

EirGrid EAST-WEST INTERCONNECTOR  
PUBLIC INQUIRY INTO APPLICATION FOR SPECIAL ORDER

TRANSCRIPT OF ORAL HEARING HEARD ON  
WEDNESDAY, 14TH APRIL 2010 AT TRIM CASTLE HOTEL  
TRIM, COUNTY MEATH

I hereby certify the  
following to be a true  
and accurate transcript  
of my shorthand notes of  
the evidence in the  
above-named action.

---

## APPEARANCES

FOR THE COMMISSION FOR ENERGY  
REGULATION (CER):

MR. MICHAEL WARD  
(CHAIRMAN)

FOR EirGrid:  
Instructed by:

MR. ROUGHAN BANIM BL  
MS. PAULA BOURKE  
CORRIGAN & CORRIGAN  
3 ANDREW STREET  
DUBLIN 2

Objectors:

MR. FRED SMYTH

REPRESENTING HIMSELF

MS. JUDY SMYTH  
Represented by:

MR. BRENDAN STEEN  
STEEN O'REILLY

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1 THE HEARING COMMENCED, AS FOLLOWS, ON WEDNESDAY 14TH  
2 APRIL 2010

3  
4 THE CHAIRMAN: Good morning ladies and  
5 gentlemen. My name is 22:00  
6 Michael Ward. I have been appointed by the Commission  
7 for Energy Regulation to chair this inquiry, which  
8 relates to rights-of-way and wayleaves, which are being  
9 sought by EirGrid in connection with the provision of  
10 the proposed East-West Interconnector. 22:01

11  
12 I will continue on this morning until one o'clock and  
13 resume again at two until five, if that is necessary.  
14 Could I ask that mobiles are turned off, please, for  
15 the duration of the hearing. Just to advise that there 22:01  
16 are stenographers available who, as you can see, will  
17 transcribe the proceedings and who will have a printout  
18 of those eventually.

19  
20 I will just explain a little bit about the hearing for 22:01  
21 those who are not familiar with the hearing. Two  
22 parties made responses by the extended date of closure,  
23 which was the 29th January of this year. Their  
24 submissions will be heard and they may also question  
25 witnesses from EirGrid. Now lay-objectors may also 22:02  
26 make submissions which are relevant to the issues at  
27 hand, but they won't be permitted to ask questions of  
28 EirGrid. The order of business is straightforward:  
29 the CER, EirGrid will outline their case and present

1 their expert witnesses, if there are those about, and  
2 they will be open to questions from the opposing  
3 parties of course. Then it will be open to the  
4 landowners to question, to make their submissions and  
5 they may also be questioned by the EirGrid personnel. 22:02

6  
7 I will be hoping and expecting that EirGrid will have  
8 statements of the evidence they are going to present;  
9 it is not absolutely essential but it will be  
10 convenient. 22:02

11  
12 The inquiry will be informal but orderly, to facilitate  
13 the taking of evidence and the making of submissions.

14  
15 So the order will be: EirGrid to start; questions from 22:03  
16 EirGrid, if they arise; then the landowners; questions  
17 to the landowners, if they arise, and submissions from  
18 other parties with closing statements then.

19  
20 So if I may start, first of all, by taking the names of 22:03  
21 the parties and I will start with EirGrid, if I may.  
22 Could I have please from EirGrid their entire party?

23 **MR. BANIM:** Thank you, Mr. Chairman.

24 My name is Roughan Banim  
25 B.L., instructed by Paula Bourke of Messrs. Corrigan & 22:03  
26 Corrigan solicitors, Andrew Street, Dublin.

27 **THE CHAIRMAN:** With your party, Mr. Banim,  
28 is.

29 **MR. BANIM:** Well we have -- our

1 principal witness is Sean Meagher, who is the Project  
2 Manager of the East-West Interconnector. We have  
3 John Fitzgerald, Project Director also with EirGrid.  
4 We have Robert Donaghy, who is an engineer with ESBI  
5 (ESB International) and he is a senior consultant  
6 engineer in high-voltage underground cables. 22:04

7 **THE CHAIRMAN:** Senior consultant,  
8 underground cables. Yes.

9 **MR. BANIM:** Yes. We have Patrick Nolan  
10 an engineer/expert in 22:04  
11 environmental aspects.

12  
13 It was not our intention to call these witnesses, all  
14 these witnesses, we are going to just rely on the  
15 evidence of Mr. Sean Meagher because we felt that, in 22:04  
16 line with the details of the public inquiry that were  
17 provided to us, that the scope of the hearing would be  
18 restricted to the lands which were the subject matter  
19 of the application and the rights applied for in  
20 relation to those lands, which is a right-of-way and a 22:05  
21 wayleave essentially.

22  
23 But if, for whatever reason, the objectors wanted to  
24 put any matters to the witnesses that we don't call  
25 they are available. 22:05

26 **THE CHAIRMAN:** could we reasonable say  
27 then that they are  
28 available for answering questions in relation to the  
29 project rather than make a case?

1           **MR. BANIM:**                                 Yes.

2           **THE CHAIRMAN:**                         You have described what  
3   they all do: Mr. Meagher  
4           is a project manager; Mr. Fitzgerald is a project  
5           director; Robert Donaghy is a senior consultant.                                 22:05

6           **MR. BANIM:**                                 Engineer, he is an expert  
7   in high-voltage underground  
8           cables and his particulars expertise relates to  
9           obviously the planning of those tables but also the  
10          routes of the cables.   22:06

11          **THE CHAIRMAN:**                         Patrick Nolan, an engineer  
12   on the environmental side.

13          **MR. BANIM:**                                 Yes. I propose to call  
14   Mr. Sean Meagher. I have a  
15          copy of his statement, if I could hand it into you.                                 22:06

16          **THE CHAIRMAN:**                         Do you have copies for the  
17   parties?

18          **MR. BANIM:**                                 Yes, we have.

19          **THE CHAIRMAN:**                         If you have a spare one, I  
20   would appreciate and extra   22:06  
21          one, please, for the stenographer, please. (Same  
22          Handed) I will pass over then to the Objecting Parties,  
23          please, if I might.

24          **MR. SMYTH:**                                 Fred Smyth is my name. I  
25   have two folios of concern   22:06  
26          to EirGrid in this matter, which would be the Meath  
27          folio 38650F, and the other folio would be 2179, and  
28          obviously they are in Meath. If I could  
29          just...(INTERJECTION).

1           **THE CHAIRMAN:**           Could I just ask, is there  
2    anybody else with you, Mr.  
3           Smyth; just yourself?

4           **MR. SMYTH:**                     I was hoping to represent  
5    myself. 22:07

6           **THE CHAIRMAN:**           No other party?

7           **MR. STEEN:**                    There is. I am Brendan  
8    Steen from Steen O'Reilly.  
9           I act for Judy Smyth. It was Judy Smyth and Francis  
10           Smyth, unfortunately Francis Smyth is now dead. 22:07

11          **THE CHAIRMAN:**            Oh dear, I am sorry to hear  
12    that. I wasn't aware of  
13           that. They are the two parties, all right.

14          **MR. STEEN:**                    I have no expert witnesses.

15          **THE CHAIRMAN:**            You have no expert 22:07  
16    witnesses, all right.  
17           Is there anybody else in the room who wishes to make a  
18           submission in relation to this inquiry? (NO REPLY)  
19           There doesn't appear to be; I will record that.  
20    22:08

21           In the normal course of events I would invite Mr. Banim  
22           to commence for EirGrid but, Mr. Smyth, have you  
23           something that you want to say by way of preliminary?

24          **MR. SMYTH:**                    I very much do and I would  
25    be grateful if I could just 22:08  
26           take a minute or two just -- I am not going to go on  
27           just for 20 minutes or anything.

28          **THE CHAIRMAN:**            Okay.

29          **MR. SMYTH:**                    But this is not the ideal



1 situation at all. I have  
2 been a neighbour of the ESB substation for many, many  
3 years. There are issues that neighbours are always  
4 going to have, but really this situation is quite  
5 serious.

22:08

6  
7 I am a little bit concerned that people, who I feel  
8 should know better, are actually going to maybe -- I  
9 don't want to use the word "deliberately" -- but maybe  
10 inadvertently or maybe just through a lack of awareness  
11 of all of the issues are actually going to make the  
12 situation worse than it already is.

22:09

13  
14 I wrote to Mr. John O' Connell of the Commission for  
15 Energy Regulations on 2.1.2010. I just want to quote  
16 you a little bit out of that letter that went:

22:09

17  
18 "I am in dispute with Meath County  
19 Council regarding a boundary on the  
20 lane."

22:09

21 Now the lane in question that we are discussing today.  
22 I had asked at the time for a little bit more time to  
23 try and sort out this boundary, because all of the maps  
24 that I have, which I do believe to be the same maps  
25 that EirGrid are relying on here today, and that I have  
26 been relying on for years, do not now reflect the  
27 situation on the ground.

22:09

28  
29 To make matters worse, and if I do say to make matters

1 worse, I have a letter in front of me from Meath County  
2 Council saying that the -- I am just going to quote you  
3 directly from this letter.

4 THE CHAIRMAN: We might revert to that  
5 letter when you are giving 22:10  
6 evidence, Mr. Smyth.

7 MR. SMYTH: There is five lines in this  
8 letter and then I am done.

9 THE CHAIRMAN: All right.

10 MR. SMYTH: : 22:10

11

12 "The Council do not accept that there  
13 has been any encroachment on your  
14 client's property..."

14

15 This letter was to my solicitors: 22:10

16

17 "And as owner of the property will  
18 defend proceedings referred to in your  
19 letter. If the client decides to  
initiate proceedings..."

19

20 And then they go on to say that Regan McEntee are their 22:10  
21 solicitors.

22

23 So in view of the fact that there is encroachment, I  
24 would wonder if maybe you would consider adjourning  
25 this inquiry, just for seven days, to allow me and my 22:10  
26 solicitors to try and sit down with Meath County  
27 Council, which has been something we have been unable  
28 to do up to now?

29 THE CHAIRMAN: All right. I am not

1 agreeing with your proposal  
2 at the moment because I want to hear the entire story.  
3 I will pass on to EirGrid to hear what EirGrid's  
4 submission is to the hearing.

5 **MR. BANIM:** Do you want me to respond 22:11  
6 to Mr. Smyth?

7 **THE CHAIRMAN:** Not necessarily. No, not at  
8 all. I just want to see  
9 what he had to say and the difficulties he has.

10 22:11

11 **MR. BANIM PRESENTED HIS SUBMISSIONS AS FOLLOWS:**

12  
13 **MR. BANIM:** I am obliged to you,  
14 Mr. Chairman. I would like  
15 to in general terms open to you the EirGrid application 22:11  
16 in this case.

17  
18 It is an application for a special order as provided  
19 for in section 47(1) of the Electricity Regulation Act  
20 1999. That section provides that: 22:11

21  
22 "The compulsory acquisition powers that  
23 have been conferred on the ESB by  
24 section 45 of the Electricity Supply  
25 Act 1927 shall be exercisable now by  
26 the Commission for Energy Regulation."

25 22:11

26 Amongst those powers is the power to acquire or to use  
27 compulsorily any easement or other right over land.  
28 What EirGrid are seeking in this application is an  
29 easement or right-of-way to use this road that belongs

1 partly to Mr. Smyth, who you have just heard from,  
2 Mr. Fred Smyth, and partly by his mother, Catherine  
3 Smyth, and the late Mr. Francis Smyth.

4  
5 My understanding is, and Mr. Steen may correct us on 22:12  
6 this, that they were joint owners, they held a joint  
7 ownership of the land, and by the right of survivorship  
8 Mrs. Catherine Smyth is now the full owner

9 **MR. STEEN:** That would be correct,  
10 Mr. Chairman. 22:12

11 **THE CHAIRMAN:** Okay.

12 **MR. BANIM:** So the application will  
13 have to be amended to take  
14 that into account that we are going to be seeking a  
15 Compulsory Acquisition Order against the interest of 22:12  
16 Mrs. Smyth in her land.

17  
18 The land in question is a roadway that connects a  
19 public roads and the ESB substation at woodland in  
20 Batterstown County Meath. Off that road there is 22:13  
21 access to (the private road I am talking about) a  
22 private dwelling that is owned by Meath County Council,  
23 that is at the end which is closest to the public road.  
24 At the top end, just before the entrance to the ESB  
25 substation, is farm buildings. We believe that the 22:13  
26 farmer who owns those lands has a right-of-way and uses  
27 the road. The ESB use the road. I am not sure the  
28 extent to which the Smyths use the road, but I  
29 understand that there is some access from the road on

1 to their lands. The road is essentially a cul-de-sac  
2 which leads to the woodland substation.

3  
4 The Applicant, EirGrid PLC, is a transmission a system  
5 operator. It was incorporated as a public limited 22:14  
6 company under the Companies Act by the Minister under  
7 regulation 34 of the European Communities Internal  
8 Marketing Electricity regulations 2000 (SI445/2000).  
9 The EirGrid PLC operates the electricity system in the  
10 Republic of Ireland. 22:14

11  
12 They also are involved in the market and the wholesale  
13 electricity trading system and it also owns and  
14 controls the transmission system operator in the North  
15 of Ireland. 22:14

16  
17 As a transmission system operator EirGrid develops,  
18 operates and maintains the national electricity grid  
19 grade power system. It is to be distinguished with the  
20 people who supply and create the electricity. EirGrid 22:15  
21 supply the means by which the electricity is  
22 transmitted.

23  
24 Its responsibility is to develop and operate an  
25 electricity transmission system to meet the nation's 22:15  
26 needs; enhance the potential for development; and  
27 contribute to a sustainable energy scheme within the  
28 State.

1 Ireland's National Development Plan 2007-2013  
2 identified the need for a strategic energy link between  
3 Ireland and Great Britain. The link takes the form of  
4 an electrical high-voltage direct current  
5 Interconnector. The link is to start between Wales, 22:15  
6 north of Wales and it is to come to Ireland in Rush,  
7 County Dublin, and then it goes across land into the  
8 Woodland station where there is going to be a new  
9 converter station constructed. That is EirGrid's  
10 responsibility to build and construct this 22:16  
11 Interconnector.

12  
13 In the first place EirGrid was authorised by the  
14 Commission for Energy Regulation on 29th October 2008  
15 to construct this Interconnector that authorisation was 22:16  
16 made under section 16 of the Electricity Regulation Act  
17 1999. The authorisation for the construction -- it  
18 allowed for the construction of an Interconnector  
19 between the Woodland station and Deeside, Flintshire,  
20 in Wales, where the other Interconnector station will 22:16  
21 be, or a converter station rather.

22  
23 The line: there will be two cables. They are about  
24 150mm in diameter about the approximate size of a  
25 compact disc; between them or about them will be fibre 22:17  
26 optic cable which will be used to control and monitor  
27 the flow of electricity.

28  
29 The Interconnector cables will deliver and transmit

1 electricity between the two countries by direct  
2 current. This is a much more energy efficient and  
3 better way to transfer the current. The current used  
4 in both Ireland and the United Kingdom is alternating  
5 current. So that means that between the two at either 22:17  
6 end of the cable there has to be a converter station  
7 which converts the direct current into alternating  
8 current, which then can be fed into our existing  
9 transmission system and used by the users of  
10 electricity in Ireland. 22:17

11  
12 As I said, the cable will come on to land in Rush,  
13 County Dublin. It will go across land and come into  
14 the woodland substation which is beside at the end of  
15 the road over which the special order is being sought. 22:18

16  
17 The land in question is presently owned by the ESB, and  
18 EirGrid will purchase this land from the ESB in due  
19 course. The converter station, which will be at the  
20 end of this road and which will have to be serviced by 22:18  
21 using this road will include a building to house the  
22 converter valves, switchgear and cooling equipment;  
23 other ancillary buildings to accommodate the control  
24 room, store room and workshop, office and meeting  
25 rooms. The outdoor, there will be some outdoor 22:18  
26 high-voltage switchgear and ancillary equipment as  
27 well.

28  
29 EirGrid made an application to the Strategic

1 Infrastructure part of An Bord Pleanála under the  
2 Planning and Development Strategic Infrastructure Act  
3 2006 and they made this application in November 2008  
4 seeking permission to do this.

22:19

5  
6 There was an oral hearing in March 2009. The decision  
7 to grant the application was eventually made in  
8 September 2009. You will hear from Mr. Meagher that  
9 what transpired during the planning process, the oral  
10 hearing, and the various submissions that were made in  
11 relation to the route of the cable.

22:19

12  
13 There was a report which has been submitted by EirGrid  
14 as part of this application. That report is entitled:  
15 "The Proposed Route and Alternatives". Also there was  
16 within the process of the oral hearing there was a  
17 route selection and that was very carefully gone into  
18 as to exactly which route this cable would take.  
19 Essentially, it's EirGrid's position that the only  
20 route that this cable can take is through the road in  
21 question. This was decided upon as was the entire  
22 route of the cable in the planning decision. The  
23 planning decision gave permission to lay the cable  
24 along a corridor stretching between Rush and the  
25 Woodland station. The road in question is within this  
26 corridor.

22:19

22:20

22:20

27  
28 where possible the route follows a tarmac road. In  
29 some cases it has to go on land and across bridges and



1 under rivers and that. But, generally speaking, it  
2 follows the public road, and Mr. Meagher will explain  
3 why that is to be the case.

