



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

Interconnector Operator Licence

DOCUMENT TYPE:	Proposed Decision and Consultation Response Paper
REFERENCE:	CER/10/230
DATE PUBLISHED:	22 December 2009
CLOSING DATE:	28 January 2011
RESPONSES TO:	Paul Hogan



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

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CER – Information Page

Target Audience:

This paper will be of interest to parties involved or concerned with the construction or operation of interconnectors. The paper would also be relevant for anyone proposing to avail of capacity on an interconnector.

Related Documents:

Below is a list of documents related to this topic:

- [CER 09178\(b\) - Consultation on Interconnector Operator Licence](#)
- [CER 09178 - Interconnector Operator Licence](#)
- [Regulation \(EC\) no 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation \(EC\) No 1228/2003](#)
- [Authorisation to Construct an Interconnector – Background Documents and Application Form](#)

Issues of a substantive nature should be returned by email, post or fax and marked for the attention of Paul Hogan at the Commission.

The Commission intends to publish all submissions received. Respondents who do not wish part of their submission to be published should mark this area clearly and separately or enclose it in an Appendix, stating the rationale for not publishing this part of their comments.

Executive Summary

The Energy (Miscellaneous Provisions) Act 2006 (the “2006 Act”) introduced, among other things, a regime for the authorisation and licensing of electricity interconnectors by the Commission for Energy Regulation (the “CER”). It did this by way of amendments to the Electricity Regulation Act, 1999 (“the 1999 Act”). Prior to this there was no specific statutory obligations relating to their construction or licensing.

Pursuant to the statutory provisions the CER drafted a new licence for the purpose of licensing interconnectors. This proposed interconnector licence was consulted on in November 2009 (CER09/178). This licence contains twenty conditions as set out in the accompanying document published at that time (CER 09/178b).

The Commission has already consulted on the interconnector licence asking interested parties to comment on the appropriateness of the conditions in the licence, to suggest if further conditions are required and sought the views as to whether the licence adequately covers the future provisions of the 3rd Package¹.

Five parties responded to the consultation and their respective submissions are published along side this document. The respondents are:

- Airtricity
- EirGrid plc (“EirGrid”)
- Endesa Ireland (“Endesa”)
- Irish Wind Energy Association (“IWEA”)
- Viridian Power & Energy Limited (“Viridian”)

Following consideration of the issues raised by respondents the CER is now publishing the interconnector as a proposed decision as a considerable amount of time has elapsed between the original consultation and the publishing of this document and the proposed licence. Hence the CER is asking if interested parties have any further substantive issues of material importance to raise as a result of modifications to the proposed licence arising out of the November 2009 consultation.

¹ In brief, the 3rd Package consists of, with respect to electricity:

- The Directive concerning common rules for the internal market in electricity 3648/09, 10814/09 ADD1 REV 3,

- The Regulation on conditions for access to the network for cross-border exchanges in electricity 3651/09, 10817/09 ADD1 REV2, and

- The Regulation establishing an Agency for the Cooperation of Energy Regulators 3650/09, 10816/09 ADD1 REV1.

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1.0 Introduction

1.1 The Commission for Energy Regulation

The Commission for Energy Regulation ('the Commission') is the independent body responsible for overseeing the regulation of Ireland's electricity and gas sectors. The Commission was initially established and granted regulatory powers over the electricity market under the Electricity Regulation Act, 1999. The enactment of the Gas (Interim) (Regulation) Act, 2002 expanded the Commission's jurisdiction to include regulation of the natural gas market, while the Energy (Miscellaneous Provisions) Act 2006 granted the Commission additional powers in relation to gas and electricity safety. The Electricity Regulation Amendment (SEM) Act 2007 outlined the Commission's functions in relation to the Single Electricity Market (SEM) for the island of Ireland. This market is regulated jointly by the Commission and the Northern Ireland Authority for Utility Regulation (NIAUR). The Commission is working to ensure that consumers benefit from regulation and the introduction of competition in the energy sector.

