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**09/127 Submission in respect of Contestability in Distribution and
Transmission connected Assets.**

Dear Miss O'Donovan,

In response to the Commission for Energy Regulation having issued a consultation document, ABO Wind Ireland Ltd wish to make a submission. We also wish to make mention that as we are one of the sub-cluster companies in the Glenough cluster we have a very pressing interest in the outcome of this consultation process.

In our submission we wish to highlight the following:

1. Firstly, we propose the following bonding structure from the Companies towards ESB in order to protect ESB Networks against a failure by the developer(s) to complete the works:
Each Company will individually provide ESB with a bond on its pro rata MW-share in the Cluster based on the standard cost defined in the MUCA (with no joint liability for the general contractor). ESB will be obliged to fully draw the respective bond(s) if one or more of the Companies fail to fulfill their payment obligations towards the general contractor and hold these amounts in escrow (subject to an appropriate proof of the respective payment obligations – details to be defined). ESB will distribute towards the general contractor all amounts that are due from the failed party until final completion.

If the general contractor fails to continue works, another Company may replace the general contractor or ESB may draw on all bonds to complete the works directly.

This structure ensures the following interests:

- CER's and ESB's interest in the completion of the substation on the full expense of the Cluster members
 - The general contractors limited liability to its own payment obligations hence his potential to continue and complete works without any delays despite any payment defaults from other Companies of the Cluster
2. One of the significant issues with contestability is the issue of the bond. The implication of the consultation paper is that the bond will be for the full amount of the shared works. This means that this part has to be effectively double financed. We consider this to be overkill and very costly for the developer. The ESB can be quite adequately protected by having a bond for, say 25% of the shared works. This is the contracting industry standard. The logic being that ongoing works are continually checked by independent engineers and by ESB Networks/ESBI themselves. So if something is not up to specifications it will be discovered during the project, and can be fixed then, and not at the end.

Secondly the bonding process needs to allow for, not only a failure towards ESB but a failure between the cluster members themselves e.g. where a cluster member fails to meet payment obligations to contractors. A simple way of dealing with this is that this is included in the terms of the ESB bond and the ESB would have the right to call on the bond in these circumstances also.

3. Finally, we wish to impress on the Commission for Energy Regulation the urgency with which some of the windfarms need to get on with contestability, and request that the Commission considers this urgency during their deliberations and release their findings sooner rather than later. Specifically ABO-Wind Ireland Ltd would hope to have clarity in the matter of contestability of Distribution and Transmission Assets by no later than the end of October 2009.

We would like to thank the Commission and particular Miss O'Donovan for having given us this opportunity to comment on this matter and look forward to a speedy determination.

Yours faithfully

ABO Wind IRELAND


Norman Fischer.