4  
5 The method of laying the cable, and this applies to 22:20  
6 this particular road, should the special order be made,  
7 is that the cables are firstly contained in plastic  
8 ducts. There will be three plastic ducts. The ducts  
9 are laid first in trenches approximately .7m wide  
10 (2.5ft) and approximately 1.2m (4ft) deep. The ducts 22:21  
11 are laid and they are left empty. The road is  
12 temporary reinstated and then the cables are pulled  
13 through later on.

14  
15 This is a very important aspect of the procedure 22:21  
16 because it means that the ducts can be laid at 30m  
17 intervals, whereas the actual cables are much longer  
18 than that. So that minimises traffic disruption and  
19 minimises disruption generally. The cables I think are  
20 about 750m - no, 1.2km long. So they come in 22:21  
21 1.2km sections. They are dragged through and brought  
22 through the ducts. If it wasn't done like that they  
23 would have open up stretches of 1.2km and drop the  
24 cables into it. But, no, they just lay the ducts in  
25 30m stretches and then they bring in the cable later 22:22  
26 on.

27  
28 The rights of EirGrid: EirGrid having given the right  
29 to construct the Interconnector by the Commission and

1 then obtained planning permission, they also obtained  
2 an authorisation under section 49 of the Electricity  
3 Regulation Act 1999 to allow it to exercise powers on  
4 public roads. Those powers had originally been vested  
5 in the ESB under sections 51 and 52 of the Electricity 22:22  
6 Supply Act 1927. The Commission also granted on 17th  
7 November 2008 EirGrid an authorisation under section 49  
8 of the 1999 Act to exercise again powers that had been  
9 granted to the ESB under section 53 of the Electricity  
10 Supply Act 1927. That section allows EirGrid to place 22:23  
11 the Interconnector:  
12

13 "....above or below ground across any  
14 land not being a street, road, railway  
or tramway."  
15

16 So the position is that those powers do not cover the  
17 situation that pertains in this case, where the land is  
18 a private road. Because it is a road they cannot lay  
19 the cable -- use their wayleave powers under section 53  
20 and because it is not a public road they can't rely on 22:23  
21 the powers granted to them under section 51 and 52 of  
22 the 1927 Act.  
23

24 As Mr. Smyth has pointed out, the road is a private  
25 owned in part by himself and now his mother. There are 22:23  
26 a total of three folios involved. Mr. Smyth owns two  
27 folios, which he has outlined to you. Mrs. Smyth's  
28 folio is: 29347. The first part of the lane or the  
29 road is owned by Mr. Smyth and then the middle part is

1 owned by Mrs. Smyth and then the last part is owned  
2 again by Mr. Fred Smyth. In due course we will put in  
3 evidence a map.

4  
5 The road is not in charge of Meath County Council but 22:24  
6 they have, we understand, maintained it over the years.  
7 The road is of good construction and has been able to  
8 withstand whatever lorries and other equipment that is  
9 brought in and out of the ESB station and woodland. It  
10 is our understanding that the ESB has used that road 22:24  
11 for some 30 years.

12  
13 At this stage if I might just briefly read into the  
14 record what the applications are in respect of. In  
15 respect of all three folios, EirGrid's application is 22:25  
16 for a special order as follows:

17  
18 "1. At all times and for always purposes on foot or  
19 within vehicles to go pass and repass over and along a  
20 passageway consisting of the entire width of the 22:25  
21 roadway including the ditches on either side  
22 hereinafter called " The strip", coloured yellow on  
23 the map attached hereto.

24  
25 "2. To construct and place an electrical line (up to 22:25  
26 4000kv) as defined in the Electricity Regulation Act  
27 1999 consisting of power cables and ducts and a fibre  
28 optic cable and access chambers with manholes where  
29 applicable and any other materials and plant connected

1 therewith, collectively hereinafter called "The Line"  
2 on or below the area coloured yellow on the map annexed  
3 hereto and to permit the line to be used for commercial  
4 purposes."

22:26

5  
6 I can say that there are no manholes in this land line;  
7 that will not be required. Paragraph 3:

8  
9 "Full right and liberty for the grantee, its agents  
10 and/or contractors with or without plant and apparatus  
11 to enter upon the property described in the first  
12 schedule for the purpose of constructing, replacing and  
13 retaining the line and the connections and fittings for  
14 carrying the same through and under the lands and also  
15 from time to time as may be necessary and without  
16 notice in the case of emergency for the purpose of  
17 inspecting, repairing, maintaining, replacing, relaying  
18 and renewing the said roadway and line now to erected  
19 or installed."

22:26

22:26

22:27

20  
21 Paragraph 4:

22  
23 "The full right and liberty for the said grantee its  
24 agent and contractors with or without plant and  
25 apparatus to open the ground of the said property along  
26 the said strip for such purposes as may be required and  
27 reinstating the same to the reasonable satisfaction of  
28 the registered owner."

22:27

1 That is what the application, the respective order is  
2 in respect of, in respect of all three folios.  
3 The principal grounds which EirGrid will be relying  
4 upon are that the road -- sorry, firstly, I should say  
5 that EirGrid have to complete this project by the end 22:27  
6 of September 2012. They are generally speaking on time  
7 in relation to it.

8  
9 The grounds upon which they have been relying are in  
10 respect of the cables that the road in the question is 22:27  
11 within the planning corridor. The road is used to  
12 service the existing ESB substation; as I have said, it  
13 is understood for the last 30 years or so. EirGrid  
14 would prefer to put the cables in the roadway, which  
15 allows for easier installation and subsequent 22:28  
16 maintenance, and Mr. Meagher will expand on that in due  
17 course. The roadway is in line with the planning  
18 permission and it is directly in the middle of the  
19 planning corridor. I should also say that this road,  
20 as I have already said, is the only access to the 22:28  
21 converter station. For the purpose of the converter  
22 station it is the only access to the station.

23  
24 I have already referred to who was using the road: the  
25 ESB use the road; the farmer at, I think, it's the 22:29  
26 western end of it; and at the eastern end is the  
27 occupants of the house that belongs to Meath County  
28 Council, and I understand that the Smyths have various  
29 accesses on to their lands, I am not sure to what

1 extent they use those accesses.

2

3 Negotiations were carried out with Mr. and Mrs. Smyth  
4 and the late Mr. Smyth and Fred Smyth with a view to  
5 reaching agreement on the granting of the required 22:29  
6 easement and right-of-way but unfortunately those  
7 negotiations weren't successful. So then it became  
8 necessary to bring this application for a special  
9 Order, so that the rights that are required can be  
10 compulsorily obtained. 22:29

11

12 At this stage, I would ask Mr. Sean Meagher to go  
13 through his statement.

14 **THE CHAIRMAN:** Before he does that,  
15 Mr. Banim, there is just 22:30  
16 one point you made in your submission, do you mind  
17 clarifying it for me? You did mention this is of  
18 course a private road, you indicated that.

19 **MR. BANIM:** Yes.

20 **THE CHAIRMAN:** But you also mentioned that 22:30  
21 the Council maintains the  
22 road.

23 **MR. BANIM:** We understand that to be  
24 the case.

25 **THE CHAIRMAN:** You might be able to 22:30  
26 confirm that for me before  
27 the end of the hearing, maybe with you colleagues.  
28 There seems to be an inconsistency there; is there?

29 **MR. BANIM:** Initially Meath County

1 Council indicated they had  
2 taken the road in charge. I don't think there was any  
3 doubt that it didn't belong to them as such. It's an  
4 unusual situation. Normally where you have land at  
5 both sides of the road, the land at both sides of the 22:30  
6 road is owned by different landowners.

7 **THE CHAIRMAN:** Yes, of course.

8 **MR. BANIM:** The Smyths on one side and,  
9 I am sorry, I don't know  
10 the name of the other side. Normally, the folios show 22:30  
11 the extent of the land going into the middle of the  
12 road. In this case the land is entirely within the  
13 folios. The road is entirely within the folios of the  
14 Smyths' property.

15 22:31

16 It had been assumed for quite some time that the land  
17 had been taken in charge by Meath County Council, and  
18 to that extent we felt that they had maintained it  
19 because the standard of the road is quite good. I will  
20 confirm that in due course. There was then 22:31  
21 subsequently made notice that the land in fact or the  
22 road have never been taken in charge by Meath County  
23 Council.

24 **THE CHAIRMAN:** Yes, maybe you will clarify  
25 that at a later point then. 22:31

26 Thank you.

27 **MR. BANIM:** Yes. Mr. Meagher, please.

28 **MR. STEEN:** Just before, if maps are to  
29 be made available.

1           **MR. BANIM:**                               Yes.

2           **MR. SMYTH:**                               If I could just, I have no  
3   confidence in some of the  
4           maps that are around at the moment.

5           **THE CHAIRMAN:**                             Okay. 22:31

6           **MR. SMYTH:**                               That is actually a very  
7   significant point,  
8           Chairman.

9           **MR. BANIM:**                               There is another matter  
10    which Mr. Meagher will 22:31  
11           clarify, is that the actual folio number will clarify  
12           that. There may be some error in relation to it.

13

14           Chairman, I am going to hand in a map that relates to  
15           Mrs. Catherine Smyth's land first. If I can hand you 22:32  
16           that first.

17           **THE CHAIRMAN:**                             Right.

18           **MR. BANIM:**                               I will hand a copy to  
19   Mr. Smyth and Mr. Steen.

20           Thank you. There is a copy being handed in now of the 22:32  
21           map relating to Mr. Fred Smyth's folios. (Same  
22           handed).

23

24           If I could also just hand in -- I think we have copies  
25           for my friends -- it is a map in a booklet which is a 22:33  
26           guide for landowners, information for landowners, and  
27           it shows the route of the line from Rush going across  
28           in an easterly direction and then south into the  
29           Woodland station. It is coloured blue on the map.



1 (Same handed)  
2 Mr. Chairman, I just want to make sure that we have the  
3 correct folio numbers. The first one I want to refer  
4 to is Meath 2197. If you look at the map that has the  
5 two coloured areas on it, it's the first of them beside 22:35  
6 the wording "Cappa" at the bottom of the map. So that  
7 is folio 2197 at the bottom of the map.  
8 **MR. SMYTH:** If I just could be so bold  
9 as to interrupt and say  
10 that is actually the folio I am saying the map does not 22:35  
11 reflect the situation on the ground; is that bit that  
12 has just been highlighted there. Thank you.  
13 **THE CHAIRMAN:** All right. That number  
14 isn't actually shown on the  
15 map that has just been circulated. I am right in that. 22:36  
16 **MR. BANIM:** That's correct, yes.  
17 **THE CHAIRMAN:** It does not show it.  
18 **MR. BANIM:** It does not show it, but  
19 perhaps it might be  
20 inserted by you, Mr. Chairman. 22:36  
21 **THE CHAIRMAN:** I might just put it on  
22 this. Let me have that  
23 number again.  
24 **MR. BANIM:** It is Meath 2197, folio  
25 2197. If you put that in 22:36  
26 just around where it says: "Cappa".  
27 **THE CHAIRMAN:** I know the one, yes.  
28 **MR. BANIM:** The folio does not include  
29 the square part with the

1 house in it, but we can clarify that for you later on.  
2 THE CHAIRMAN: All right.  
3 MR. BANIM: The second folio then  
4 belonging to Mr. Fred Smyth  
5 is folio 38650F and that relates to the yellow strip at 22:36  
6 the top of that map.  
7 THE CHAIRMAN: Just repeat that number -  
8 38650F.  
9 MR. BANIM: Yes, County Meath.  
10 THE CHAIRMAN: Yes. 22:37  
11 MR. BANIM: Then the middle piece which  
12 is belonging to Mrs.  
13 Catherine Smyth and that's folio 29247F.  
14 THE CHAIRMAN: Yes.  
15 MR. BANIM: Now I will ask 22:37  
16 Mr. Sean Meagher, who is  
17 the project manager of EirGrid to deliver his statement  
18 please.  
19  
20 END OF SUBMISSION BY MR. BANIM 22:37  
21  
22 THE CHAIRMAN: All right.  
23  
24 MR. SEAN MEAGHER DELIVERED HIS STATEMENT EVIDENCE AS  
25 FOLLOWS:  
26  
27 A. Good morning, my name is Sean Meagher. I am the  
28 project manager with EirGrid PLC which is a  
29 state-owned, independent electricity transmission

1 system operator (TSO) in Ireland.

2 **THE CHAIRMAN:** will you just take it a  
3 little easier for the  
4 stenographer's benefit, please.

5 A. No problem. I hold a Degree in Electrical Engineering  
6 from Trinity College Dublin; a Technician Engineering  
7 Diploma in Electrical Engineering from the Dublin  
8 Institute of Technology, Kevin Street, as well as a  
9 Postgraduate Degree in Engineering and Operations  
10 Management from University College Dublin. I am also a  
11 Chartered Engineer with the Institution of the  
12 Engineers of Ireland.

13  
14 I have been working with EirGrid for two years as a  
15 project manager on the East-West Interconnector Project  
16 with the responsibilities for Ireland. During this time  
17 I have been responsible for the coordination of the  
18 studies which formed the Environmental Reports and for  
19 the preparation and submission of the planning  
20 application to An Bord Pleanála. Since the planning  
21 approval has been received, I have been responsible for  
22 the detailed route design and private landowner  
23 negotiations.

24  
25 I have over 11 years' experience as a project manager  
26 and prior to joining EirGrid I worked for 8 years as a  
27 Project Manager in the engineering office of the ESB  
28 Contracts where I was responsible for the design,  
29 supply, testing, commissioning and maintenance of

1 medium voltage installations.

2  
3 An introduction to EirGrid PLC and the East-West  
4 Interconnector:

5  
6 Prior to setting out a summary detail of the approved  
7 project - for convenience termed the East-west  
8 Interconnector - I think it would be useful to give a  
9 brief outline of EirGrid PLC, the Applicant in this  
10 instance. EirGrid PLC was established as an independent  
11 state-owned company in 2006 to take on the roles and  
12 responsibilities of the Electricity Transmission System  
13 Operator for the Republic of Ireland, as well as the  
14 Market Operator for the wholesale electricity trading  
15 system. EirGrid also owns and controls SONI, which is  
16 the transmission system operator for Northern Ireland.

17  
18 EirGrid PLC develops, operates and maintains the  
19 national electricity grid power system providing  
20 services equally to all users of the electricity  
21 system. This includes all generators, suppliers and  
22 high voltage customers. These services are vital to all  
23 2.1 million customers nationally, both large and small  
24 businesses, farms and homes. It is EirGrid's  
25 responsibility to develop and operate an electricity  
26 transmission system that will meet the nation's needs,  
27 enhance Ireland's potential and contribute to a  
28 sustainable energy future.

29

1 In Ireland's National Development Plan 2007-2013, the  
2 Irish Government identified the need for a strategic  
3 energy link, in the form of an electrical High Voltage  
4 Direct Current Interconnector, to be developed between  
5 Ireland and Great Britain. This infrastructure is vital  
6 to the development of Ireland's economy, as it will  
7 enhance security of supply, increase competition and  
8 enable the future importation and exportation of  
9 renewable energy such as wind and wave power. It will  
10 allow Ireland to buy and sell power on the European  
11 electricity market.

12  
13 The East-West Interconnector Project was granted  
14 planning approval by An Bord Pleanála in September  
15 2009. The strategic need for the project, and its  
16 policy basis will be discussed in more detail in a  
17 separate statement.

18  
19 EirGrid PLC, was appointed by the Irish Government with  
20 the task of arranging a competition to secure the  
21 construction of the East-West Interconnector. As  
22 already stated, the Strategic Infrastructure Division  
23 of An Bord Pleanála has approved the project and this  
24 application to the CER for access to the converter  
25 station site and a wayleave for the cables is a direct  
26 consequence of the planning approval and Government  
27 appointment.

28  
29 An Overview of the Approved Development:

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The East-West Interconnector Project was granted planning approval by An Bord Pleanála in September 2009 under the Planning and Development (Strategic Infrastructure) Act 2006.

The East-West Interconnector is a major strategic infrastructure initiative, and will involve the construction of approximately 260km of 500 Megawatts High Voltage Direct Current cables between Ireland and Great Britain, linking the electricity supply systems of the two countries. This will comprise the second interconnector between the island of Ireland and Great Britain, and will complement the existing operation of the Moyle Interconnector between Northern Ireland and Scotland. The 500MW capacity of the infrastructure will give enough electricity to power some 300,000 homes.

The timing and quantity of the electricity that will flow on the EWIC will mainly be dependent on prices in the UK and Irish Markets. Where substantial differences occur in prices, then EWIC has the potential to facilitate the transfer of electricity in either direction. In general, prices have been higher on average in the Single Electricity Market (SEM) as against the GB markets, therefore if this trend continues imported flows are likely to dominate with a resultant downward pressure on prices. Given the

1 development of wind energy in Ireland, the timing of  
2 flows may be more significant than the average load  
3 factor. In other words, at certain periods it is likely  
4 that the Interconnector will have a high load-factor  
5 which would change quite dramatically in a short period  
6 of time. In other European countries the experience has  
7 been that Interconnectors have contributed to greater  
8 price efficiency even where the load factor has been  
9 relatively low.

10  
11 Following its completion, the Interconnector will be  
12 owned by EirGrid PLC for the Irish people. Construction  
13 work will commence in June 2010, and the project is  
14 planned to be operational in 2012.