1.2 Purpose of this paper

The Energy (Miscellaneous Provisions) Act 2006 (the "2006 Act") introduced, among other things, a regime for the authorisation and licensing of electricity interconnectors by the Commission for Energy Regulation (the "Commission"). It did this by way of amendments to the Electricity Regulation Act 1999 (the "1999 Act"). Prior to this there was no specific statutory powers relating to their construction or licensing.

The Commission may grant a licence to maintain and transport electricity across an interconnector pursuant to Section 14 of the 1999 Act, as amended by Section 8 of the 2006 Act. This Section, as amended by Section 16 of S.I. 60 of 2005, stipulates that the licensee shall be subject to terms and conditions of the licence as may be specified. Also, as inserted by the Electricity Regulation (Amendment) (EirGrid) Act 2008, the Commission can bring summary proceedings against a person who transports electricity across an interconnector without being duly licensed to do so.

Pursuant to the legislative requirements the Commission has drafted such an interconnector licence and issued same for public consultation. Five parties responded to the consultation and their respective submissions are published along side this document.

Following consideration of the issues raised by respondents the CER is now publishing the interconnector as a proposed decision as a considerable amount of time has elapsed between the original consultation and the publishing of this document and the proposed licence. Hence the CER is asking if interested parties have any further substantive issues of material importance to raise as a

result of modifications to the proposed licence arising out of the November 2009 consultation.

1.3 Structure of this paper

The paper is structured in the following manner:

- Section 2 summarises the responses received to each Condition of the licence;
- Section 3 details the conclusion and next steps;

1.4 Responding to this paper

As stated above the CER is publishing the interconnector licence as a Proposed Decision and hence any comments of a substantive nature must be received by 28 January 2011 and sent to:

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Dublin 24
Email: phogan@cer.ie

Tel: 01 4000 800
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Please note that the Commission intends to publish all responses to this paper on their website at www.cer.ie. Respondents may request that their response be kept confidential. The Commission shall respect this request, subject to any obligations to disclose information. Respondents who wish to have their responses remain confidential should clearly mark the document(s) to that effect and include the reasons for confidentiality.

2.0 Summary of Responses Received

The Commission received thirteen responses to the consultation from:

- Airtricity
- EirGrid plc (“EirGrid”)
- Endesa Ireland (“Endesa”)
- Irish Wind Energy Association (“IWEA”)
- Viridian Power & Energy Limited (“Viridian”)

All responses are published alongside this document.

The finalised licence contains twenty three (23) conditions as set out in the table below. Each condition will be discussed in turn in the following section, showing the comments received and the CER’s response to and decision on each.

<u>Part I - Terms of the Licence</u>					
<u>Part II – Conditions of the Licence</u>					
Section A Standard Conditions				Section B Revenue and Third Party Access	
Condition 1	Interpretation and Construction	Condition 9	Provision of Information to the TSO or DSO	Condition 20	Use of Revenues
Condition 2	Separation of Accounts	Condition 10	Central Dispatch and Interconnector Transfers	Condition 21	Access to the Licensee's Interconnector
Condition 3	Provision of Information to the Commission	Condition 11	Ancillary Services	Condition 22	Application of Licence Conditions 17 and 18
Condition 4	Compliance with Laws and Directions	Condition 12	Environment	Condition 23	Application of Licence Conditions
Condition 5	Payment of Levy	Condition 13	Assignment of Licence and Transfer of Interconnector Business		
Condition 6	Compliance with Codes	Condition 14	Change in control of the Licensee		
Condition 7	Public Service Obligation	Condition 15	Capacity Utilisation		
Condition 8	Security Arrangements	Condition 16	Dispute Resolution		
New Conditions added		Condition 17	Separation of Interconnection Business		
		Condition 18	Prohibited Activities		
		Condition 19	Restriction on Use of Certain Information		

Table – List of Conditions in the Finalised Licence

Please note that the condition number in the following sections refers to the condition number in the draft licence and not the finalised licence. The numbering has been changed in the finalised licence to reflect the addition of new conditions, as per the table above.

