



**IWEA response to the Proposed Decision on Contestability for Distribution and Transmission Level
Connections to the Electricity System**

29th January, 2010

IWEA welcome opportunity to comment on the proposed decision on the Distribution System Operator proposals for facilitating contestable connections to the distribution electricity network. This is a very welcome initiative which will have great significance for the industry going forward.

Response to the CER Decision Paper

Barriers to Contestability for Shared Assets

As indicated in previous submissions, contestability of transmission assets has been an important connection policy since its introduction in 2000. Multiple windfarms have now connected with contestable connections. The majority of the contestable connections to-date has been for dedicated rather than shared assets.

However since the introduction of group processing, and in particular subgroups of Gate 2 windfarms, it has been difficult for developers to agree contestability for shared assets. One of the main difficulties is the requirement for cross-bonding between the developers. The IWEA welcomes that the CER and ESB Networks are making efforts at addressing this issue with the proposals in the consultation document and welcome the clarity provided.

It is IWEA's view, however, that the CER's proposal that the TUoS/DUoS customer underwrites generators choosing not to proceed, will not remove entirely the requirement for developers to provide a bond to the developer undertaking the contestable works as it will force group members to cross-bond

to cover the intervening period (i.e. the longstop date in the connection agreement). While the Commission is proposing that where a generator drops out of a contestable connection, the DSO/TSO will pay the remaining generators the portion of the shared connection costs that would have been borne by the withdrawing party, the proposal indicated that it is not intended that the payment be made until the completion of the connection of all remaining subgroup members and after the withdrawing party has terminated its connection agreement or where the relevant SO has terminated the connection agreement under the various termination clauses set out in the connection agreement. We recognise that these conditions are primarily designed to ensure that the DUoS/TUoS customer does not pay for assets that may never be installed, however as the payment will be paid at this late stage it is envisaged it will not be sufficient to remove the requirement for cross-bonding between developers in a sub group.

Unanimity

IWEA agrees with the suggested proposal that contestable connections would only be offered to a subgroup where all parties agree to pursue the contestable route.

Ownership of the Shallow connection

IWEA note the circumstances and criteria outlined where assets built on a contestable basis might be owned and operated by the generator instead of transferring as usual to the system operator. One of the criteria proposed to direct a transfer is to ask whether or not the asset is required to connect other customers. IWEA believe this should be expanded to clarify if there is a reasonable possibility that the asset will be required in the future, that the system operator has the right to take over the asset. We would request clarification where a generator owns a connection asset, that this ownership does not give him any additional rights with regard to determining who is given access to that line in future. The system operators should retain the right to take over any asset at any time if it is required to connect future customers or for system reasons.

We also note the criteria that an owner of connection assets must meet. IWEA request that an additional condition should be included whereby the generator should demonstrate that he is able to secure appropriate public liability insurance.

Hybrid

Another main barrier to contestability that is emerging with shared assets is the timing at which developers can choose to nominate a contestable connection. Not all parties are ready to commit to contestability in advance of a connection offer as reaching unanimous agreement can take a number of months. Developers should be able to request a contestable connection at a number of stages during the development of the connection and not only in advance of offer acceptance. For example, the system operator manages the connection asset through the consenting process and the developer or subgroup then contest the construction of the asset. The options outlined above should be available for the contestability of both transmission and distribution assets.

Giving only one opportunity to a Gate 3 applicant, for example in 2010 perhaps, to make a decision on pursuing a contestable build when they will in all likelihood receive an offer with firm access in perhaps 2017, 2018 or beyond seems an unnecessary barrier for the wind industry. It is also important to note that in the current environment of open consultations in important areas such as *Principles of Dispatch and the Design of the Market Schedule in the Trading & Settlement Code SEM*, making any decision for a Gate 3 applicant is extremely difficult. This factor also needs to be considered.

While we accept the System Operator's assertion that facilitating a hybrid approach would be difficult from a resourcing perspective, we would like to engage further on this with the System Operators as to how best to resolve. Providing flexibility in the timing of the contestability decision should result in an increase in the uptake of contesting the construction phase of connection assets. This will result in an overall decrease in the resources required by the system operators for this phase of the projects. We would also like clarity on what complex legal issues that may arise for the System Operators and to engage further as to possible solutions.

At a minimum we would like consideration of facilitating the option to make a decision to change to a contestable connection in the following situations:

- When minimal or no work has being carried by the System Operators post connection offer acceptance.
- Where a member of a sub group has not accepted its offer or has its connection offer terminated then the proposed connection can be subject to re-design.
- Where an offer modification warrants a change in connection method design.