15  
16 Clearly, the vast proportion of the project will  
17 involve the laying of undersea cables. For such  
18 projects, with long undersea cable sections, Direct  
19 Current (DC) transmission is the most energy efficient  
20 and the only technology which is suitable for power  
21 transfer over such long distances underground, and is  
22 the technology being used in this instance. Direct  
23 Current power comprises electrical circuits where the  
24 voltage and current flow in the same direction and do  
25 not vary over time. In comparison, Alternating Current  
26 (AC) power comprises electrical circuits where the  
27 voltage and current change direction many times per  
28 second and is the type of electricity used in homes,  
29 factories and businesses in both Ireland and the UK. It

1 is for this reason that a converter station is required  
2 at each end of the DC transmission cable to alter DC to  
3 AC and vice versa, depending on whether electricity is  
4 being imported or exported.

5  
6 The East-West Interconnector will consist of two  
7 submarine underground HVDC cables of approximately 150  
8 millimetres in diameter, plus a third fibre-optic  
9 control cable to monitor and control the transmission  
10 of electricity. The cables will be placed on the seabed  
11 between Rush (North Beach), Co. Dublin in the Republic  
12 of Ireland and Barkby Beach, North Wales in Great  
13 Britain. The cables will be laid close together in a  
14 narrow trench to reduce disruption during the  
15 construction phase. The length of the buried submarine  
16 cables will be approximately 185 km or 110 miles.

17  
18 On land, the cables will be laid underground in three  
19 hard plastic ducts which will be placed into specially  
20 constructed trenches, typically 0.7 metres (2.5 feet)  
21 wide and 1.2 metres (4 feet) deep. The route of the  
22 cables seeks to follow the existing public road  
23 network, avoiding urban areas to the greatest extent  
24 possible whilst still ensuring an appropriate and  
25 cost-effective project. By pre-installing the cable  
26 ducts, traffic disruption will be minimised during the  
27 construction stage, as each individual duct section is  
28 considerably shorter than the cable sections. This  
29 means that only short lengths of road will be affected



1 by trench digging for the ducts at any one time. Once  
2 the ducts are installed and connected, and the road is  
3 reinstated and the cables will then be inserted and  
4 pulled through the ducts. Individual sections of cable  
5 will be joined along the route at distances of  
6 approximately 1200m in underground joint locations. The  
7 total length of the underground cable in Ireland will  
8 be approximately 45km or 30 miles. The length of  
9 underground cable in wales will be approximately 30km  
10 or 20 miles.

11  
12 The cables will be connected to the converter stations  
13 at either end of the Interconnector in both Ireland and  
14 in wales, which will convert DC electricity into AC  
15 electricity. The converter stations will be located  
16 adjacent to the existing ESB Woodland 400kv  
17 sub-station, near Batterstown, Co. Meath, and at  
18 Deeside, in North wales. The converter stations will  
19 convert the DC power into a format that can be  
20 introduced into the separate transmission systems of  
21 Ireland and Great Britain. The converter station at  
22 Woodland will include a building to house the converter  
23 valves, switchgear and cooling equipment, ancillary  
24 buildings to accommodate a control room, store room,  
25 workshop, offices and meeting rooms and an outdoor High  
26 voltage switchgear and ancillary equipment.

27  
28 The project also includes an associated 400kv cable  
29 bay, with related electrical equipment, to connect the

1 new converter station at Woodland to the adjacent  
2 existing 400kv ESB substation.

3  
4 Specific details of the route selection process and  
5 consideration of alternatives for the Interconnector  
6 project were set out in the report called the "proposed  
7 route and alternatives considered" which was submitted  
8 with the Special Order application to the CER. The  
9 route selection process was also considered in detail  
10 in the planning application to An Bord Pleanála and in  
11 the subsequent public oral hearing.

12  
13 An Overview of EirGrid's Role as a Statutory  
14 Electricity Undertaker:

15  
16 EirGrid PLC was vested from the ESB in 2006 to take on  
17 the role and responsibilities of the electricity  
18 Transmission System Operator (TSO) in the Republic of  
19 Ireland, as well as Market Operator of the wholesale  
20 electricity trading system.

21  
22 EirGrid PLC is an independent state-owned company, and  
23 does not form part of ESB.

24  
25 EirGrid was granted an authorisation to construct an  
26 Interconnector from the CER on 24thj October 2008.  
27 (Authorisation ref no: AUTH 2008-109-01).

28  
29 On 17th November 2008, EirGrid received consent from

1 the CER under Section 49 to allow EirGrid to exercise  
2 the powers under Section 53 of the 1927 Electricity Act  
3 (As Amended) to wayleave the cables.

4  
5 On 22nd September 2009, EirGrid received consent from  
6 the CER under Section 48 to allow EirGrid exercise the  
7 powers referred to in Sections 51 and 52 of the 1927  
8 Electricity Act (As Amended) to lay the cables in the  
9 public roads.

10  
11 EirGrid is in the process of purchasing from ESB a  
12 site, at the existing woodland 400kv substation, to  
13 construct the Converter Station on. EirGrid requires a  
14 permanent Right of Way and wayleave (access) so that  
15 the work that is necessary to construct the converter  
16 station and to install and maintain the cables can  
17 commence. EirGrid currently holds an option to purchase  
18 the land at woodland from ESB. EirGrid also holds a  
19 licence from the ESB to enter the woodland site, which  
20 (a) gives EirGrid, its subsidiaries and assigns certain  
21 rights of access to the land, and (b) grants EirGrid,  
22 its subsidiaries and assigns the right to carry out  
23 certain accommodation works on the land.

24  
25 The lands which are the subject of this Special Order  
26 (Mr. Fred Smyth's folios 38650F and 2197 and Catherine  
27 Judy Smyth's folio 29247F) are lands over which the  
28 Right of way and wayleave consist of a private road.

29 **THE CHAIRMAN:** Sorry, can I just stop you



1 option because burying the cables primarily in roads  
2 allows for easier initial installation and future  
3 access to the cables for maintenance or repair in the  
4 event of a fault. Therefore, the route chosen and as  
5 approved by An Bord Pleanála was considered the only  
6 appropriate option.

7  
8 As indicated above, EirGrid has agreed to acquire land  
9 from ESB at woodland substation which has been owned by  
10 the ESB since the early 1980s. The ESB has exercised a  
11 right of access over this access road since the early  
12 1980s. Due to the nature of the underground electric  
13 cables and their large cable drums which weigh up to 30  
14 tons, if they were to be laid under agricultural land  
15 or cross-country, the trench and access roads for the  
16 cables would have a much higher environmental and  
17 agricultural impact. It is also necessary to maintain  
18 permanent year round access for the heavy machinery  
19 needed to facilitate emergency fault repair. Therefore,  
20 access would be difficult when cables are under  
21 waterlogged fields in winter. This could result in  
22 prolonged repair times if there was a fault.

23  
24 EirGrid is only seeking the rights it reasonably  
25 requires and is not seeking full ownership of the land.  
26 EirGrid only requires a Right of way for access and a  
27 wayleave to install and maintain the cable.

28  
29 The Provisional Project Programme:

1  
2 while this is an indicative guideline of the main  
3 construction programme, EirGrid requires certainty of  
4 access to the site and station prior to the works. In  
5 those circumstances EirGrid requests that the Special  
6 Orders are made as soon as possible.

7  
8 The cable installation is a four stage process which  
9 includes: duct installation; cable pulling; cable  
10 jointing and grout filling.

11  
12 The Duct Installation will take approximately four  
13 days and take place in Q1 2011. During the duct  
14 installation process, local access will be maintained.  
15 Once the ducts have been installed the road surface  
16 will be reinstated as per best practice.

17  
18 The Cable Pulling will take approximately two days,  
19 again in Quarter 1, 2011.

20  
21 Cable Jointing: There will be no cable jointing along  
22 the stretch of road associated with the subject lands.

23  
24 Grout Filling will take approximately one day, again in  
25 Quarter 1, 2011.

26  
27 **END OF STATEMENT OF MR. MEAGHER**

28  
29 THE CHAIRMAN: Thank you.

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1 MR. BANIM QUESTIONED MR. MEAGHER, AS FOLLOWS

2  
3 1 Q. MR. BANIM: Thank you, Mr. Meagher.  
4 Now if we can just  
5 highlight a few matters. Firstly, I think the 22:54  
6 application documentation that has been submitted to  
7 the Commission is contained in a folder and I just want  
8 to make sure that the contents are read into the  
9 record. It contains that:

10 22:54  
11 "The application that is made herein  
12 for Catherine and Judy Smyth and the  
13 late Frank Smyth and the application  
14 for Fred Smyth..."

15 At schedule 4, there is a schedule of dealings with  
16 Mr. Fred Smyth and then there are folio maps that are 22:55  
17 before the Commission, which have been referred to and  
18 the folios have been referred to already.

19 The route map and the trench cross-sections in Tab 3,  
20 could you identify which of the trenches is going to be 22:55  
21 used in this case?

22 A. The trench section actually will be typically 0.7  
23 metres wide, trench type 2 for that section of road.

24 2 Q. That's at Tab 3, so that is the trench that is going to  
25 be constructed, or we would hope to have constructed 22:56  
26 within this private roadway. Is that right?

27 A. We, em...(INTERJECTION).

28 MR. BANIM: Sorry, Mr. Chairman, there  
29 seems to be some slight



1 confusion about that. I wonder could I consults with  
2 my colleagues?

3 **THE CHAIRMAN:** Yes, of course.

4 3 Q. **MR. BANIM:** So I think, Mr. Meagher,  
5 the trench type 1 is the 22:56  
6 type of trench which I referred to in my opening. Is  
7 that right?

8 A. That's correct, yes.

9 4 Q. There is a possibility it could be trench type 2?

10 A. If it is -- actually trench type 2 is a smaller trench. 22:57

11 5 Q. It's narrower?

12 A. It's definitely narrower. It's a narrow trench like,  
13 so it definitely will be no wider than trench type 1 as  
14 described.

15 6 Q. The second part of that Tab 3 shows a map of the route 22:57  
16 which is just a kind of a black and white copy with the  
17 route marked blue. Is that correct?

18 A. Yes, that's correct.

19 **THE CHAIRMAN:** Could I just go back for  
20 the record. The previous 22:57  
21 map you are referring to, we will put a number on it,  
22 it is the drawing number in the cartouche:  
23 VIL-X-8. 2.3-2001. Is that correct?

24 A. That's correct, yes.

25 **THE CHAIRMAN:** Just for the record. 22:57

26 7 Q. **MR. BANIM:** I am obliged. The route,  
27 the map route, the drawing  
28 number is 1704-0001 -- sorry, it is I704-0001 and that  
29 is the map showing the route. I will just show that to

1 Mr. Smyth and Mr. Steen, and that is at Tab 3 of the  
2 booklet.

3  
4 I think it might be of assistance if we could just  
5 clarify. My understanding was that Mr. Smyth and  
6 Mr. Steen have a copy of this booklet? 22:58

7 **MR. STEEN:** Yes.

8 **MR. SMYTH:** Yes, that's correct.

9 **THE CHAIRMAN:** They appear to have, yes.  
10 (Same Handed) 22:58

11 **MR. BANIM:** So that was Tab 3 showing  
12 the route map and the  
13 trench cross-sections. The schedule then at Tab 4  
14 shows -- that's the report that I referred to in my  
15 opening -- the proposed route and alternatives 22:58  
16 considered and that is in the application; it is  
17 scheduled with the application paragraph.

18  
19 Tab 5 then is the correspondence discussions and  
20 negotiations with the Smyth family about attempts made 22:59  
21 to negotiate a right-of-way over this private road.

22  
23 Then the key deliverables then is Tab 6 which is the  
24 programme showing when the works are going to be  
25 carried out to the various sections. 22:59

26  
27 I might just ask at this juncture Mr. Meagher about  
28 that: I think that if you take the converter station,  
29 the converter station is going to commence at the

1 beginning of the third quarter of this year, is that  
2 right, or thereabouts?

3 A. The beginning of the third quarter of this year, work  
4 on the converter station will start.

5 8 Q. It is hoped to complete that within 15 months. Is that 23:00  
6 right?

7 A. Yeah, we would hope to actually have the main  
8 construction works would be completed by the end of  
9 2011 and then there would be further commissioning for  
10 a number of -- for maybe another six months after the 23:00  
11 construction work completes.

12 9 Q. The construction work will, I understand, involve quite  
13 - a more intensified use of this private roadway?

14 A. During the construction works we anticipate there would  
15 be approximately maybe 100 people on site during the 23:00  
16 construction phase.

17 10 Q. So there would be a 100 employees/workers going in and  
18 out every day and then there would be the usual lorries  
19 and stuff coming in, bringing materials on site?

20 A. That's correct. 23:00

21 11 Q. And taking away some materials that aren't needed. Is  
22 that right?

23 A. That's correct, yes.

24 12 Q. You expect that to last then until some time towards  
25 the end of 2011. Is that right? 23:01

26 A. Yes, by the end of 2011 the converter station should be  
27 predominantly built at that stage and it will be just  
28 commissioning that will take place after that date.

29 13 Q. You hope to the lay the cable during the course of that

1 construction. Is that right?

2 A. Yeah, the duct installation actually will start in June

3 of this year and will continue on until the middle of

4 2011.

5 14 Q. That's the duct installation on the general route? 23:01

6 A. On the entire route.

7 15 Q. Would I be correct in thinking that it is planned to

8 open up this road, subject to obtaining the Special

9 Order, in the first quarter of 2011?

10 A. That's correct. 23:01

11 16 Q. As you said, it will last about four days doing it in

12 sections?

13 A. Exactly, yes.

14 17 Q. I think local access is to be maintained. I think you

15 have arranged it in such a way that disruption will be 23:01

16 kept to a minimum?

17 A. Yes, that's correct.

18 18 Q. Apart from the people who live in the house at the

19 entrance to the private road, there is no one else

20 living on this road? 23:02

21 A. No, we just have to maintain access, say, for the farm

22 machinery and also for ESB for access to woodland, and

23 access will be maintained.

24 19 Q. I think that the entire programme is so be finished,

25 the Interconnector is to be completed as planned by the 23:02

26 end of the third quarter in 2012?

27 A. That's correct.

28 20 Q. At the moment you are within the timeframe that you

29 planned for yourselves?

1 A. The project is actually on target for that completion  
2 date.

3 21 Q. Yes. Now Tab 8 contains the Strategic Need and Policy  
4 Context, the Strategic Need Policy for the CER. Is  
5 that right? 23:03

6 A. Yes.

7 22 Q. Yes. The other tabs then contain various  
8 correspondence and the file of correspondence with  
9 Mr. Fred Smyth on Tab 12?

10 THE CHAIRMAN: I am not sure that I have 23:03  
11 those tabs.

12 MR. BANIM: Yes, I can give up a book.

13 THE CHAIRMAN: Schedule 6 indicates  
14 Strategic Need, Strategic  
15 Need and Policy Context that is my Tab 6. 23:03

16 MR. BANIM: Yes. Yes, there is  
17 different...(INTERJECTION)

18 THE CHAIRMAN: You mention Tab 8 in that  
19 context?

20 MR. BANIM: I am sorry. I can hand in 23:03  
21 a copy of this.

22 THE CHAIRMAN: Do I not already have that  
23 in Tab 6?

24 MR. BANIM: what I am doing, I may be  
25 confusing you on it, I 23:03  
26 apologise, the last thing I referred to was Tab 8 but  
27 schedule 7.

28 THE CHAIRMAN: well, what I have here is  
29 schedule 6 and under that

1 it starts: Strategic Need For the Project, and headings  
2 throughout Strategic Need and Policy Context.

3 **MR. BANIM:** Yes.

4 **THE CHAIRMAN:** So I have it already under  
5 Schedule 6? 23:04

6 **MR. BANIM:** Yes. My solicitor,  
7 Ms. Bourke, tells me that  
8 that is the case. But, I would like to hand in a copy  
9 of this. If there is any confusion I think we can  
10 clarify that later on. 23:04

11 **THE CHAIRMAN:** All right, yes.

12 **MR. BANIM:** Perhaps during the course  
13 of the lunch break?

14 **THE CHAIRMAN:** Yes.

15 **MR. BANIM:** There is correspondence 23:04  
16 then and then there is  
17 further correspondence.

18 **THE CHAIRMAN:** well, we don't seem to have  
19 anything further than that  
20 in this group of submissions. 23:04

21 **MR. SMYTH:** If I could be so bold as to  
22 interrupt and just say the  
23 paperwork I got ended at Schedule 6. Thank you.

24 **THE CHAIRMAN:** Yes.

25 **MR. BANIM:** Right. I think the CER 23:05  
26 will have copies of the  
27 authorisations that were issued and it can provide  
28 copies of those as well in due course.

29 **THE CHAIRMAN:** All right.

1 23 Q. MR. BANIM: Mr. Meagher, if I can come  
2 back to you, please, in  
3 relation to the planning application I think the  
4 planning application was submitted in November 2008,  
5 isn't that right?

6 A. Yeah, the planning application was submitted to An Bord  
7 Pleanála on 18th November 2008. There was an oral  
8 hearing actually held in Balbriggan in March 2009. Then  
9 the Bord made a decision in September 2009.

10 24 Q. I understand that copies of that decision is within the 23:05  
11 application.

12 A. Yes.

13 25 Q. In relation to the oral hearing that took place in  
14 March 2009 how long did that last for?

15 A. The oral hearing took place from 10th March for three 23:06  
16 days.

17 26 Q. What was that mainly concerned with?

18 A. A number of issues were raised by the public during the  
19 public consultation period of the application,  
20 primarily about the route selection along by Rush and 23:06  
21 at the estuary.