Part I - Terms of the Licence

This condition names the party to which the licence is granted and the date the licence comes into force. The interconnector or interconnectors to which the licence applies is set out in Schedule 1. The licence shall continue in full force and effect until determined by not less than 25 years' notice and that such notice not to be served earlier than the 25th anniversary of the date on which this licence comes into force.

The issuing of the licence is subject to the Conditions set out in Sections A and B in Part II.

Comments Received:

There were no comments received on this section of the licence.

Part II – Conditions of the Licence

This section is divided into sub sections A and B. Section A refers to the “Standard Conditions” and Section B refers to “Revenue and Third Party Access Conditions”.

Section A applies equally to all holders of an interconnector licence whereas an applicant may seek and be granted an exemption from the provisions of Section B of the licence.

Section A: Standard Conditions

Condition 1 Interpretation and Construction

This Condition deals with how the words and expression used in the Conditions are to be interpreted and construed. Also, a list of terms is defined as used in the Licence. Notably the definition of Interconnector is presented.

Comments Received:

EirGrid questioned the definition of Distribution System Operator and suggested alternative wording. It also suggested the inclusion of a definition for Market Operator. The finalised licence reflects this revised wording and this definition

EirGrid also suggested a change to the definition of Transmission System. In making this change the CER included a definition of the Transmission System Owner's Business to bring consistency between these definitions.

CER Response:

The CER added a definition of “Market Operator” and “Transmission System Owner's Business”

Condition 2 Separation of Accounts

This Condition set out the financial year for the Licensee with respect to the preparation of accounts. It also contains terms to ensure that the Licensee maintains accounting and reporting arrangements which enable separate accounts to be prepared for the interconnector business as distinct to any other business the licensee may be involved with.

Comments Received:

EirGrid suggest that the requirements for separate accounts should be consistent with those set out in other licences granted by the CER. These could be Condition 22 of the Transmission System Operation licence or Paragraphs 1 and 3-6 of Condition 13 of the Market Operator licence. EirGrid feels that otherwise this could result in an unnecessary cost burden on the Licensee.

CER Response:

Following review of the suggestions made the CER has amended this Condition to reflect the provisions of Condition 22 of the Transmission System Operation licence.

Condition 3 Provision of Information to the Commission

This Condition sets out the terms under which information is to be provided to the Commission. It also defines what information is in this context.

Comments Received:

No comments were received on this Condition.

Condition 4 Compliance with Laws and Directions

This Condition stipulates that the licensee shall comply with the 1999 Act, Statutory Instrument Numbers 445 of 2000 and 60 of 2005, the Conditions of the interconnector licence and all relevant EU and Irish laws.

It also stipulates that the licensee shall comply with any directions or determinations made by the Commission.

Comments Received:

Endesa, recognising that the Interconnector Operator will also be licensed in the terminal jurisdiction, suggested that the licence issued in Ireland should be stand alone and include requirements for full compliance. To this end Endesa Ireland recommends that Conditions 4 and 6 are amended to require the Interconnector Operator to be compliant with laws, Directions and Codes in the terminal jurisdiction as well as the laws, Directions and Codes in Ireland. It suggests that such a requirement will allow the CER to revoke the licence in the event that the operator is not compliant with the legal or regulatory requirements in the terminal jurisdiction.

CER Response:

The CER agrees with Endesa Ireland in that the licence issued in Ireland should stand alone and include requirements for full compliance. However, the CER does not believe that it can stipulate in its licence for a Licensee to be bound by codes and laws in the terminal jurisdiction. It believes this is a matter for the licence issued by the relevant authority in the terminal jurisdiction and the subsequent reinforcement of the licence conditions.

