

## CER Consultation 09/175

### Revised Application Procedure for Authorisations to Construct and Licences to Generate for Certain Generating Stations – 2 November 09

**BGE welcomes the opportunity to comment on the aforementioned paper. The following points are made in response to Appendix A proposals**

Question/Proposal	Yes	No	Comments
<b>Q1.</b> Are you in favour of the proposals outlines in Section 3 that a threshold 40MW be set for applicability of revised application procedures for authorisations and licences	Yes		It is logical to request additional information from a generating station which has a greater impact on security of supply. 40MW is a reasonable threshold assumption based on current connected and contracted generator analysis.
<b>Q2.</b> Are you in favour of the proposal outlined in Section 4 that S.I. 383 of 2008 and S.I.384 of 2008 be amended so that they apply to stations with an installed capacity of up to 40MW? The simplified application procedure would then apply to all applications made under the Orders	Yes		BGE is in agreement with this proposal but have specific comment on the proposed SI changes
<b>Q3.</b> Are you in favour of the proposal outlined in Section 5 that the application form presented in Appendix B be used under the simplified application procedure?	Yes		BGE is in agreement with the proposal but would request that the same application format be used even if the generating station is > 40MW for consistency purposes. Additional information for > 40MW stations could be requested as per the current procedure

Q4. Are you in favour of the proposal discussed in Section 6 and set out in appendix C that amendments to S.I. 383 of 2008 and S.I. 384 of 2008 be made? This will amend the conditions with which the holders of authorisations and licences by Order must comply	Yes to the extent that it's required to simplify the application procedure		While we accept that changes to the SI are needed, we would question the applicability of some the changes proposed. These are dealt with specifically within this response.
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**Comments on Appendix C – Proposed Amendments to Schedules of SI 383 of 2008 and SI 384 of 2008**

***1.0 Introduction***

In Section 6 of the consultation paper, the CER sets out its reasoning for the amendments to the Orders. It is clear from the proposed amendments to the Orders in Appendix C that the Orders have not just been amended to reflect the increase in size applicability (from 10MW to 40MW) but the CER has used this opportunity to make significant revisions to the Orders themselves making them much more onerous on generating stations of this size (in many cases lifting Licence Conditions straight from the generic Generation Licence or authorisation to construct and placing them in the Order).

The CER (in Section 6) says that the new insertions are necessary “if the size of station to which the Orders apply is to increase”. However, there is no mention of this in the rationale put forward by the CER when it proposes to increase the size threshold from 10MW to 40MW. The CER merely states in its Executive Summary to the consultation paper, “It is proposed that reduced application procedures are appropriate for generating stations with an installed capacity not exceeding 40MW. It is considered that this threshold takes account of these stations’ limited size and potential impact.”

Surely then by placing more onerous conditions on generating stations in the Orders, the CER is not reducing the administrative burden on these stations – especially given their “limited size and potential impact”. Moreover, the CER is now making the compliance process more onerous for generators from 1MW to 10MW who did not previously have to comply with all of these newly inserted conditions.

We would suggest that all of the insertions from the generic Generation Licence and authorisation to construct are removed and the wording of the Order remains as it currently stands save for any wording relating to an increase in the threshold. The CER

cannot have it all ways – either they continue to licence those generators above 10MW or they leave the Order as is and merely increase the threshold.

## ***2.0 Comments on Proposed Amendments to Schedule of SI 383 of 2008***

- Clause 1 – we do not see why it is necessary to add this wording to clause 1 of the Order. It gives the CER wide powers to consent to a variation in the design of a generating station outside of an application (which will have been originally assessed within legislative boundaries). Moreover, we do not see how the original wording of the Condition which merely defines “authorised person” relates to this new insertion.
- Condition 5 – the CER states that this wording has been added to fulfil its duty to promote security of supply. It seems disproportionate that generating stations of this size are required to carry a secondary fuel source and be able to operate on this source for an unknown time period to be defined by CER. This will undoubtedly increase costs for these small plants and increase regulatory uncertainty.  
BGE would query whether it’s possible that all instances of plant would be able to comply with the proposed insertion in the future. For example if a small distillate plant off the gas grid required for security of supply were to fall outside of legal requirements, the insertion of such a clause would be counter-productive in that it would militate against system security.
- Condition 6 – While we accept that it is necessary for generating stations of any size to comply with Environmental Laws we reject the definition of Environmental Laws provided in the draft SI. It is incredibly wide and could capture a multitude of laws which will be entirely irrelevant to a generating station. Environmental Laws must be much more tightly defined. The wording must be specific to licensing purpose in question.
- Condition 7 – a new Condition has been inserted here which requires compliance with the Grid Code and Distribution Code. This is lifted from the generic Generation Licence. If this was not deemed necessary before in this SI for generators of between 1MW and 10MW why is it deemed necessary now when the CER is merely increasing the threshold to 40MW because stations of this size have “limited size and potential impact”. Moreover, this Condition is already contained within the existing SI 384 which would seem more appropriate.
- Condition 8 – the CER has extended the time period from five years to ten years as the period of time in which the generating station must be completed. The CER gives the reason that the “it is possible that an authorisation may be granted at an earlier stage of the project”. We would argue that the authorisation should not happen so early that it would necessitate a doubling of the time period. This could be increased but only by 1 or 2 years to reflect the actual time delay otherwise it will lead to planning uncertainty for grid operators and other generators.

- Condition 9 – this has been added and requires generating stations of this size to ensure that a competent person operates the plant and it must inform the CER of any change in this competent person. While we would always seek to ensure high levels of competence in the operation of this size of plant, it should not be necessary for this to be regulated by the CER on an ongoing basis – especially at each change of competent person. It should be sufficient for the CER to obligate the licensed entity to be a competent person. A competent licensee would pass these conditions on to any operator in order to ensure it’s own commercial and legal well being. Extension of this principle to the operator appointed by the licensee would constitute micro-management of the licensed entity.

## ***2. Comments on Proposed Amendments to Schedule of SI 384 of 2008***

- Condition 2 & Condition 3 – both of these conditions (requirements to keep separate accounts for the business and prohibition of cross-subsidy) are entirely disproportionate for generating stations of this size. They have been lifted directly from the generic Generation Licence which is designed to regulate far larger stations. Generating stations captured under this Order could be extremely small e.g. just over 1MW – it is unduly onerous to apply these conditions to these stations when they were not deemed necessary before.
- Condition 7 - this has been added and required generating stations of this size to ensure that a competent person operates the plant and it must inform the CER of any change in this competent person. While we would always seek to ensure high levels of competence in the operation of this size of plant, it should not be necessary for this to be regulated by the CER on an ongoing basis – especially at each change of competent person.
- Condition 10 (2) – again this condition has been lifted from the generic Generation Licence. It is entirely disproportionate here. See comments on Condition 2 above.
- Condition 14 – the CER states that this Condition has been added “to take account of the protection of the Environment”. While we accept that it is necessary for generating stations of any size to comply with Environmental Laws we reject the definition of Environmental Laws provided in the draft SI. It is incredibly wide and could capture a multitude of laws which will be entirely irrelevant to a generating station. Environmental Laws must be much more tightly defined.