22 27 Q. I think Mr. Fred Smyth made a number of submissions to  
23 the oral hearing, is that right?

24 A. The majority of the submissions came from Rush but  
25 Mr. Smyth did make a submission also, that is correct. 23:06

26 28 Q. Did Mrs Catherine Smyth and the late Mr. Francis Smyth  
27 make any submission?

28 A. No, just Mr. Smyth.

29 29 Q. At the oral hearing it dealt with the environmental

1 impact of the cable, is that right?

2 A. Yes, it did. The environmental impact of the cable was  
3 assessed in a number of environmental reports that were  
4 submitted with the application. There was also a  
5 consideration of alternative routes that were looked at 23:07  
6 and the decision process behind the selection of the  
7 proposed route that was approved by the Bord.

8 30 Q. When we refer to the planning corridor would it be  
9 correct in thinking that it consists of essentially two  
10 red lines drawn on the map within which you must keep 23:07  
11 the route, is that right, you must keep the line?

12 A. Exactly. The cable corridor and land is a planning  
13 corridor, the maximum width is 30 metres, which is 15  
14 metres either side of the central line of the road but  
15 it varies along the route to exclude residential 23:07  
16 property and sensitive areas of archeology or ecology.  
17 It is not a consistent 30 metre corridor. But the  
18 planning permission is to actually lay the cable within  
19 the corridor.

20 31 Q. It is the corridor as is set down in lines on the map 23:07  
21 that is attached to the planning decision?

22 A. The environmental reports detail how the cable was to  
23 be laid. It was always our preference to lay the cable  
24 in the road, as we described, because of the logistics  
25 of the cable drum and weights and increased impact to 23:08  
26 environmental land, to land, and to agricultural land  
27 in particular, if the cables were to be laid across  
28 country.

29 32 Q. The plan on which you are going to open up this road



1 would I be correct in thinking that you will cut the  
2 road as such with...(INTERJECTION)

3 A. Yeah, the road will actually be -- the trenching of the  
4 cable is actually very similar to work that you will  
5 see any day along the road and the works will be 23:08  
6 carried out in accordance with the County Council's  
7 requirements and specifications for trenching in public  
8 roads. The road to be dug will be soft cut, it will be  
9 excavated and reinstated as per the Department of  
10 Environment's guidelines for the trenching and 23:09  
11 reinstatement of public roads.

12 33 Q. I mentioned during the opening that there will be a  
13 temporary reinstatement first?

14 A. There will be a temporary reinstatement actually as the  
15 trenching progresses in small sections and then when 23:09  
16 there is section sufficient enough to do a full  
17 reinstatement of the road as per the Council's  
18 requirement that will be done then.

19 34 Q. Will that be done before or after the cable is pulled  
20 through? 23:09

21 A. Depending on the route section it will be done after  
22 the cable is pulled through I would imagine.

23 35 Q. The plan is to do this section of the laying of the  
24 ducting in the first quarter of 2011 and the road then  
25 will be temporary reinstated and then at some stage the 23:09  
26 cable will be pulled through?

27 A. That is correct, yes.

28 36 Q. Would you have any idea when that cable would be pulled  
29 through?

1 A. AS I SAID FOR THE SECTION OF THE ROAD IN QUESTION IT  
2 WILL BE IN THE FIRST QUARTER OF 2011. AGAIN THE  
3 PROGRAMME FOR THE ENTIRE ROUTE I DON'T HAVE TO HAND BUT  
4 I CAN SAY THAT THE FIRST QUARTER OF 2011 FOR THE  
5 SECTION OF ROAD IN QUESTION. 23:10

6 37 Q. THE OTHER MATTER IS WHEN YOU ARE PULLING THE CABLE IT  
7 WON'T HAVE AN AFFECT ON THE ABILITY TO USE THE ROAD?

8 A. NO, ONCE THE DUCTS WERE INSTALLED THE CABLE BE PUT IN  
9 WITH MINIMAL ADDITIONAL TRAFFIC DISRUPTION.

10 MR. BANIM: Thank you. Will you answer 23:10  
11 any questions there may be.

12  
13 END OF QUESTIONING OF MR. MEAGHER BY MR. BANIM

14  
15 MR. MEAGHER WAS QUESTIONED, AS FOLLOWS, BY  
16 THE CHAIRMAN

17  
18 38 Q. THE CHAIRMAN: Mr. Meagher, I just have  
19 one question I want to ask  
20 you about, and it is in relation to these maps that 23:10  
21 were submitted by your colleague, could we go to the  
22 map prepared for Fred Smyth, please, the ones we were  
23 discussing, the folio numbers, and so forth?

24 A. Yeah.

25 39 Q. Would you look at those, it is a very small issue, 23:11  
26 would you clarify it for me, please, the cable length  
27 is shown as being 173 metres --

28 A. Yes.

29 40 Q. -- those two sections added together seem to be

1 different to that figure, or are they, or am I  
2 misreading it?

3 A. When we actually did the folio maps and calculated the  
4 distance we took the longest possible section, not  
5 necessarily the central line on the road, so it is the 23:11  
6 longest possible length of the yellow section. It was  
7 confirmed by our people who prepared the maps that if  
8 you take the longest possible section of the yellow it  
9 should actually come to 173 metres. Again when we were  
10 calculating we didn't want to short change any of the 23:11  
11 landowners by arguing over a metre or two. I am  
12 reliably informed that that is the correct meterage.

13 41 Q. The maps would indicate, it seems to me, the maximum  
14 length of the combined pieces of roadway are of the  
15 order of 155 metres, even going to the extreme ends of 23:12  
16 the road, that is not an important issue, you say that  
17 it is 173, my scale indicates it at about 155.

18 A. I will get it confirmed again.

19 42 Q. Would you like to do that --

20 A. I will get that done, yes. 23:12

21 43 Q. -- just for the record.

22 A. The other one is perfectly alright, the other piece is  
23 as indicated, I just took a quick look at it.

24

25 **END OF QUESTIONING OF MR. MEAGHER BY THE CHAIRMAN** 23:12

26

27 MR. SMYTH: If I could be so bold as to  
28 interrupt you again,  
29 Chairman, perhaps you would consider having a full

1 survey done of the lane in view of my concerns, I will  
2 get to it later, but I think it is appropriate to  
3 mention it now, I think it is a good idea.

4 **THE CHAIRMAN:** Is that all of the  
5 evidence, Mr. Meagher, that 23:13  
6 you are going to submit. All your party is available  
7 for questions.

8 **MR. BANIM:** Subject to you,  
9 Mr. Chairman, or my Friends  
10 if they want to hear anybody, but we don't feel that it 23:13  
11 is necessary to go into the entire project again, we  
12 are only dealing with a small part of the road.

13 **THE CHAIRMAN:** If any answers are  
14 appropriate to another  
15 person I am sure that is alright. We will invite 23:13  
16 Mr. Fred Smyth to question the witness -- it is not  
17 your case at the moment, Mr. Smyth, I am sure you will  
18 appreciate that -- on their evidence.

19  
20 **THE APPLICANT WAS QUESTIONED, AS FOLLOWS, BY MR. SMYTH** 23:13

21  
22 **MR. SMYTH:** The first thing that  
23 glaringly stands out to me  
24 is I would like to confirm that I have got my folio  
25 numbers correct. I would ask that it is important not 23:13  
26 to make this situation worse than it is. When I looked  
27 back over my records to prepare to come here today  
28 things have happened that have made it a lot worse than  
29 it is, but I do realise I am just concerned with going

1 over what has been said here by EirGrid so far today.  
2 Construction has already commenced. Significant  
3 excavation work has already started, of that there is  
4 no doubt whatsoever. I had a meeting with Mr. Donaghy  
5 and with Mr. O'Connell in the ESBI's offices in 23:14  
6 September 2008 and at that meeting I made it very clear  
7 that if things were sorted out between Meath County  
8 Council and myself EirGrid myself would probably do a  
9 deal fairly quickly. You should be aware that that has  
10 not happened, things are not sorted out at all between 23:14  
11 Meath County Council and myself.

12  
13 Just going back to what we have heard so far today, the  
14 red lines on the maps regarding the planning permission  
15 are you absolutely sure, are you absolutely sure that 23:14  
16 you have an authorisation to put the cable anywhere  
17 within those red lines on the map.

18 **MR. MEAGHER:** The Environmental Report  
19 indicates that our  
20 preference is actually to lay the cable in the road. 23:15  
21 The reason why the corridor is slightly wider than the  
22 road itself is to allow us actually to route around  
23 unforeseen obstacles that would be in the path of the  
24 cable such at bridges, et cetera, that would require  
25 the corridor to be wider than the road. 23:15

26  
27 Our preference is to keep the cable in the road as far  
28 as possible.

29 44 Q. I don't know if I entirely agree with your planning

1 permission that you can go anywhere within the red  
2 lines. I was at the public inquiry in Balbriggan and I  
3 don't know if the red lines didn't cause a certain  
4 amount of confusion because it appeared to be almost --  
5 well, I would have to check that. 23:16

6  
7 with regard to the pack that was submitted to me it all  
8 ended at Schedule 6, I didn't have a Schedule 7 or 8.  
9 If there is going to be a Schedule 7 or 8 I would  
10 definitely like more time to go over it than maybe half 23:16  
11 an hour, or something like that.

12  
13 You have completely neglected to mention the fact that  
14 ESB Telecom are going in and out consistently of the  
15 woodland facility. You were required when you were 23:16  
16 putting in your ducting, you stated clearly that you  
17 needed to maintain access for the ESB.

18 A. We would maintain access for anyone along the entire  
19 length of the route when the cable is being installed,  
20 not just on this section of road, we would maintain 23:17  
21 local access for all residents and users of the road  
22 for local access.

23 45 Q. ESB Telecom are going in and they have no right-of-way  
24 whatsoever, and this has been said to them on several  
25 occasions by me as well as others, they have no 23:17  
26 right-of-way whatsoever and you are blatantly saying  
27 that you have to maintain a right-of-way, or you have  
28 to maintain access for ESB Telecom.

29 A. I have no knowledge of another company's access on the

1 site, sorry.

2 46 Q. I appreciate you are here to represent EirGrid but at  
3 the same time I would like definitely to point out to  
4 the Chairman that they have to maintain access for the  
5 ESB, who they have done a deal with, who have a 23:18  
6 subsidiary company called ESB Telecom, who are using  
7 what is in effect they are claiming to have a  
8 right-of-way they don't have, across my property. I  
9 have told them that they don't and they have just  
10 ignored me completely. There is that and you do need 23:18  
11 to be aware of that, Chairman. When I making my own  
12 submission I will go into that in a lot more detail.  
13

14 I did attend the Balbriggan public inquiry and we went  
15 into the wind energy aspect of this, that there is a 23:18  
16 substation in Woodlands and the ideal place to put an  
17 additional power station is right next to the  
18 substation specifically that when wind stops blowing if  
19 you have a customer who is at the other end of your  
20 cable and you have agreed to supply a certain amount of 23:18  
21 electricity you have to supply that amount of  
22 electricity, and the own way to do that is to have some  
23 sort of a power station that you flick the switch on  
24 and they have power at the end of your cable, as per  
25 your contract. That wasn't discussed at all here today 23:19  
26 other than to say "the wind". I think you just said:  
27 "Given the development of wind energy  
28 in Ireland, the timing of the flows may  
29 be more significant than the average  
load factor."

1 That also means that there can be a peak and a trough,  
2 and when there is a trough you do need to be able to  
3 meet the average load factor. How do you address that?

4 **MR. MEAGHER:** John Fitzgerald will  
5 address this point. 23:19

6 A. **MR. FITZGERALD:** Good day, my name is John  
7 Fitzgerald and I am the  
8 Project Director for the East-West Interconnector  
9 Project. In relation to Woodland 400 kv transmission  
10 station is quite a major transmission station on the 23:20  
11 Irish transmission system and it could be that there  
12 are developments associated with that 400 kv substation  
13 that are not directly linked with this project, and  
14 this is true of ESB Telecoms, if they are going in and  
15 out of that site we have no knowledge of that or 23:20  
16 involvement, it doesn't arise as a direct result of  
17 this project insofar as we are aware and if there is a  
18 peaking plant built in the environs of that substation  
19 again it is nothing to do with this project insofar as  
20 we are aware. We are not responsible for this project, 23:20  
21 not directly responsible for the development, or  
22 otherwise, of the renewable energy sector. If the  
23 renewable energy sector requires peaking plant then  
24 this interconnector will obviate the need for that  
25 rather than drive it. This project will facilitate the 23:20  
26 renewable energy sector, that is very much what this  
27 project is about.

28 **MR. SMYTH:** I would like to just  
29 address what Mr. Meagher



1 said on page 6, 3.7, the need to obtain a Special Order  
2 for a right-of-way access, sorry it is 3.6 I am reading  
3 from.

4 **THE CHAIRMAN:** what document are we  
5 reading from? 23:21

6 47 Q. **MR. SMYTH:** Sean Meagher's submission,  
7 3.6, page 6, second  
8 paragraph.

9 "Advice obtained by EirGrid suggests  
10 that in the case of a private roadway a  
11 Section 53 wayleave Notice may not be  
12 used EirGrid Plc, as this section only 23:21  
applies to any land not being a street,  
road, railway or tramway."

13 Now I pointed that out last summer to your negotiators,  
14 so in no way should you think, Chairman, that this is  
15 something that they have only found out about recently. 23:22  
16 You have known about this situation, maybe not you  
17 personally, but your Company has and your negotiators  
18 have known about this situation since last summer.

19 A. **MR. MEAGHER:** Our preference is to come  
20 to agreement with 23:22  
21 landowners on wayleave agreements. Our first priority  
22 was to come to agreement with yourselves voluntarily  
23 before we pursued the Special Order.

24  
25 **END OF QUESTIONING OF THE APPLICANT BY MR. SMYTH** 23:22

26  
27 **MR. SMYTH:** I would say to that that in  
28 no uncertain circumstances  
29 I gave what I would consider to be very reasonable

1 terms to EirGrid in that I felt I had to sort things  
2 out first with Meath County Council and then once that  
3 was done -- I don't want to commit myself but I would  
4 certainly be 75% sure that EirGrid and I would be doing  
5 a deal. I have lived next to this substation for many, 23:22  
6 many years and I am little bit concerned, Chairman,  
7 that if you are reviewing maybe planning applications  
8 that I have made for a personal residence or for a  
9 yard, or something like that on my farm, that you are  
10 of the opinion I have not...(INTERJECTION) 23:23  
11 **THE CHAIRMAN:** I won't be doing that.  
12 **MR. SMYTH:** That is fine. Thank you  
13 for that. I would suggest  
14 that maybe you would consider adjourning this public  
15 inquiry for maybe a week or so to see if my solicitors 23:23  
16 could maybe sit down with Meath County Council.  
17 **THE CHAIRMAN:** You have had difficulty  
18 with the Council I take it  
19 then?  
20 **MR. SMYTH:** I have had difficulty with 23:23  
21 the Council.  
22 **THE CHAIRMAN:** Does that influence your  
23 participation with EirGrid?  
24 **MR. SMYTH:** Hugely.  
25 **THE CHAIRMAN:** How long has this been 23:23  
26 going on, your differences  
27 with Meath?  
28 **MR. SMYTH:** A number of years.  
29 **THE CHAIRMAN:** A number of years. You have

1 an expectation that you can  
2 resolve that in a very short time space?

3 **MR. SMYTH:** I would feel that if it is  
4 going to be resolved it is  
5 going to be resolve, and probably it is not going to, 23:23  
6 but I would feel bad if I didn't attempt to resolve it.

7 **THE CHAIRMAN:** Have you had discussions  
8 recently with the Council?

9 **MR. SMYTH:** No.

10 **THE CHAIRMAN:** What sort of period are we 23:24  
11 talking about?

12 **MR. SMYTH:** I have never really had  
13 meaningful discussions with  
14 the Council and I feel there is an opportunity here  
15 because I have some reports here that almost contradict 23:24  
16 the Council, specifically relating to the folio I was  
17 referring to earlier, 2197.

18 **THE CHAIRMAN:** It does seem a little  
19 improbable that matters may  
20 be resolved in a short period of time if you haven't 23:24  
21 had active discussions with them in a recent period,  
22 would that be fair?

23 **MR. SMYTH:** I have changed solicitor  
24 in the last year and I am  
25 certainly not responsible for the Council in any way. 23:24

26 **THE CHAIRMAN:** I understand that, yes.

27 **MR. SMYTH:** It is possible that it may  
28 happen, it may not. I would  
29 feel bad if I didn't try.

1 THE CHAIRMAN: Okay.

2 MR. SMYTH: That would be my opinion.

3 THE CHAIRMAN: I would prefer that you  
4 would continue with your  
5 submission because we want to hear everything that is 23:24  
6 going on. If something arises from what you say that  
7 can be reviewed I am sure by the CER, it is not for me  
8 to say that, but if you would like during your  
9 submission to maybe fill that point a bit further.

10 MR. SMYTH: I am only asking for a 23:25  
11 week, Chairman.

12 THE CHAIRMAN: Yeah, I understand that. Do  
13 you want to make your  
14 submission, or I am going to ask Mr. Steen if he has  
15 any questions of EirGrid at the present time? 23:25

16 MR. STEEN: Thank you, Mr. Chairman.

17

18 THE APPLICANT WAS QUESTIONED, AS FOLLOWS, BY MR. STEEN

19

20 48 Q. MR. STEEN: Mr. Meagher, could 23:25  
21 you advise this Committee  
22 how many areas of the route that it is proposed to lay  
23 the cables are not on any form of a roadway?