Hence this Condition will remain unmodified.

Condition 5 Payment of Levy

This condition specifies that the licensee shall pay the Commission any amount as specified in a Levy Order as made by the Commission under paragraph 16 of Schedule 1 of the 1999 Act.

Comments Received:

No comments were received on this Condition.

Condition 6 Compliance with Codes

This condition specifies that the licensee shall at all times comply with the provisions of the various technical codes, `vis-à-vis the Grid Code, Distribution Code and the Metering Code. It also specifies that the licensee shall be party to and shall comply with the SEM Trading and Settlement Code insofar as applicable to it.

Comments Received:

EirGrid suggested that a third paragraph should be inserted that would obligate the Interconnector operator to pay connection and Transmission Use of System ("TUoS") charges insofar as the CER has approved such charges in a statement prepared in accordance with Section 35 and approved under Section 36 of the Act.

CER Response:

As per the comments Endesa's comments on Condition 4 requiring the Interconnector Operator to be compliant with laws, Directions and Codes in the terminal jurisdiction as well as the laws, Directions and Codes in Ireland and the CER's response that this is a matter for the licence issued by the relevant authority in the terminal jurisdiction and the subsequent reinforcement of the licence conditions, this Condition will remain unmodified with respect to these comments.

The CER does not agree with the insertion as suggested by EirGrid as the obligation to pay charges relating to connection is covered in their respective connection agreements. The same situation is currently in effect for suppliers and

generators and as such the CER does not envisage any different situation for interconnectors.

Condition 7 Public Service Obligation

This condition specifies that the licensee shall comply with any public service obligation imposed on it by the Commission pursuant to Section 39 of the 1999 Act.

Comments Received:

No comments were received on this Condition.

Condition 8 Security Arrangements

This condition places a requirement on the licensee to cooperate with the Commission in strategic contingency planning. This condition is deemed necessary by the Commission to ensure security of supply for electricity.

Comments Received:

EirGrid suggested that in the event of planning for contingencies in relation to security of supply it is important that the Licensee also co-operates with the Transmission System Operator (“TSO”). To this end it has suggested a change to the wording of the Condition.

CER Response:

The CER agrees with the proposed wording as co-operation with the TSO is necessary for the purpose of Security of Supply.

The CER also added a clause compelling the Licensee to cooperate with the TSO with the aim of facilitating it in its fulfilment of the obligations under Condition 9 of the TSO licence. For completeness this is “Condition 9 Interconnectors” of the TSO licence. Please read this in conjunction with comments on Condition 10.

Condition 9 Provision of Information to the Transmission System Operator or Distribution System Operator

This condition stipulates that the Licensee give information concerning the operation and technical specifications of the licensee’s interconnector to the Transmission System Operator (“TSO”) or the Distribution System Operator (“DSO”). The condition also sets out how and when this information is to be provided. However, it also specifies that the condition shall not require the Licensee to produce any documents or give any information which it could not be compelled to produce or give in evidence in civil proceedings before the court.

Comments Received:

EirGrid queried if this Condition should be expanded to include the Market Operator with whom any Interconnector operator will have one of the most critical interfaces. It argues that to some extent the provisions are covered by the Trading and Settlement Code, but since liability for non compliance can really only be enforced by termination this would not be very effective.

EirGrid also want clarification as to how paragraph 4 relates to an Interconnector operator.

CER Response:

On reflection the CER considers that Paragraph 4 does not relate to an Interconnector operator and duly deletes this paragraph.

The CER has also included the Market Operator (as defined) as an entity to be included in the provision of information.

Condition 10 *Central Dispatch and Interconnector Transfers*

This condition requires the interconnector operator to submit to central dispatch. The process is in accordance with the SEM Trading and Settlement Code where central dispatch is required by the Grid Code.

Comments Received:

In its response EirGrid suggested that additional wording should be included to compel the licensee to comply with the requirements of any statement of the TSO that would be approved by the CER under Condition 9 of the TSO licence. This wording also includes arrangements for the reservation of capacity for such purposes as system security.