IWEA would again respectfully request consideration of the need to allow the option for developers to request a contestable connection at a number of stages during the development of the connection.

Transmission construction

IWEA agree that with the introduction of contestability to all generators, that regardless of whether a generator is connected at distribution or transmission voltage, they have the right to construct both their transmission or distribution shallow connection assets without restriction, and would request the CER to resolve any contractual issues in a way that keeps a simple single contractual agreement and point of contact between the customer and the relevant system operator.

Open-Book

IWEA have previously stated that our main concern with the standard charges was transparency and we would like to see contestability work more effectively. This would mean that connecting parties within a subgroup could more fully exercise their legal right to build the connection assets themselves.

IWEA still believe that if contestability can work more efficiently it would increase the viability of going contestable. IWEA remain committed to ensuring that contestability be made work, as opposed to introducing an open-book approach to connections, however a number of barriers as highlighted in this response still require focus from the CER to address.

If the barriers to contestability are addressed, IWEA agree it not necessary at this point to pursue open-book pricing. However should these barriers not be addressed IWEA would request that open book pricing be again considered.

IWEA Response to DSO Proposals

Key Principles

As indicated above, requiring a developer to decide whether to request a contestable or a non-contestable connection offer a minimum of 3 months prior to offer issue is a serious barrier to contestability, in particular with shared assets. At this point the applicant will not have access to full timeline or cost details, which makes a decision on pursuing contestability difficult. Developers should be able to request a contestable connection at a number of stages during the development of the connection. For example, the system operator manages the connection asset through the consenting process and the developer or subgroup then contest the construction of the asset. The options outlined above should be available for the contestability of both transmission and distribution assets.

One of the key principles identified is that “All Distribution Assets will be built to ESB Networks Ltd. Distribution Standards as provided to the party who is undertaking the contestable build.” In this instance IWEA believe that some standards may need to be revised and would ask in particular that certain standards should not be over specified e.g. cable in rural areas. In reviewing the specifications we would also ask for flexibility also with respect to transformers, especially if a case can be made with respect to a better engineering solution. IWEA would like to see a continued proactive approach in this regard and are available to engage further with the DSO on this.

Contestable Activities

IWEA do not believe that there is any case for keeping communications, protection and metering non-contestable. The chief benefit of making these assets contestable is not cost but that it ensures that the developer could more efficiently project manage the procurement, supply & installation of this equipment under one contractor. This would allow the developer greater control over their project program. The developers would accept that the DSO would provide a list of all the DSO approved protection, communications & metering equipment from which the contractor would procure from. This should alleviate the DSO’s reservations in relation to the introduction of new relays, communications & metering equipment to the distribution network. The commissioning of this equipment will still be carried out by the DSO maintaining clear accountability for operation, data quality and the resolution of any subsequent issues.

IWEA agree that protection & communications is vital to the safe and secure operation of the distribution system for all users. It is acknowledged that ESN Ltd. bears the license obligation of providing meter data to the customer, the supplier, EirGrid and the SEM. However in short making the procurement, supply & installation of the protection, communications & metering equipment contestable would not introduce any risk to the DSO in the operation of the system and the integrity of data quality.

Financial Arrangements

We welcome the clarity provided with respect to financial arrangements in this paper. While IWEA understands the case where a bond is required, we feel the value of this bond is too large, especially as it is given on the basis of standard prices rather than the actual contestable build cost. Requiring that 100% of this value has to be posted at offer acceptance in the process is a barrier. We would therefore propose that the bond is only placed just before ground is broken on site, noting that there cannot be any exposure to the system operator if there is no work done.

IWEA would also propose that the bond value should be set as 30% of the value of the shared connection assets (based on standard pricing). IWEA find it hard to envisage a scenario where any more than 30% could be warranted. ESB Networks could monitor work on site to ensure that there is never more than 30% work completed between visits, so that it is not possible that any work could require a roll back that would cost more than 30% of the value of the project. Further clarity and discussion on the performance bond process would be welcomed.

Resources

Resources within the DSO need to be in place in order to meet the aims of these proposals. In particular if industry is to get the benefit of control over timelines, there cannot be a weak link with respect to commissioners. Currently the timeline regarding booking of commissioners is very unclear. If there are issues over the date that requires changes the result is the developer going to the back of the queue. IWEA would like to have the option to procure and secure a qualified commissioner who is pre-approved by the system operators and who is also reportable and answerable to the system operators.

Adequate resources will also be required to modify connection offers, prepare functional specifications, review designs and on-site inspection. Given the critical nature of the commissioning activity, we would like in particular to see the option of commissioning related activities being carried out at weekends or holiday periods.