24 A. There is a section on the route by the estuary near  
25 Rush, and that is the only section that is off the 23:25  
26 roadway. I would say that more than 97% of the route  
27 is actually on public roads.

28 49 Q. You are saying that the only tranche of the cable is  
29 there at Rush, by Rush to the sea?

1 A. We go off road on one or two occasions along the route  
2 for horizontal direction drilling of certain roadways  
3 as well. There is other small obstructions on the road  
4 and we have to avoid them.

5 50 Q. There are a number of positions on the route that are 23:26  
6 being laid other than under a roadway?

7 A. Yes. We try to minimise it as much as possible but  
8 there is on occasions.

9 51 Q. I understand. That is fair enough. What area does the  
10 substation occupy? 23:26

11 A. I don't have the figure off the top of my head.

12 52 Q. Do you have a map of the area with the substation?  
13 A. If you want an approximate figure I would say that the  
14 converter station is approximately maybe five acres.

15 53 Q. Five acres. You don't have a map of the area over which 23:27  
16 the interconnector is going to be placed and built?

17 A. The converter station itself I presume you are talking  
18 about?

19 54 Q. Yeah.  
20 A. We only prepared for the section of road that was 23:27  
21 actually in question today, but we can get maps.

22 55 Q. Would you not have thought that it would be convenient  
23 and helpful that a map is presented so that it  
24 completely identified as to whether this is the  
25 appropriate route to be taken? 23:27

26 A. I was just handed a map there, could you ask your  
27 question again?

28 56 Q. If a map was presented would it not have shown where it  
29 would be capable that access into the site could be

1           gained from other than along this roadway?

2           A.    There is actually only one road access into woodland  
3           and, as I said, it is our preference and our priority  
4           to keep the cable in a roadway.

5   57   Q.    You have said there are other situations where you have 23:28  
6           gone off the roadway, in answer to the questions, isn't  
7           that correct? I am still asking, can you present to  
8           this hearing a map showing the area to be occupied by  
9           EirGrid and showing how close, or otherwise, it may be  
10          to other route points? 23:28

11          A.    Areas along the route where we have actually deviated  
12          from the road...(INTERJECTION)

13   58   Q.    No, the question is, you have acknowledged that you  
14          have done it in other areas, the question is have you  
15          available for this hearing a map identifying the site 23:28  
16          to show the other roads that may be in reasonable  
17          proximity to the EirGrid proposed site?

18          A.    We actually submitted the alternative considered for  
19          the route, our alterations, our deviations off the road  
20          actually were within the planning corridor, I would 23:29  
21          like to stress that, but we don't have that map that  
22          you referred to actually available.

23   59   Q.    Would you have that available after lunchtime?

24          A.    The planning permission has been granted by An Bord  
25          Pleanála, we are confined to the planning corridor. 23:29  
26          For the hearing today we prepared for the sections of  
27          the lands that are actually under Order.

28   60   Q.    What you are then saying is that if for some reason you  
29          were not allowed to get the order sought here today you

1 would have to resubmit a planning application?

2 A. We have planning approval.

3 61 Q. If you were not given leave to put your cables under  
4 this roadway does that mean that you would require a  
5 new planning application? 23:30

6 A. I am advised no, we have a planning approval for the  
7 route that was approved by An Bord Pleanála.

8 62 Q. Therefore it is relevant under your answer as to  
9 whether the cabling goes under this roadway or not?

10 **MR. BANIM:** Mr. Chairman, I wonder 23:31  
11 could I just consult with  
12 Mr. Meagher for a minute?

13 **THE CHAIRMAN:** Yes, of course.

14 **MR. BANIM:** If Mr. Fitzgerald might  
15 answer that question. 23:32

16 **THE CHAIRMAN:** Mr. Fitzgerald, please,  
17 yes.

18 A. **MR. FITZGERALD:** Firstly, in relation to the  
19 converter station it is not  
20 subject of this hearing but I do appreciate it is where 23:32  
21 the cable terminates. We have been given planning  
22 permission for the entire project in Ireland by An Bord  
23 Pleanála and on this said road if this Special Order  
24 were not granted it would cause a difficulty, it  
25 certainly would, because the converter station have 23:32  
26 been given permission for it on the site adjacent to  
27 Woodland, so we wouldn't be able to get access to our  
28 converter station via the road, as is our preference  
29 and as is the planning corridor, so it would be a

1 difficulty for us. We do need a special order for this  
2 road.

3 63 Q. MR. STEEN: Therefore you would have to  
4 resubmit a planning  
5 application? 23:33

6 A. I am not a planning expert, it would certainly be a  
7 difficulty.

8 64 Q. I think this inquiry is entitled to know, you are the  
9 people making the submissions, you are the people who  
10 should be in a position to answer. 23:33

11 A. I believe we would have to reapply for planning  
12 permission because we would not be able to get within  
13 the planning corridor or it would be a material  
14 amendment to planning, we would have to go back to An  
15 Bord Pleanála and there likely would be a material 23:33  
16 change to the planning.

17 65 Q. If that is the case why then are you now only seeking  
18 the appropriate leave, surely this would have been a  
19 first step in relation to the application before  
20 planning? 23:34

21 A. No. I believe that we went through pre application  
22 consultation meetings, I believe we had five or six  
23 meetings with An Bord Pleanála, because many cables, in  
24 fact most cables are exempt of planning, but this cable  
25 was not because it is part of a larger project which is 23:34  
26 not exempt, so this was something which we discussed  
27 with An Bord Pleanála and that is where the idea of the  
28 corridor came from.

29 66 Q. I appreciate that, but you have your planning, you are



1 proposing a particular route but as matters stand you  
2 have no right to go over a portion of the route over  
3 which you sought planning permission for, isn't that  
4 not correct?

5 A. It is correct to say that those rights...(INTERJECTION) 23:35

6 67 Q. Technically speaking it could be argued that your  
7 planning is null and void by reason of the fact that  
8 you did...(INTERJECTION)

9 A. I...(INTERJECTION)

10 68 Q. Excuse me a second, that you did not seek or obtain 23:35  
11 permission of the land owners to go through their  
12 property?

13 A. Sean Meagher has just pointed me to a part of his  
14 submission which he read earlier, and I refer you to  
15 section 3.3: 23:35

16 "On 17 November 2008 EirGrid received  
17 consent from the Commission for Energy  
18 Regulation under Section 49 to allow  
19 EirGrid to exercise the powers under  
Section 53 of the 1927 Electricity  
Act..."

20 I would just go further than that to say that there are 23:36  
21 a number of areas along the route where we have  
22 received planning permission where we subsequently and  
23 for the most part came to voluntary arrangements with  
24 the land owner's. That was our express intention for  
25 this particular road as well. That has not been 23:36  
26 possible to achieve so we have had to proceed with the  
27 special order in the way that we have.

28 **MR. STEEN:** You do acknowledge and  
29 accept that you do not have

1 the consent of my client in relation to the use of this  
2 roadway?

3 **MR. BANIM:** If I can just interject,  
4 Mr. Steen is kind of going  
5 along a legal route and I think it would probably be 23:36  
6 best if Ms. Bourke or perhaps myself could address the  
7 answers to those questions.

8 **MR. STEEN:** I am asking questions,  
9 these people are holding  
10 themselves out as experts in relation to the planning 23:37  
11 process in relation to the application --

12 **MR. BANIM:** No they are not.

13 **MR. STEEN:** -- and I am asking  
14 questions. If they are not  
15 in a position to answer the questions they should say 23:37  
16 that.

17 **MR. FITZGERALD:** Can I just come in and  
18 say, I am not an expert in  
19 planning and I never set myself out to be an expert in  
20 planning. I am the Project Director for the East-West 23:37  
21 Interconnector Project, I have expertise in various  
22 areas, planning and planning legislation is not one of  
23 them.

24 **THE CHAIRMAN:** Mr. Steen, you are  
25 suggesting cart before 23:37  
26 horse.

27 **MR. STEEN:** Very much so.

28 **THE CHAIRMAN:** You are suggesting that, I  
29 am not

1 saying...(INTERJECTION)  
2 MR. STEEN: It would seem to be that  
3 from...(INTERJECTION)  
4 THE CHAIRMAN: That is the point you are  
5 making. 23:37  
6 69 Q. MR. STEEN: I have a few other  
7 questions, if I may: This  
8 roadway what are the dimensions of the roadway in  
9 question, the current dimensions?  
10 A. MR. MEAGHER: I don't have the figures 23:37  
11 offhand, approximately four  
12 and a half...(INTERJECTION)  
13 70 Q. You didn't survey the road?  
14 A. Did we survey the road? No, I don't have the exact  
15 measurements, we have maps that show the width of the 23:38  
16 roads.  
17 71 Q. If you can answer the questions that are asked it might  
18 help and not be evasive, a survey wasn't carried out?  
19 A. No.  
20 72 Q. Thank you. The type of vehicles that will be going up 23:38  
21 and down this road, if you were allowed to use it, as  
22 you so require, what would be the width of those  
23 vehicles, would they be able to transgress the lane way  
24 in question without causing damage?  
25 A. They wouldn't cause any damage. The vehicles that 23:38  
26 would have to actually access the site would be no  
27 longer than the vehicles that access the site in  
28 the...(INTERJECTION)  
29 73 Q. Even with potentially 100 people on the site accessing

1           it/egressing the site during the day?

2        A.    As I said there will be no bigger vehicle larger or  
3           bigger and loads will definitely be smaller than any  
4           vehicles that have actually accessed the site in the  
5           past. 23:39

6    74   Q.   Including construction?

7           A.   Including construction.

8    75   Q.   Big construction lorries, diggers?

9           A.   Larger loads have been on that road than the loads that  
10          we have to access that site. 23:39

11       **MR. STEEN:**                   Up to now what has been the  
12   type of vehicle that has  
13          used the roadway in question?

14       **MR. BANIM:**                   Mr. Donaghy may be in a  
15   position to answer this. 23:40

16       **MR. MEAGHER:**                My colleague here, Robert  
17   Donaghy, addressed this  
18          question at the oral hearing and I will let him answer  
19          this question if you don't mind.

20       **THE CHAIRMAN:**               Sure. Go ahead. 23:40

21       **MR. DONAGHY:**                Robert Donaghy is my name.

22       **MR. BANIM:**                   What position do you hold?

23       A.    I am a senior consultant engineer working in the  
24           underground cables area, and I work with ESB  
25           International. There was a survey done of the entire 23:40  
26           cable route and this actually arose as a question  
27           during the main oral hearing. All of the roads along  
28           the route of the cable were assessed for the  
29           suitability to carry the heavy loads and large vehicles

1 required. This was a particular issue to bear in mind  
2 for the project because woodland station and the  
3 converter station are such large scale developments.  
4 In that survey certain loads parameters were identified  
5 for the survey and the load parameters that were 23:41  
6 identified for this report assess loads between the  
7 followings two sets of dimensions, one was a minimum  
8 length of 35 metres by a width of 4.8 and a height of  
9 6.1 metres and a weight of 309 tons.

10  
11 The second set of dimensions at the upper end of the 23:41  
12 scale was for an 85 metre length by 4.8 metres width by  
13 5.3 metres high weighing 340 tones. From what we know  
14 of the nature of the equipment that would be delivered  
15 to woodland for this project the dimensions of the 23:42  
16 transport type would be very much towards the lower end  
17 of that scale. Based on that survey I concentrated on  
18 the size of the road and its suitability for carrying  
19 the large loads required for this project. The road is  
20 considered suitable for that purpose. It should be 23:42  
21 remembered as well that the ESB transmission station at  
22 woodland has been there since 1985 and all of the  
23 construction traffic for that station travelled along  
24 the same road as will be used for this converter  
25 station. Some very large loads indeed have passed 23:42  
26 along that road on many occasions in the past,  
27 including the very large heavy transformers that are in  
28 that ESB station.

29 76 Q. What would be the daily usage of this roadway from the



1 the roadway for the last 30 years we understand. Mr.  
2 Smyth disputes their right to do so but they will be  
3 saying they have been using it for 30 years.

4 80 Q. You and I know after 20 years you would have a  
5 prescriptive right-of-way? 23:45

6 A. Yes.

7 81 Q. I am only enquiring as to whether EirGrid are  
8 maintaining that the access that is currently enjoyed  
9 is prescriptive or otherwise?

10 A. We believe it to be so because we have seen an opinion 23:45  
11 from Mr. Peter Bland, Barrister of Law, who has given  
12 ESB an opinion to that effect. Beyond that we don't  
13 know, we haven't investigated it, EirGrid only came  
14 into existence in 2006.

15 82 Q. The use that was intended to be made, if this licence 23:45  
16 is given, would be substantially greater use than was  
17 currently enjoyed?

18 **MR. BANIM:** It will be for 15 months  
19 when they are constructing  
20 the cable line and the converter. My understanding, 23:45  
21 Mr. Meagher, is that the station is, generally  
22 speaking, going to be unmanned, is that right?

23 A. **MR. MEAGHER:** That is correct. When the  
24 station is actually built  
25 it will be an unmanned station, there will be very 23:46  
26 little additional traffic on the road.

27 83 Q. Has the area round being surveyed for its environmental  
28 usage?

29 A. It has been, yes, and it is submitted with the

1 application to An Bord Pleanála.

2 84 Q. Has the potential flooding being examined?

3 MR. BANIM: If Mr. Nolan could answer  
4 those questions.

5 MR. NOLAN: Pat Nolan, 23:46  
6 Senior Consultant, planning  
7 and development section of ESB International. What was  
8 the question?

9 85 Q. Has the area adjacent to this lane way been surveyed  
10 for flooding or otherwise? 23:46

11 A. The area has been surveyed from a number of points of  
12 view, ecologically, archeologically, a hydrology  
13 examination was done for the site and along the route.  
14 All of that was included in the planning application  
15 which was before An Bord Pleanála, I don't have the 23:47  
16 information with me?

17 86 Q. You don't. Everything has been produced for the An  
18 Bord Pleanála hearing but nothing has been produced for  
19 today?

20 A. There was a very rigorous examination of these issues 23:47  
21 by An Bord Pleanála. I understood that today was to  
22 address the special order for this...(INTERJECTION).

23 87 Q. Mr. Chairman, I think that these documents should have  
24 been made available for today.

25 A. They are in the public domain. 23:47

26 MR. STEEN: It is a different hearing,  
27 a different aspect here  
28 today as against what was before An Bord Pleanála. I  
29 respectfully submit that EirGrid now present all these



1 documents for our inspection.

2 **THE CHAIRMAN:** Anything further,  
3 Mr. Steen?

4 **MR. STEEN:** No, thank you, Mr.  
5 Chairman.

6

7 END OF QUESTIONING OF THE APPLICANT BY MR. STEEN

8

9 THE APPLICANT WAS QUESTIONED, AS FOLLOWS, BY

10 THE CHAIRMAN

11

12 88 Q. **THE CHAIRMAN:** Can I just ask a question  
13 of Mr. Donaghy, just one  
14 question arising from your evidence there, you did  
15 mention a figure, correct me if I am wrong, about 23:48  
16 vehicle waste up to 340 tons, did I understand you to  
17 say 340 tons?

18 A. **MR. DONAGHY:** That is correct.

19 **THE CHAIRMAN:** One vehicle up to 340  
20 tons? 23:48

21 A. A very long multi axle vehicle.

22 89 Q. With axle limitations of whatever, 10 or 11 tons, or  
23 whatever?

24 A. It will comply with the normal load limits for the road  
25 in question. That type of load wouldn't be untypical 23:48  
26 for the very large electrical equipment such as an  
27 electrical transformer.

28 90 Q. I understand that. This will be a multi axle vehicle?

29 A. That's right, a very long vehicle.

1 91 Q. A long train in effect.  
2 A. Yes.  
3 MR. BANIM: would I be allowed to ask  
4 a question of Mr. Donaghy  
5 just arising out of that? 23:49  
6 THE CHAIRMAN: Of course.  
7 92 Q. MR. DONAGHY: would you be aware of the  
8 type of equipment that is  
9 in woodland that would be have been transported on to  
10 woodland in the last while over this road? 23:49  
11 A. There are, to my knowledge, two transformers which  
12 transform from the 400 kv down to 220 kv, they have  
13 been in woodland since it was built and commissioned in  
14 1985. To my knowledge a temporary transformer has also  
15 been delivered to woodland in the last, I would say, 23:49  
16 six to seven years following a problem with one of the  
17 existing transformers.  
18 93 Q. MR. BANIM: what would the size of  
19 these transformers be? How  
20 would they be brought on, could you describe the type 23:50  
21 of vehicle?  
22 A. It would be a very long multi axle vehicle, it could  
23 have maybe ten or 12, or more, axles. As I say they  
24 would be very long, hence the dimensions that were  
25 chosen in the survey. They could typically weigh, I 23:50  
26 would say, 100, maybe even 200 tons for the very large  
27 transformers. The woodland station has the highest  
28 transmission voltage on the ESB system and as such the  
29 very largest transformers in Ireland would be

1 transported into woodland, and similar stations.

2 **MR. NOLAN:** Could I just add to that,  
3 an addendum to our  
4 application for planning approval to the Bord included  
5 a specific study of the delivery of large equipment to 23:51  
6 woodland, so the information that you are probing here  
7 is actually in the application.

