Response to

Contestability on the Distribution System

and

Transmission Level Connections to the Electricity System

CER/09/127

21 September 2009

Scottish and Southern Energy

Airtricity Ltd, Airtricity House, Ravenscourt Office Park, Sandyford, Dublin 18

Airtricity submits the following comments in response to the consultation document on Contestability on the Distribution System.

Key Principles

Ownership of Distribution Assets

Airtricity in very strong terms opposes this principle.

S.I. No. 226 of 2009 – EUROPEAN COMMUNITIES (INTERNAL MARKET IN ELECTRICITY) REGULATIONS 2009, which the consultation paper notes as *conferring on wind farm developers the right to construct all or part of their connection to the Distribution System* also provides that:

> 'any such connection constructed or arranged to be constructed by the applicant shall be the property of the person with whom the agreement is made'.

This legislative provision does not grant ownership of connection assets to the **distribution system operator**, a defined term introduced by **SI No. 445 of 2000** and used in the provision quoted above. If it had been the intent of the law makers to do so, arguably it would have been a straightforward assignment.

Airtricity categorically disagrees that ESB Networks should have the option of taking ownership of any distribution assets built contestably.

Distribution Assets Standards

Airtricity has no objection to this principle in so far as standards are published and open to review.

Having established that position however, Airtricity is of the view that **current Distribution Standards should be the subject of a subsequent consultation process to seek views from industry on the reasonableness of those Standards**. We believe that in a number of instances the current Distribution Standards call for requirements that are over-sufficient for the issues they cater for. For example we believe that the Standards for underground cables may be too severe for rural underground cables.

Historically the distribution network has involved fault redundancy in its design philosophy given that its primary purpose has been for reliable delivery of electricity to customers. Given its changing roles such as in providing off-take for embedded generation, where reliability is not expected to be at the same standards for serving load, it is only reasonable to review the current Standards. In the case of the example cited in the previous paragraph, we believe it to be feasible and safe for underground cables to be constructed to lower specifications if the outage requirements are not as strict as those required for reliable delivery of electricity to customers.

Recovery of Inspection and Supervision Costs

Airtricity believes that **contestability should involve balanced allocation of risks between the DSO and the Applicant, with each party assuming responsibility for matters that are within their control**.

We agree that ESB Networks can recover these costs so long as a reasonable charging basis is agreed and published.

Furthermore we recommend that ESB Networks should commit to providing inspection and supervisory services and personnel according to agreed schedules. Where ESB Networks fails to adhere to these agreed schedules our view is that the works should be deemed accepted.

The prospect of inspection and supervision provides an incentive on the constructing developer to build to standards. A corollary incentive on ESB Networks is essential to ensure that the fundamental purpose of contestability – timely and cost-effective connections works – is not frustrated.

Right to Refusal of Connection to Distribution System

Airtiricity disagrees that ESB Networks should reserve an outright right to refuse connection to the Distribution System, where it is not satisfied with contestably constructed assets.

In the event that ESB Networks indicates dissatisfaction with said works, there should be an opportunity to address that by processing the matter through a dispute resolution process. Such a process could be to refer the matter to the Commission who may engage a consultant engineer with sufficient knowledge of such matters or to an arbitration process involving an independent 3rd party also with sufficient technical knowledge.

Assets Provided by One of Developer Group on Written Agreement

This principle, which is further elaborated in Section 8, will be very difficult in practice. This observation is duly noted by ESB Networks as being contentious amongst developers. Given that ESB Networks currently builds these assets without this requirement for general agreement, and given that contestability essentially seeks to, in simple terms, substitute ESB Networks role in the narrow sense of delivering distribution assets, our preference is for an agreement **not** to be required from all developers sharing assets.

However having said that, we are mindful that a number of significant issues arise if this approach is adopted. Some of these issues have already been noted in the consultation.

ESB Networks has suggested that it will enter into consultations with the Commission on how such an approach would be managed. Our recommendation, were a majority of the industry to favour requiring no general agreement, would be for a wider consultative process on this issue, with an interactive workshop to thrash out the issues involved.

Contestable Activities

Activities Subject to ESB Networks Approval

Airtricity wonders why activities eligible for contestability should be subject to approval by ESB Networks. Surely **this remit rightfully belongs to the Commission, which equally regulates the provision of the distribution network by ESB Networks**.

Omission of Metering Activity

Airtricity notes the exclusion of metering from contestable activities.

We are of the opinion that metering is a suitable candidate for contestability and significant cost savings can be achieved at the required quality standards.

We would like to understand the rationale for so excluding metering from contestable activities.

Non Contestable Activities

Works and Assets Required for System Protection and Communication

Airtricity contends that classifying this activity as non contestable undermines the essence of contestability.

These works are integral parts of any design. Thus assigning them as non contestable sufficiently erodes the value of building works contestably.

Our position is that ESB Networks should publish a Protection and Communications Standard that can be followed in constructing these works.

Works and Assets Not Safely and Efficiently Separable from Existing Live System

At present these works are executed by 3rd parties contracted to ESB Networks. Airtricity thus wonders what leads to the classification as non contestable. Surely developers can achieve the same standards as the 3rd parties contracted by ESB Networks under the appropriate safety systems required.

Determination of Assets to be Transferred to ESB Networks

Airtricity disagrees with this provision. Our view is that it should be subject to competition.

Commissioning

It is a well recognised fact that commissioning resources are severely limited. This is becoming more of an issue with significant numbers of Gate 2 projects nearing completion. While Airtricity appreciates that there may be difficulties preventing classification of this activity as contestable, we

are of the view that commissioning procedures need reviewing in order to minimise the delays being experienced with generator energisations. Areas that may need consideration include introduction of off-peak working such as over weekends and adding to the number of commissioning personnel.

Contestable and Non Contestable Hybrid

Airtricity would like to propose the consideration of a contestable/non contestable hybrid. Under this proposal ESB Networks will work to obtain planning consent while the developer takes over the construction of the project. With larger substations, in some cases 220kV substations, being required to connect wind farms it may prove difficult for small developers obtain planning permissions from the SIB without being levelled with charges of 'project splitting'.

Financial Arrangements

Developer Fails to Complete Works Prior to Contractual Longstop Date

Our consternation with this requirement is that it is unjustifiably asymmetric. We object to a requirement where ESB Networks levies penalties on developers if they fail to deliver on a contract, where conversely if the roles were reversed ESB Networks is totally absolved from any liabilities.

Airtricity does not object to this provision per se but would strongly request that its application be consistently applied to all parties that engage in distribution connection works, including ESB Networks.

Processes for Connecting a Wind Farm to the Distribution System

Developer to Supply Spares and Training where Equipment Provided Not Already in Use by ESB Networks

Airtricity does not see why this requirement should be so.

If the materials standards committee, which ESB Networks has proposed and intends to be a member of, approves the use of certain equipment by a developer, surely inherent in such an approval is the establishment of a precedent with respect to that equipment, finding it safe and suitable to be connected to the Distribution System, with an unstated understand that ESB Networks as DSO should subsequently update its list of approved equipment.

If this is understood to be the case why then should a developer be required to supply spares and training? In the first instance by choosing such equipment the developer may be introducing an innovation to the system. If an innovation then that equipment will in course become widespread in use. In such a case then surely the initial developer will be subsidising all developers who subsequently choose to implement such equipment.

Given the above scenario our view is that this provision may hamper introduction of equipment with innovative features to the distribution system and may also lead unfairly discriminatory situations.

To discuss this paper contact:

Emeka Chukwureh
emeka.chukwureh@airtricity.com
+353 1 655 6589