost to be covered by the End-user, in the event that a party drops out of a contestable build, would be equal to the parties per MW share of the standard price for the assets being built contestably.

DSO also notes that one response considers that the TUoS/DUoS user should underwrite all projects where parties didn’t agree to a contestable build and/or the timescale of projects sharing assets was staggered. The proposal is that projects would repay the TUoS/DUoS user (?) for the shared assets as their project progresses. DSO considers that this approach presents a greater risk to the End User. DSO considers that CER’s proposal was primarily focussed on lining up the treatment of contestable and non-contestable works – where a party did not ultimately proceed. The non-contestable approach does not presently allow for the respondents proposal as set out.

AUTO-PRODUCTION

The submission from one respondent focussed primarily on the treatment of auto-producers and how these are defined in the legislation. As this is primarily a matter for legislation and the CER, DSO does not intend to comment at this time.
REQUIREMENTS FOR AN APPLICATION TO BE PROCESSED

One respondent commented that developers should be required to produce evidence of EIA prior to being processed. This comment addresses criteria which might apply to decide which projects would be included in a given Gate, rather than contestability per se, and therefore DSO does not intend to comment.

UNANIMOUS AGREEMENT WHERE SHARED ASSETS ARE TO BE BUILT CONTESTABLY

DSO notes that there was a mixed response to this issue. However DSO consider that this is primarily a matter for the CER (and the industry as a whole), and therefore does not intend to comment other than to say that - until directed otherwise – DSO intends to request unanimous agreement prior to allow shared assets be built contestably.

ESBN Ltd. trusts that the above comments will be helpful in these discussions. We welcome the suggestions made under this consultation and looks forward to working with the windfarm developers and the CER in implementing the outcome of the final determination.

Yours Sincerely,

Fiona O’Donnell
DSO Regulation
Asset Management
ESB Networks Ltd.