8  
9 **END OF QUESTIONING OF THE APPLICANT BY THE CHAIRMAN**

10 23:51  
11 **THE CHAIRMAN:** Alright Mr. Nolan. It is  
12 just after ten to one and I  
13 propose to adjourn for lunch. After lunch I am going  
14 to invite both Mr. Smyth and Mr. Steen to make their  
15 submissions to the hearing but before that I will ask 23:51  
16 anybody if they want to contribute any further  
17 documentation which were touched on during the hearing  
18 this morning. I don't know what these are, the last  
19 one I have is Schedule 6 of the booklet, and I think  
20 the objectors got that as well. If you want to make 23:51  
21 reference to that you might do that immediately after  
22 lunch to allow the objectors to make their submissions.

23 **MR. BANIM:** I will do that.

24 **THE CHAIRMAN:** We will adjourn for lunch  
25 and come back at 2 o'clock. 23:52

26 Thank you very much.

27  
28 **LUNCHEON ADJOURNMENT**

29

1 THE HEARING COMMENCED AFTER THE LUNCHEON ADJOURNMENT,  
2 AS FOLLOWS:

3  
4 THE CHAIRMAN: We are ready to resume, so  
5 I am going to continue. 01:04

6 Mr. Banim, please.

7 MR. BANIM: I wonder could I take this  
8 opportunity just to clarify  
9 a number of matters?

10 THE CHAIRMAN: Yes, please do. 01:04

11 MR. BANIM: The first thing is in  
12 relation to the papers, the  
13 Schedules I was referring to this morning were from my  
14 own booklet and they differ from the booklet that was  
15 submitted. We are not relying -- there is some other 01:04  
16 documentation, but I am not, and I didn't mean to refer  
17 to any documentation that wasn't within that booklet,  
18 so Mr. Smyth and Mr. Steen have the booklet that is  
19 being relied upon.

20 01:05  
21 The authorisations which I mentioned this morning, the  
22 section 16 authorisation, the section 53 authorisation  
23 and the section 51 and section 52 authorisations. The  
24 section 16 authorisation was granted by the Commission  
25 to allow EirGrid to construct the Interconnector. The 01:05  
26 section 48 authorisation was for the purpose of the  
27 wayleaves, I think; yes. The section 49 application  
28 authorisation was to allow EirGrid to lay cables over  
29 public roads. The section 48 -- section 49 application

1 was for the purpose of wayleaves.

2 Those authorisations are not in that booklet. The  
3 Commission has them and they are on various websites.  
4 If Mr. Smyth or Mr. Steen require copies of those  
5 authorisations I can provide them. 01:06

6  
7 In relation to the planning documentation. The  
8 planning documentation is publicly available on various  
9 websites, including EirGrid Interconnector.ie. and the  
10 An Bord Pleanála website. It is the Applicant's 01:06  
11 position that the planning documentation is outside the  
12 scope of this hearing. We are not going to be putting  
13 in any documentation, save insofar as we want to put in  
14 a map showing the corridor. My solicitor, Ms. Bourke,  
15 is going to hand that in now. (Same handed) 01:06

16  
17 The copy that I am handing into you, Mr. Chairman, has  
18 got a red line showing the planning corridor and,  
19 unfortunately, we hadn't got a coloured photocopier but  
20 we can get a red pen, I will come to that in a minute, 01:07  
21 but that is the only other document I want to put in at  
22 this stage. That shows the planning corridor, a kind of  
23 a bolder line. If you see the words "Cappa" there in  
24 the middle, and it goes from essentially -- you can see  
25 it there -- at the left there is the little house and 01:07  
26 then there is the road, and I will go into that now in  
27 a minute with Mr. Meagher.

28  
29 The other matter that was raised this morning was

1 raised by you, Mr. Chairman, about the Meath County  
2 Council having this road in charge. We understand that  
3 in a planning application for the placement of another  
4 transformer on the Woodland site that was heard in  
5 2006, which I understand that Mr. Fred Smyth was aware 01:08  
6 of and may have made a submission to, the County  
7 Council said that that roadway was in charge.  
8 Subsequently, they have now said, I think towards the  
9 end of 2008, they said that it was not in charge. So we  
10 understand that as long as they thought they had it in 01:08  
11 charge that they maintained it but we believe that they  
12 haven't maintained it since.

13 **THE CHAIRMAN:** I see. All right, that  
14 clarifies it, yes.

15 **MR. BANIM:** I want to just deal with a 01:09  
16 matter that was raised by  
17 Mr. Steen this morning about the cart before the horse.  
18 The position was that if we had brought this  
19 application and we hadn't got planning permission, I am  
20 sure Mr. Steen would say that it was too early to be 01:09  
21 seeking a Special Order because we hadn't got the right  
22 to do it.

23  
24 what happened was that we brought the application  
25 before An Bord Pleanála. At the stage we had been given 01:09  
26 the authorisation to allow us exercise wayleave powers  
27 under section 53 of the 1927 Act and we had been given  
28 permission or authorisation by the Commission to dig  
29 public roads and to lay the cable under sections 51 and

1 52 of 1927 Act. The issue of whether or not there was  
2 a private road at that stage -- sorry. Ms. Bourke  
3 tells me that at the planning oral hearing in March  
4 2009 this issue was discussed and it was dealt with on  
5 the basis that an application would be made for a  
6 Special Order if agreement couldn't be reached with the  
7 landowner. So that is how it transpired.

01:10

8  
9 The position now is that, and certainly it is EirGrid's  
10 position that this is not something that can be dealt  
11 with in this hearing, because to do so would  
12 essentially would be an attempt to make out that the  
13 planning permission or the planning approval that we  
14 have obtained is invalid.

01:10

15  
16 There is a timeframe within which to obtain an order of  
17 judicial review declaring that a planning permission or  
18 planning approval is invalid, that period has long  
19 since past, the planning approval having been granted  
20 last September.

01:10

01:11

21  
22 So the position is that EirGrid has planning approval  
23 to lay this Interconnector and to build the converter  
24 station. While Mr. Steen's point is a good one, it may  
25 be more appropriate in other circumstances. It is  
26 submitted on behalf of EirGrid that it is not something  
27 that should be considered by the Commission in this  
28 application.

01:11





1 this application are the maps that are attached to the  
2 folios that were submitted with the application. The  
3 maps that were handed in this morning were purely just  
4 to assist you, Mr. Chairman, and Mr. Smyth and  
5 Mr. Steen as to what exactly the areas we are talking 01:13  
6 about, these maps are not to be used for the purpose of  
7 the application. The application maps are contained in  
8 the application, which were furnished originally and  
9 which Mr. Smyth and Mr. Steen have confirmed that they  
10 have. 01:13

11 **THE CHAIRMAN:** Yes, all right.

12 **MR. BANIM:** There is one of them -- if  
13 I may, Mr. Fitzgerald is  
14 going to deal with the position that pertains, raised  
15 by Mr. Steen this morning that if the Special Order is 01:14  
16 not granted.

17 **THE CHAIRMAN:** Yes. Do you want to leave  
18 that to the summing-up  
19 process?

20 **MR. BANIM:** Well perhaps so. 01:14

21 **THE CHAIRMAN:** Can you leave that till  
22 after? You will get an  
23 opportunity before closing, so we can deal with that  
24 then.

25 **MR. BANIM:** Yes. 01:14

26 **THE CHAIRMAN:** Now I am going to pass over  
27 to yourself, Mr. Smyth.  
28 Mr. Fred Smyth, please.

29 **MR. BANIM:** Sorry, Mr. Chairman, I am

1 very sorry, the  
2 clarification of the length of the route, Mr. Smyth  
3 wanted that to be dealt with.

4 **THE CHAIRMAN:** All right, let's deal with  
5 that because I asked the 01:14  
6 question as well. Sorry about that, Mr. Smyth. Go  
7 ahead Mr. Meagher.

8 **MR. MEAGHER:** On the map actually that  
9 is actually I7090046. We  
10 give the cable length as 173; 173 metres is actually, 01:15  
11 if you look at the area shaded yellow and take it at  
12 the left-hand side is where the measurement was taken.  
13 So you are taken the maximum possible length of  
14 wayleave. In reality, like, the cable actually would  
15 actually be a shorter length on the folios in question. 01:15  
16 But for the matter of making sure the issue wasn't  
17 understated, the maximum possible figure was actually  
18 stated in the drawing.

19 **THE CHAIRMAN:** All right.

20 **MR. BANIM:** If I could just ask a 01:15  
21 question arising out of  
22 that. I think you took the actual measurement from the  
23 longest boundary. Is that right?

24 A. Yes. If you start actually, I will explain in more  
25 detail, if you actually start at the bottom of the map 01:15  
26 like where the area is shaded yellow actually comes  
27 down to a point, if you start there and you take the  
28 left-hand side of the wayleave and then continue up on  
29 the left-hand side of the wayleave till it crosses over

1 again to the right-hand side at the very top of the  
2 area shaded yellow, you will find that that length  
3 actually corresponds to 173 metres. If you take the  
4 centre of the line from the centre of the road across  
5 it will be 155 as measured by ourself. 01:16

6 **THE CHAIRMAN:** Okay.

7 **MR. BANIM:** That's just taking into  
8 account the area affected,  
9 Mr. Fred Smyth's lands..

10 **THE CHAIRMAN:** Yes. 01:16

11 **MR. BANIM:** It does not take into  
12 account Mrs. Catherine  
13 Smyth's lands.

14 **THE CHAIRMAN:** That's understood, yes. I  
15 think we are ready, Mr. 01:16  
16 Smyth; sorry to hold you up.

17  
18

19 **MR. FRED SMYTH MADE THE FOLLOWING SUBMISSION:**

20 **MR. SMYTH:** Not at all, Chairman. 01:16  
21 thank you very much for  
22 giving me the opportunity to speak, and indeed, I very  
23 much want to welcome the CER to this process.

24

25 I have found this immensely frustrating trying to deal 01:16  
26 with various companies that are using the facility  
27 owned by ESB in woodlands.

28  
29 I want to begin by making a couple of points and they

1 are sort of all over the place and then I want to come  
2 back to them individually and elaborate on them.

3  
4 The first thing is that, as I stated in my letter to  
5 the Commission for Energy Regulations, specifically 01:17  
6 Mr. John O'Connell, in reply to his reference letter  
7 39120, that of was 28.1.2010, I was unavailable to view  
8 the Special Order file in relation to the Fingal  
9 Language Institute if Ballbriggan Garda Station, when I  
10 called to Ballbriggan Garda Station. When I did call to 01:17  
11 Ballbriggan Garda Station within the original timeframe  
12 set down by the CER, the original deadline was the 22nd  
13 January for me to reply to the CER, but unfortunately,  
14 for one reason and another, I needed more time, and I  
15 gratefully acknowledge that I did receive more time 01:18  
16 from the CER - I had an extension of a week and it was  
17 badly needed. I did get a reply into the CER in that  
18 timeframe. But unfortunately the file was not in  
19 Ballbriggan Garda Station, and that is actually - it is  
20 important, you know. 01:18

21  
22 It is important to a huge extent because I needed to  
23 see and compare maps. A large problem I have here  
24 today is that the facts are the maps that are displayed  
25 are not accurate to the situation on the ground. The 01:18  
26 maps are similar to ones that I have been using, if not  
27 the exact same, to ones I have been using for many,  
28 many years. I actually have a report from Meath County  
29 Council telling me that the situation on the ground is

1 an accurate reflection of the boundaries on the ground,  
2 and that they have not in any way encroached on my  
3 property at the cottage, which is part of the map I  
4 have been making reference, referenced by my folio  
5 number: 2197.

01:19

6  
7 I really do feel that a survey is in order. I have  
8 documentation from the CER saying it is not within  
9 their remit to do a survey; but there is a survey - I  
10 mean certainly EirGrid have conducted surveys of the  
11 lane in question. We are not able to see them and  
12 that's not ideal at all, to be honest. There was  
13 digging -- and I have had some communication with  
14 Mr. Meagher on this matter -- there was digging on the  
15 lane in question, and certainly there is a report on  
16 what was found by the digging. There was some sort of  
17 test hole or exploratory hole to find out -- I don't  
18 know the technical term -- but what resistance was  
19 there to some heat or something where the cable may or  
20 may not go. But definitely there is a survey of the  
21 lane in question. There is at least one. It is not  
22 that helpful that we are not able to see it and to go  
23 over it and to discuss it here in detail today.

01:19

01:19

01:20

24  
25 I have huge concerns regarding the ESB Telecom company.  
26 They do not have a right-of-way. I have huge concerns  
27 with the CER if they give this Special Order to EirGrid  
28 that the ESB Telecom company are going to tell me that  
29 they have a right-of-way because of this order that has

01:20

1           been given by the CER.  
2           As I understand it, the Commission for Energy  
3           regulation does not have a remit to in any way regulate  
4           a telecom company. I have no idea how the ESB managed  
5           to swing having a subsidiary company in a market where 01:21  
6           their regulator cannot regulate. Now I know they have  
7           other interests in other jurisdictions, but I find that  
8           very unusual.  
9  
10          In Peter Bland's opinion he does not mention the 01:21  
11          telecom company directly but he does say "an ESB  
12          subsidiary", and the same with Mr. Hannon, the  
13          solicitor who was dealing with this matter for the ESB.  
14  
15          I have made a submission to An Bord Pleanála in 01:21  
16          relation to a different matter being the proposed  
17          Meath/Tyrone 400kV interconnection development, which  
18          is An Bord Pleanála's reference number: 17VA 0006, and  
19          I would very much like to read from that to you here  
20          today, if that is okay with you? 01:22  
21          **THE CHAIRMAN:**                    Yes, how much of a  
22          ... (INTERJECTION).  
23          **MR. SMYTH:**                        I would think it is  
24    three-and-a-half A4 pages  
25          typed. 01:22  
26          **THE CHAIRMAN:**                    How relevant is that  
27    really to the issue today,  
28          do you think?  
29          **MR. SMYTH:**                        well, that is a subjective

1 matter, I would have  
2 thought.

3 **THE CHAIRMAN:** Yes. If it is another  
4 project, it does not really  
5 have much bearing on what we are dealing with today; do 01:22  
6 you think?

7 **MR. SMYTH:** I wouldn't necessarily  
8 agree, but certainly it is  
9 in the public domain. It is dated 10.3.2010. It  
10 certainly, it deals with -- well, obviously it deals 01:22  
11 with other issues but among them would be the wayleave,  
12 the inadequate wayleave powers and then the land grab,  
13 which is what, in effect, as happened to me. I have  
14 had my land stolen. Now I have got it returned, but  
15 ownership of land is controlled by maps and if people 01:22  
16 are just going to alter maps to suit themselves that is  
17 theft.

18 **THE CHAIRMAN:** Yes. We are dealing with a  
19 particular instance, aren't  
20 we, in this case. We can hardly deal with other 01:23  
21 projects, as it were, you know that are not really  
22 relevant to the issue at hand, it seems to me,  
23 Mr. Smyth.

24 **MR. SMYTH:** Okay. Certainly, that is  
25 available publicly in the 01:23  
26 An Bord Pleanála file.

27 **THE CHAIRMAN:** We have the reference to it  
28 and that's fine.

29 **MR. SMYTH:** Well thank you for that.

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It would appear that from what has been said regarding the map that we were given after lunch, which is the drawing number PE424D4001-013-043-000 that the red line that is indicated on this map, and I did actually see the original documentation on this and I actually spoke to the surveyor, Trevor Sheridan, who did, I believe draw, or supervise the drawing of the red line, from what paperwork I have received from the EirGrid company it would appear that this line does not apply to this strip specifically the wayleave that was sought. I think the exact phrase was: "Between ditches". So they are not in any way looking to encroach into agricultural land or in any way come off (what I would call) a tarmac surface; now they may go 6 or 8 inches. But then when they are saying that they have a wayleave here under the red line to go into what is in effect the land of Mr. Delaney and Mr. Dwyer, who are my neighbours, they already have a wayleave to do that. So surely they should just do that. Section 53 will cover agricultural land. It is not a paved surface if you go in there, so why don't they just go in there?

01:23  
01:24  
01:24  
01:24

Obviously, it goes without saying, I personally believe that they cannot dismantle Portan Bridge, put the cable through it, and reinstate Portan Bridge to take the loads that it has to take and to protect the cable adequately or insulate the cable adequately and not cause flooding.

01:25



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I know, I have the documentation saying that flooding is not maybe an issue we are dealing with here today but from my point of view that is a huge issue.

**THE CHAIRMAN:** Mr. Smyth, you mentioned Portan Bridge. 01:25

**MR. SMYTH:** Yes.

**THE CHAIRMAN:** Where exactly is Portan Bridge, just remind me of that? 01:25

**MR. SMYTH:** Portan Bridge is not on a map you have.

**THE CHAIRMAN:** It is not within the wayleave proposal?

**MR. SMYTH:** No. 01:25

**THE CHAIRMAN:** It is outside that?

**MR. SMYTH:** Yes.

**THE CHAIRMAN:** That's fine.

**MR. SMYTH:** It is alluded to in their documentation. They are saying that my holding is the only -- is, in effect, the land between Portan Bridge and the... (INTERJECTION). 01:25

**THE CHAIRMAN:** I understand what you are saying. 01:25

**MR. SMYTH:** I have other maps, if you wish?

**THE CHAIRMAN:** No, no. I know where it is now.



1 THE CHAIRMAN: No, that won't be necessary  
2 really.

3 MR. SMYTH: Okay. So what we are  
4 dealing with here today is  
5 basically it is an Electricity Regulation Act and it is 01:27  
6 not a Telecom Regulation Act. The problem is that I  
7 have ESB Telecom using my property to gain access to  
8 the woodland site, where they have a mast. They have  
9 an existing mast and it has been there since '93. They  
10 obtained planning permission in 2007; not 2008. 01:27  
11

12 I stated clearly in an objection to An Bord Pleanála,  
13 because I wasn't in the first instance able to object  
14 to Meath County Council -- this would have been before  
15 the Strategic Infrastructure Act came in -- I objected 01:27  
16 to Meath County Council regarding an application by the  
17 ESB, which was to prepare in effect the woodland site  
18 for the Interconnector.

19

20 There was a mix-up of some form, in the sense that I 01:28  
21 was specifically told by the Meath County Council I  
22 could not object to this application until it was  
23 validated. When I went in, having rung two days  
24 previously to find out if it was validated, was told it  
25 wasn't, and went in two days later to be told a 01:28  
26 decision had been made, despite the fact there is  
27 supposed to be a month period in between validation and  
28 a decision made. There is a problem there.  
29

1 So I took this matter as an adjoining landowner to An  
2 Bord Pleanála and this is where we got this letter that  
3 Mr. Banim contends is not the subject matter of today,  
4 but it is very important to how I feel I have been  
5 treated, a letter from Mr. Paul Carroll. In February 01:28  
6 2006 I contact Mr. Paul Carroll of Meath County  
7 Council's Road Division and was told the lane was not  
8 in charge, but I couldn't have it in writing unless I  
9 filled in a form and sent in some money; which I did.  
10 I never got a reply to that at all. 01:29

11  
12 Then Mr. Andrew O'Connell was able to get a reply  
13 knowing, everybody knowing: Meath County Council and  
14 Mr. O'Connell knowing that I had said to An Bord  
15 Pleanála that the lane was not in charge, it was a 01:29  
16 private lane. It's a disaster.

17  
18 Then the ESB Telecom Company, a couple of months later  
19 lodged an application with Meath County Council and  
20 this time I was able to object to it. My objection is 01:29  
21 dated 15th January 2007, I have it here in front of me.  
22 I clearly state that -- I will just read this in  
23 quickly:

24  
25 "From Fred Smyth to Meath County 01:30  
26 Council Planning Department:

27 Dear Sir/Madam..."

28  
29 This is in relation to DA60583, which is ESB Telecom:

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"Dear Sir/Madam,

"I wish to make the following observation in relation to the above planning application. The lane shown in yellow on the map attached is not taken in charge by Meath County Council. This is a cul-de-sac lane off the Red Road in Batterstown. This has been confirmed over the phone to me by Mr. Paul Carroll in February 2006 and also to my engineer, Mr. Frank Burke."

01:30

I submitted Mr. Burke's report and a different map.

01:30

"It is clearly shown on my title deeds it is my property and, as such, I most certainly do not give my consent for ESB Telecom to trespass across my property.

01:30

"I trust that this is in order.

"Your sincerely, Fred Smyth.

"PS: On the attached map I marked the spot where the ESB abandon a caravan for five years. This was totally unappreciated."

01:30

I go on further:

"Also unappreciated is the rearing of pheasants which is happening in the wood that the ESB have planted on their property. I am having continuous interference with hunters and their dogs, who are going through my sheep and I have had occasion to call the Gardaí, who find themselves caught between some very aggressive sportsmen and some of the more aggressive members

01:31

1 of the local gun club.

2

3 "I cannot emphasise how undesirable  
4 this situation is. I came to the  
5 conclusion many years ago that the best  
6 way to handle this situation is for  
there to be no pheasants at all; then  
people don't come in hunting."

01:31

7 I have, if you wish, Chairman, got the actual receipt  
8 from Meath County Council to say that was submitted  
9 here.

10 **THE CHAIRMAN:** No, that's not necessary.

01:31

11 **MR. SMYTH:** I do have it and their  
12 reference number is: 6859  
13 on that matter. So that is something you need to be  
14 aware of.

15 01:31

16 On 30.11.2009 I wrote, along with my mother and my  
17 father (who is now deceased) to ESB Telecom regarding  
18 their mast asking them to remove it and to stop  
19 trespassing. We have no response to this, whatsoever.  
20 My concern is that the CER today are going to issue a  
21 wayleave across my property, and in effect draw a line  
22 on my deeds, that is going to facilitate a company that  
23 is not under, in any form, being regulated by any  
24 electricity act. That is a huge concern.

01:32

25 **THE CHAIRMAN:** Yes.

01:32

26 **MR. SMYTH:** So if you could, please,  
27 bear that in mind.

28 **THE CHAIRMAN:** It is being recorded, of  
29 course, and the CER will

1 see all of that.

2 MR. SMYTH: Thank you very much for  
3 that.

4  
5 I would like to turn my attention to Mr. Peter Bland's 01:32  
6 legal opinion, which I believe dates around October  
7 2009. He refers to the queerest being the Electricity  
8 Supply Board, his agent is Mr. Hannon and then it is  
9 regarding Woodlands, Batterstown, County Meath. In the  
10 first paragraph -- I don't know if you have this, there 01:33  
11 are a couple of copies around -- but halfway down on  
12 the first paragraph, if I just quote directly:

13  
14 "It has been understood that the road  
15 had been adopted by Meath County  
16 Council..." 01:33

17 This is the lane that we are referring to today  
18 regarding the Special Order:

19  
20 01:33

21 "It is understood that the road has  
22 been adopted by Meath County Council as  
23 a public road and a letter issued to  
24 that effect on 7th October 2006, but  
25 subsequently Meath County Council have  
26 confirmed that the letter is issued in  
27 error." 01:33

28 Now I contend that it was not issued in error. It was  
29 issued deliberately, purely just to get around a little  
problem that had come up. This is reflection of what I  
am dealing with here and I really, I tried earlier to

1 get a couple of days to adjourn this hearing so maybe I  
2 could try and talk to Meath County Council, but if we  
3 can't do that, we can't do that.

4  
5 I go on to note that in his second paragraph on the 01:33  
6 last line of the first page:

7  
8 "The right-of-way registered as a  
9 burden on folio 38650F is a  
10 right-of-way for all purposes and  
11 includes in its scope the existing and  
12 proposed extended use of the dominant  
13 tenant." 01:34

14 The legal advice I have been getting is superb.  
15 Unfortunately my lawyer can't be here today and I am  
16 representing myself, and I am grateful to be allowed to  
17 do so, but it became very obvious, very quickly, that 01:34  
18 the section 53 wayleave was not going to work. I have  
19 the same people saying to me the hat ESB Telecom  
20 company does not have a right-of-way and I have a lot  
21 of confidence in the legal opinion I am getting.  
22 Obviously it is only an opinion. 01:34

23 These things -- I am aware this is not a court of law,  
24 and I don't wish you to think that I think it is, or  
25 anyway. I do realise we are here to discuss the  
26 special order, but really there are issues in the 01:35  
27 background that maybe EirGrid themselves are not  
28 controlling, or are not in charge of, or contributing  
29 to, but there are huge issues in the background. From  
the earliest point possible, which would have been the



1 meeting in September 2008, I made it very clear to Mr.  
2 Donaghy and to Mr. Andrew O'Connell that really I would  
3 need certainly to sort things out with Meath County  
4 Council before there would be any sort of voluntary  
5 agreement between EirGrid and myself and that is in 01:35  
6 effect -- the fact that that has not happened is why we  
7 are here today. well, it is certainly why I am here  
8 today because I certainly don't speak for my mother,  
9 but it is a huge problem. I don't wish you in any way  
10 to think it a small problem or an impediment or 01:35  
11 something that I think is irrelevant, or anything like  
12 that. It is a huge problem and I do need that on  
13 record. That is where that is now.

14  
15 Mr. Hannon wrote a letter to Sheila Cooney, Patrick 01:36  
16 Tallan & Company Solicitors, in Town Centre, Ashbourne,  
17 dated 8th October 2008 regarding his clients, the ESB,  
18 Mrs. Cooney's client, which I then was, Fred Smyth,  
19 regarding property at Portan, Batterstown, County  
20 Meath, which again refers to the strip we are dealing 01:36  
21 with here today.

22  
23 In the third last paragraph on the second page:  
24  
25 "I am advised that the right of access 01:36  
26 was raised by your client for the first  
time in 2006..."

27  
28 So I have actually been saying this since 2006. I do  
29 realise EirGrid are working to what they consider to be

1 a tight timeframe and they are on schedule on that and  
2 obviously you know they have commitments too, but I  
3 have actually literally in front of me got a copy of a  
4 letter from (Inaudible) Hannon, ESB solicitor, stating  
5 that I have been dealing with this matter or attempting 01:37  
6 to deal with this matter since 2006. So I think that is  
7 a very important point to make. He goes on to say, I  
8 just want to read you this one paragraph:

9  
10 "I am advised that the right of access 01:37  
11 was raised by your client for the first  
12 time in 2006 in response to a planning  
application by an ESB owned  
subsidiary..."

13  
14 what he is referring to there is ESB Telecom. I have a  
15 feeling that they don't wish to state ESB Telecom, 01:37  
16 Mr. Hannon nor Mr. Bland wished to state ESB Telecom  
17 because it is in fact not regulated by the Commission  
18 for Energy Regulation.

19  
20 When I am trying to negotiate with ESB Telecom, they 01:37  
21 are telling me they are with the ESB. Then when you  
22 sort of challenge them on it, it turns out that their  
23 wages are paid by the ESB but they are actually working  
24 for a telecom company. It is a little anomaly. But to  
25 deal with people on the ground or to negotiate, it is 01:38  
26 an impediments and it is not helpful.

27  
28 So I will continue on with this paragraph from  
29 Mr. Hannon's to Mrs. Cooney:

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"By this time it was my client's belief that the access route had in fact been taken in charge, as it appeared that the local authority was maintaining the road."

01:38

We have covered that today:

"My client duly obtained a letter in 2006 from Meath County Council confirming that the road was in their charge."

01:38

Mr. Hannon maybe does not just state clearly that that letter was intended for a planning appeal to An Bord Pleanála. I had appealed their decision, which was to grant them planning permission.

01:38

I am aware that the section 53 wayleave is an extensive power and that. It is obviously, it is a very effective wayleave, I mean if this route in Ireland is approximately 46km, we haven't just said: 'Oh, well the wayleave will cover whatever, 50km', or something like that. It is a very effective power, but I would also state clearly: it is more than sufficient for what EirGrid actually need to get to woodlands. The problem is not the wayleave. The problem, with respect, Chairman, is the route.

01:39

01:39

I have huge concerns about my site being flooded, which is close to Portan Bridge. I have met EirGrid and a

1 drainage specialist, an EirGrid drainage specialist at  
2 at the site at Portan Bridge. They have not in any way  
3 convinced me that they are not going to flood my site.  
4 I am saying to myself: well if, for example, this  
5 wayleave is strong as it is, and it is incredibly 01:39  
6 strong, why are EirGrid not selecting a route that  
7 suits the wayleave? why maybe are EirGrid not putting  
8 in a new entrance to the woodland facility from the  
9 Trim road? I feel that is the best move, is that if  
10 EirGrid, when they come into Batterstown and turn right 01:40  
11 they are on the 155 or 156 (I can't remember exactly  
12 the number of the road), but they then head toward Trim  
13 and they turn left after a couple of hundred metres.  
14 If they were to continue on for another mile-and-a-half  
15 and then turn left they are in woodland in 500 metres, 01:40  
16 less than 500 metres.

17  
18 So I would say to you that the wayleave that has been  
19 issued is more than adequate for the project it is  
20 designed for, but the problem is the route. By 01:40  
21 changing the route you get yourself into woodland no  
22 problem. Absolutely no need for this inquiry if the  
23 route is changed. The route has already been changed to  
24 deal with the Balleally landfill and the issues there.  
25 EirGrid knew about this little issue with the section 01:41  
26 53 prior to the change of route at Balleally. I mean I  
27 did discuss it with Mr. O'Connell and Mr. Sheridan  
28 prior to the route change at Balleally being finalised.  
29

1 I am looking now at the decision of An Bord Pleanála to  
2 grant planning permission to EirGrid under 17.VA0002.  
3 There are a number of conditions attached to this  
4 planning condition. I can read it out.

5 **THE CHAIRMAN:** I will find it. Yes, the 01:41  
6 relevant ones, as you see  
7 them, please.

8 **MR. SMYTH:** Well the condition number 4  
9 which is toward the end of  
10 the first page: 01:41

11  
12 "Construction works in relation to the  
13 proposed development shall not take  
14 place in the following places and  
incidences:"

15 And then under D there: 01:42

16  
17 "Hedgerows and trees shall not be  
18 removed within the period between the  
1st March and 31st August."

19  
20 I contend that excavation maybe or cleaning up the site 01:42  
21 has already started in woodland and preparations --  
22 although, I am certainly not saying there is a big huge  
23 converter station there or anything, but I mean  
24 preparations are in hand.

25 **THE CHAIRMAN:** Yes. 01:42

26 **MR. SMYTH:** I think that it is very  
27 easy to confirm that. A  
28 lot harder to confirm that without a survey or without  
29 turning up in person, but it is easy to check that.

1 Obviously, I can -- I mean I can look over the hedge  
2 but I can't go in trespassing on that and there has  
3 been activity, but it is certainly, I am not a  
4 policeman or I am not here to enforce. The reason then  
5 given for this condition is in the interest of nature 01:43  
6 conservation. So that is on page 3 of 8 of the An Bord  
7 Pleanála em...(INTERJECTION).

8 THE CHAIRMAN: Permission.

9 MR. SMYTH: Permission, yes. Thank  
10 you, Chairman. 01:43

11  
12 In relation to the ESB Telecom thing, I have just got  
13 to emphasise this point and I do realise that it is  
14 maybe not just totally part of this, but it is a huge  
15 problem for me: is that I myself ended up going to An 01:43  
16 Bord Pleanála with a personal planning application for  
17 a residence, which was their reference PL.17.221668,  
18 and this would have been subsequent to the ESB Telecom  
19 company obtaining planning permission for their phone  
20 mast, for a 42 metre lattice, phone mast in Woodlands, 01:43  
21 which has not been built. I was refused planning  
22 permission by Meath County Council on one ground, which  
23 is a thing called a "site line"; the idea being that  
24 when you are coming out of your property you need to be  
25 able to see sufficiently down the road for a safe 01:44  
26 distance for other oncoming traffic. Then obviously  
27 when you are driving along the road turning into your  
28 proposed home or proposed site that when you are  
29 slowing your vehicle down that other traffic can have

1 enough space to see you and to slow down as well.

2 **THE CHAIRMAN:** Yes, I am aware of that.

3 **MR. SMYTH:** So it is a thing called a

4 wayleave. I mean the site

5 is definitely on a windy road. There is no issue 01:44

6 there. The site is on a windy road. I just found it a

7 little bit awkward that somebody came along and cut my

8 hedge three times in 24 hours, just where the site line

9 was in issue. That although, strictly speaking, maybe

10 isn't anything to do with the matter at hand today, it 01:44

11 would effect my mindset and this needs to be something

12 to be borne in mind by yourself, because somebody

13 sooner or later is going to ask: 'why have we come to

14 this situation where we have been unable to get a deal

15 or to agree?' 01:45

16

17 I have huge trouble obtaining planning permission for

18 myself, and it just -- it does not help matters at all.

19 It really does not help matters at all.

20 01:45

21 I have had concerns over the years about -- there was

22 an energy company approached me many years ago to see

23 about putting in an off-peak power station next to the

24 woodland facility and I have contacted them today and

25 told them this inquiry was on. I was unable to do a 01:45

26 deal with them, and then when they did a deal elsewhere

27 and they wanted to go down the lane I was unable to

28 help them as well. I wasn't able to help them. I

29 actually would know one of their agents socially and I

1 would have bumped into him at a Christmas party or some  
2 rugby function. I spoke to him briefly and he said:  
3 "Oh, yeah, they have sorted out another entrance." So  
4 there is the ability to negotiate another entrance.  
5 Just because woodland only has one entrance does not 01:46  
6 mean a second entrance would in any way be a bad idea.  
7 There is no bad idea about putting in a second entrance  
8 to anything. If something is as important as the  
9 woodland facility and it is obviously strategically  
10 important to EirGrid and to the ESB, why not consider 01:46  
11 putting in a second entrance? I mean god forbid there  
12 should be a large accident, or god forbid a lorry  
13 should turn over or something, on the only existing  
14 entrance into woodlands. Surely it would be a good  
15 idea, if needed, that engineers can get machinery in 01:46  
16 using a different entrance. I mean I fail to see how  
17 this is a bad idea. I made the same point at the  
18 public inquiry in Ballbriggan in March.

19  
20 I just I feel that I have had so much trouble with the 01:47  
21 ESB over the years that it is just not worth my while  
22 to do a deal with them and this is one of the reasons  
23 why we are here today. There are obviously other  
24 reasons, but that would be why we are here today  
25 really. 01:47

26  
27 I would like to just finish by saying thank you very  
28 much for letting me come here today, I do very much  
29 welcome the CER to this process. It is badly needed



1 that somebody comes along and, as it were, tries to  
2 help. Please don't fall into the trap of making the  
3 situation worse than it is. They are other people who  
4 earnestly would be doing their best, who have in effect  
5 just made the situation far worse than it is. I am 01:48  
6 absolutely delighted with the calibre of legal advice I  
7 am getting.

8 THE CHAIRMAN: Okay.

9 MR. SMYTH: That's really all I wanted  
10 to say. Thank you very 01:48  
11 much.

12 THE CHAIRMAN: Mr. Smyth, thank you very  
13 much indeed.

14 (END OF SUBMISSION)

15 01:48

16  
17 THE CHAIRMAN: Mr. Steen, I am going to  
18 pass over to yourself.

19 MR. STEIN: Thank you Mr. Chairman.

20 01:48

21 MR. STEEN MADE THE FOLLOWING SUBMISSION:

22  
23 MR. STEEN: This is a public inquiry  
24 into a special order  
25 application. I would respectfully submit that the CER 01:48  
26 would not be in a position to make a formed decision on  
27 the application for reason of the fact that all the  
28 documentation has not been presented.

29

1 EirGrid have made reference to documentation that was  
2 referred to in planning applications and before An Bord  
3 Pleanála. This is not a planning application. This is  
4 an inquiry. All the necessary documentation in support  
5 of EirGrid's application should be made available to 01:48  
6 this inquiry and should be made available to all  
7 objectors, like my client. For some reason, only known  
8 to themselves, EirGrid have chosen to be selective in  
9 relation to the documentation they have made available,  
10 but not selective in relation to the reference to that 01:49  
11 documentation.

12  
13 I would respectfully submit that until all documents  
14 referred to in the oral submissions made here today are  
15 made available, and opportunity is given to deal with 01:49  
16 that documentation and submissions that the CER should  
17 not be invited to make a decision in relation to the  
18 application.

19  
20 The other point I wish to make is in relation to, as 01:49  
21 you described it yourself, Mr. Chairman, the cart  
22 before the horse incident. The situation is that  
23 EirGrid were aware from 2008 as to the status of this  
24 roadway and they chose, for whatever reason it may have  
25 been, to make the application to An Bord Pleanála for 01:50  
26 planning permission, knowing that they had no legal  
27 entitlement to access the buildings to be constructed,  
28 even if planning permission was granted, which it  
29 ultimately was. So their application in that regard was

1 defective.

2

3 I will accept Mr. Banim's point in relation to a period  
4 of appeal by way of judicial review, but I would  
5 respectively submit that if Mr. Banim acknowledges that 01:50  
6 the point has merits, then for the CER to make a bad  
7 decision on foot of an improper decision would make  
8 matters worse and would even invite further and  
9 additional judicial review process, which is not in  
10 anybody's interest. 01:51

11

12 I would respectfully submit that the special  
13 application should not be approved of.

14 THE CHAIRMAN: Thank you Mr. Steen.

15 01:51

16 (END OF SUBMISSION)

17

18 THE CHAIRMAN: Mr. Banim, I am going to  
19 invite you to sum up on  
20 behalf of your clients please. It will be the final 01:51  
21 contribution now at this stage:

22

23 CLOSING SUBMISSIONS ON BEHALF OF THE APPLICANT:

24 MR. BANIM: The position is that this  
25 is the only route -- 01:51

26 Mr. Fitzgerald wonders whether or not EirGrid should be  
27 given an opportunity to question.

28 THE CHAIRMAN: By all means.

29 MR. BANIM: I have no questions for

1 Mr. Steen.  
2 THE CHAIRMAN: If you wish to, you are  
3 more than welcome to. Yes.  
4 MR. BANIM: I will just raise a few  
5 matters. 01:52  
6 THE CHAIRMAN: I didn't expect you had any  
7 questions. By all means of  
8 course, please.  
9 MR. BANIM: Mr. Fitzgerald just wonders  
10 could we have a short 01:52  
11 adjournment, just for a few minutes, just to consider a  
12 few matters?  
13 THE CHAIRMAN: All right. Will five  
14 minutes be sufficient?  
15 MR. BANIM: Five minutes, yes. 01:52  
16 THE CHAIRMAN: Just five minutes; three  
17 o'clock then. Five minutes.  
18 Okay.  
19 MR. BANIM: I am obliged.  
20 01:52  
21 (SHORT ADJOURNMENT)  
22  
23 THE HEARING RESUMED, AS FOLLOWS, AFTER A SHORT  
24 ADJOURNMENT  
25 01:52  
26 MR. BANIM: Thank you, Mr. Chairman, I  
27 am obliged for the  
28 additional time. We have decided that we don't want to  
29 ask any questions of Mr. Smyth.



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He refers to a wayleave, there is no wayleave in existence in relation to this particular road nor can there be for the reasons which I specified this morning.

02:05

**THE CHAIRMAN:** would you just repeat that, there is no wayleave currently?

**MR. BANIM:** Mr. Smyth referred to the existence of a wayleave, EirGrid do not have a wayleave.

02:05

**THE CHAIRMAN:** EirGrid do not have a wayleave.

**MR. BANIM:** Our understanding is that ESB don't have a wayleave, that they have what is known as a prescriptive right of way, it is one which they have gained by use over the years. We are seeking the right to dig up and place a cable on the road. We want to use the road as a way of access for the purpose of bringing in materials to construct the converter station and we want to be able to pass and repass over this road for all purposes for the purpose of maintaining the line and the station in future and making sure that it operates correctly. It is an unmanned station and at the end of the day what is going to be left is Mr. Smyth is going to suffer, if he is going to suffer it at all, is four days for digging up the road for the purpose of laying the cable, two days minimal disruption for the bringing of

02:05

02:06

02:06

1 the cable through the ducts that have been laid and  
2 then a few days to resurface the road. He is also  
3 going to have to put up with construction traffic over  
4 a period of some 15 months. That traffic will taper  
5 off up to the end of the third quarter in 2012, when it 02:07  
6 is expected that the converter station will be  
7 completed, and from then on the attendance at the  
8 station will be fairly minimal, it is an unmanned  
9 station.

10  
11 Mr. Smith refers to the route being changed for the 02:07  
12 landfill, and that is in a landfill area beside Rush,  
13 County Dublin. That occurred during the planning  
14 process and it was addressed during the planning  
15 process, it wasn't addressed after the decision has 02:07  
16 been granted.

17  
18 He refers to some works that have been carried out,  
19 some enabling works have been carried out to the site  
20 for the purpose of surveying same and just seeing that 02:07  
21 it is suitable for the construction of the converter  
22 site.

23  
24 Mr. Steen raises two issues, he says that the  
25 Commission cannot give a reasoned decision because all 02:08  
26 of the documentation has not been made available. The  
27 fact of the matter is that the documentation was made  
28 available to anybody who was interested in obtaining it  
29 when the planning application went ahead and when the

1 oral hearing took place in March 2009.

2  
3 EirGrid's position on it is that we are not being  
4 selective in relation to the documentation we are  
5 relying on, we are just relying on matters that are the 02:08  
6 subject of this inquiry. As I said during the course  
7 of my opening, and relying on the details of the public  
8 inquiry, which we obtained from the Commission, the  
9 scope of the hearing will be restricted to the lands  
10 which are the subject matter of the application and the 02:09  
11 rights applied for in relation to those lands, ie a  
12 right-of-way and a wayleave.

13  
14 It was on that basis, and on the basis that the  
15 planning permission was a valid permission that hadn't 02:09  
16 been challenged, that the documentation that was made  
17 available to the planning oral hearing and to An Bord  
18 Pleanála was considered not relevant. The matter had  
19 been decided. The various issues that are addressed in  
20 those documents were the subject of the oral hearing, 02:09  
21 as I have said, and they were also considered in the  
22 course of the decision by An Bord Pleanála to grant  
23 planning permission. EirGrid's position is they are  
24 not relevant to this inquiry.

25 02:09  
26 The cart before the horse argument which I just dealt  
27 with after lunch is we do not accept that Mr. Steen or  
28 anybody has any grounds for a Judicial Review of the  
29 planning permission. The fact that I mentioned that he



1 could have obtained a Judicial Review of it if he was  
2 that concerned about the validity of it doesn't mean  
3 that EirGrid accepts that there is any invalidity or  
4 any difficulty with the planning permission.

02:10

5  
6 The route was decided after much consultation and  
7 consideration in the course of the planning process  
8 before An Bord Pleanála. This is the only road in to  
9 the woodland substation and the area where it is  
10 intended to build the converter. There does not seem  
11 to be any fundamental objection by Mr. Smyth or on  
12 behalf of Mrs Smyth to the use of the road or the  
13 manner of the construction, the laying of the cable or  
14 any of those matters.

02:10

15  
16 If I can just finally summarise the grounds upon which  
17 EirGrid are seeking this Special Order: The road is  
18 within the planning corridor. EirGrid cannot go  
19 outside that planning corridor without seeking a  
20 variation from An Bord Pleanála. If it was to go  
21 outside that corridor it could go in in some places  
22 into a field and then it would have to come back out on  
23 to the road. That would only deal with the actual  
24 laying of the cable but it wouldn't deal with what we  
25 are seeking here, which is in addition the right of  
26 access over the road to build the converter station and  
27 to operate it and maintain it in the future.

02:11

02:11

02:11

28  
29 The route of the cable is one thing but the right of

1 access is something that is very much linked with and  
2 tied to the cable route, they cannot be separated in  
3 EirGrid's opinion. The road has been used to service  
4 the existing ESB substation for, it is understood, the  
5 last 30 years, or so, certainly 25 years. The putting 02:12  
6 of the cable into a field wouldn't be an option.

7  
8 The only difference between putting the cable into a  
9 field and leaving it in the road is the amount of time  
10 it is going to take to put the cable into the road, it 02:12  
11 will take some four days to put the cable into the  
12 road, two days to pull the cable through, there will be  
13 some disruption when that is being done, and then the  
14 road will be resurfaced. When that is done the road  
15 will be as it is today, and it can be used by everybody 02:13  
16 as it is today.

17  
18 I think I have already dealt with what Mr. Meagher has  
19 mentioned to me there, and that is there is a  
20 possibility for us to go in, use part of the land for 02:13  
21 the corridor which is within the corridor for the  
22 laying of the cable but it doesn't deal with the  
23 substantial part of the case, which is we need the  
24 right of access to get on to the converter station to  
25 build it and maintain it and operate it in the future. 02:13  
26 The laying of the cables, as I said, is intrinsically  
27 tied in with that. The laying of the cables will, as I  
28 said, take a couple of days, a few days to do, the road  
29 will be put back to the way it was. The additional

1 burden on the land will be some additional traffic over  
2 a period of some 18 months and thereafter it will be  
3 fairly minimal, along the lines of the traffic that is  
4 presently going into the ESB station. I am obliged to  
5 you Chairman, thank you very much.

02:14

6  
7 **END OF CLOSING SUBMISSIONS BY MR. BANIM**

8  
9 **THE CHAIRMAN:** Thank you for that  
10 Mr. Banim. We are coming  
11 to the end of the hearing now, I am about to close it,  
12 do you wish to say something, Mr. Smyth.

02:14

13 **MR. SMYTH:** I would very much like to  
14 address some of the points  
15 Mr. Banim has just raised.

02:14

16 **THE CHAIRMAN:** It is traditional for  
17 the proposers to -- on this  
18 occasion I will just let you go ahead.

19 **MR. SMYTH:** Thank you very much. If I  
20 can just say on the survey  
21 of the lane, yes there was a survey conducted prior to  
22 the An Bord Pleanála hearing in March. Yes, I did see  
23 it, I didn't study in detail but I certainly looked at  
24 it enough not to think there was anything major wrong  
25 with it. Subsequently there has been an encroachment  
26 by Meath County Council or by their tenant,  
27 subsequently to the oral hearing in Balbriggan there  
28 has been an encroachment and for this reason I would  
29 think a survey, I did not realise, although I do

02:14

02:15

1 acknowledge the CER have said so, that the CER were not  
2 in a position to do a survey. There are certainly  
3 manholes already in place on the lane in question, and  
4 you should be in no way, you should in no way think  
5 there are not. There are manholes already in place. 02:15  
6 The substation is unmanned.

7  
8 The existing substation is unmanned and it is  
9 controlled remotely. You would need to stand out and  
10 examine but if you look you will see the Telecom wires 02:15  
11 coming away from the substation have an additional  
12 wire, and there is no additional wire going overhead to  
13 the substation, so it goes underground at some stage.  
14 If you stand on the lane in question at the gate of the  
15 substation and look in you can see clearly there is, I 02:16  
16 wouldn't know the technical term, a green Eircom  
17 distributor box or engineering book there. If you were  
18 you to stand there and look you would see what I meant.

19  
20 The right-of-way with the ESB Telecom is a huge matter 02:16  
21 for me, it is a huge matter. I find myself in a  
22 situation where, you know, if you bite EirGrid or if  
23 you bark at EirGrid they ignore you, if you bite them  
24 they ignore you. There is no problem here, the wayleave  
25 that they have, which is in my hand, and please don't 02:16  
26 let anybody tell you they do not have the wayleave, I  
27 have it in front of me, and if you don't mind because  
28 they said they don't have it I would like to read it  
29 out.



1 the case.

2 **THE CHAIRMAN:** Can you read a summary of  
3 it?

4 **MR. SMYTH:** It is all of six paragraphs  
5 on a one A4 type of page. 02:18

6 **THE CHAIRMAN:** Have you a copy that you  
7 could let us have. Let me  
8 have a copy.

9 **MR. SMYTH:** If I can give you the  
10 reference number just to 02:18  
11 make sure you have the exact same.

12 **THE CHAIRMAN:** We will ask the  
13 stenographer to put it into  
14 the record, how is that?

15 **MR. SMYTH:** The reference number is 02:18  
16 37656. It is dated 17th  
17 November 2008.

18 **THE CHAIRMAN:** It is signed by Michael  
19 Tutty.

20 **MR. SMYTH:** Exactly, the Chairman of 02:18  
21 the Commission for Energy  
22 Regulation. If I can just say, it might be helpful if  
23 Mr. Tutty could bear in mind or if the Commission for  
24 Energy Regulation could bear in mind that this was  
25 signed on 17th November 2008, it affects a lot of land 02:18  
26 owners and the very next day An Bord Pleanála received  
27 the application by EirGrid for the interconnector.  
28 Perhaps maybe the Commission for Energy Regulation will  
29 consider almost postdating their decision to give

1 people a chance to maybe have a chat with their lawyers  
2 about the new wayleave, if there should be a decision  
3 to the sign the Special Order, or whatever form the  
4 Special Order should take, if it is to be a new  
5 wayleave, or whatever, if we could maybe have a month's 02:19  
6 notice to say, for example: Michael G. Tutty, Chairman  
7 of the Energy Commission would intend on 3rd May to  
8 sign the following document, to give people a chance to  
9 confer with their lawyers about this matter.

10 **THE CHAIRMAN:** I am going to ask the 02:19  
11 stenographer to include the  
12 content of this letter in the transcript, it is  
13 Appendix 14 of the CER Authorisation. It is the  
14 reference that you mentioned, 37656:

15  
16 "Dear Dermot,  
17 I refer to EirGrid's application to the Commission  
18 under section 49 of the Electricity Regulation Act 1999  
19 (the '1999 Act') regarding certain wayleaving powers.

20  
21 I understand that the application for these wayleaving  
22 powers is in relation to the development of the  
23 East-West interconnector between Ireland and Great  
24 Britain.

25  
26 Section 49 of the Electricity Regulation Act 1999  
27 provides as follows:

28  
29 *'A holder of an authorisation or the holder of a direct*

1           *line permission may, with the consent of the*  
2           *Commission, for the purposes of such authorisation,*  
3           *exercise the powers conferred on the Board by*  
4           *subsections (1) to (5) and (9) of section 53 of the*  
5           *Principal Act and references to the Board in those*  
6           *subsections shall be construed as including references*  
7           *to a holder of an authorisation.'"*

8  
9           The Commission has recently granted to EirGrid an  
10          authorisation under section 16 of the 1999 Act to  
11          construct an interconnection between Ireland and Great  
12          Britain.

13  
14          Pursuant to section 49 of the 1999 Act, the Commission  
15          consents, for the purposes of that authorisation, to  
16          the exercise by EirGrid of the powers conferred on the  
17          ESB by subsections (1) to (5) and (9) of section 53 of  
18          the Electricity (Supply) Act 1927 (as  
19          amended).

20  
21          Yours sincerely, Michael G. Tutty, Chairman."

22          **MR. SMYTH:**                               The relevance of me  
23    bringing up Portan Bridge  
24          is very simple, to point out why we are here today and  
25          why we have been unable to come to a deal among                               02:19  
26          ourselves on that. The route change, I did inform  
27          EirGrid that the wayleave was not going to be  
28          sufficient for them to compel me to deal with them  
29          prior to the change of the route at Balleally.



1 I did, I just did, there is no issue there. The  
2 fundamental objection I have to the cable coming up the  
3 Red Road is the Portan Bridge is going to flood my site  
4 and I know from my dealings with Meath County Council I  
5 will not be given another site.

02:20

6  
7 Thank you very much for allowing me to speak. I have  
8 rights too and if you could please try and ask the  
9 Commission to give a little bit of notice before they  
10 sign a special order or a new wayleave I would very  
11 much appreciate that.

02:20

12 **THE CHAIRMAN:** That will be recorded and  
13 the Commission will of  
14 course see that.

15 **THE CHAIRMAN:** I am going to close the  
16 inquiry now and I do so  
17 immediately. Thank you all very much for your  
18 contributions. The inquiry is now closed.

02:20

19  
20 **THE INQUIRY THEN CONCLUDED**

02:21

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