EirGrid also suggested that wording be added to state that the Licensee would not be automatically entitled to compensation in respect of such reserved capacity.

CER Response:

The CER did not accept EirGrid's proposed wording on this Condition as it did not detail how it, as TSO, propose to use the interconnection for security of supply purposes and how it is proposed to reserve capacity for this purpose

As a consequence the CER has added a paragraph in Condition 8 of this licence compelling the licensee to cooperate with the TSO in the fulfilment of its functions under Condition 9 of the TSO licence (Condition 9 – "Interconnectors"). This paragraph is similar to paragraph 3 of Condition 9.

Finally the CER is in agreement with the wording suggested by EirGrid such that the Licensee would not be automatically entitled to compensation in respect of such reserved capacity.

Condition 11 *Ancillary Services*

This condition is concerned with the licensee providing any ancillary services which the interconnector unit is capable of providing. These services would be provided in accordance with the provisions of the Grid Code. Note that this condition does not supersede the requirements under the Grid Code to provide certain minimum requirements.

CER Response:

The CER inserted the text “or by any interconnector user” to clarify that ancillary services could be provided not only by an interconnector licensee but also by any interconnector user.

Condition 12 *Environment*

Under this condition the licensee shall comply with all applicable European Union and Irish Environmental Laws, among others, the Environment Protection Agency Acts 1992 and 2003 and the Waste Management Act 1996.

The condition also sets out that the licensee shall, in consultation with the Commission, prepare a written policy setting out the manner in which the licensee proposes to comply with its duties and obligations under all applicable laws. Also the licensee shall report annually to the Commission on its environmental performance.

Comments Received:

No comments were received on this Condition.

Condition 13 *Assignment of Licence and Transfer of Interconnector Business*

This condition deals with the assignment of the interconnector licence or the transfer of the interconnector business to another party. Under this condition the licensee shall not, without the prior written consent of the Commission, assign this licence, or transfer to another person all or any part of the interconnector business to another party.

The condition also sets out the requirements of the Commission that need to be met by the licensee if the licence is to be assigned or transferred to another party. These include technical and financial capability to comply with the Conditions of the licence.

Comments Received:

No comments were received on this Condition.

Condition 14 **Change in Control of the Licensee**

Similarly to the previous Condition 13 this condition is concerned with the licensee notifying the Commission of a change in control of the licensee. There is a requirement to notify the Commission as soon as is practicable after such a change in control occurs. Note that Schedule 2(1)(f) also applies where a change of control of the Licensee occurs.

Comments Received:

No comments were received on this Condition.

Condition 15 **Capacity Utilisation**

This condition is concerned with how capacity on the interconnector is treated and places a requirement on the licensee to make available the maximum capacity of the licensee's interconnector.

Comments Received:

EirGrid in its response suggested that this Condition needs to reflect a "Use It or Lose It" provision ("UIOLI") at the time of nomination as well as a "Use It or Sell It" provision ("UIOSI") consistent with the Guidelines in the Annex of the EC Regulations 1228/2003 or subsequent Regulations.

EirGrid also suggested that a Secondary Market would need to be set up and that arrangements relating to Firmness of Capacity should be consistent with, but no more onerous, than those required under Regulation 1228/2003 or subsequent Regulations.

Finally it suggested that the definitions for "contractual congestion" and "firm capacity" are not used and hence should be deleted.

CER Response:

The CER has deleted the detail of this Condition as the provision is now contained in the set out in the Regulation (EC) 714/2009 of the European Parliament and the Council on the conditions for access to the network for cross-border exchanges in electricity.

Condition 16 **Dispute Resolution**

This condition deals with how disputes between the licensee and another person seeking access to the interconnector are conducted. Disputes can cover the terms offered and the proposed charge, including tariffs or non-price terms and conditions of access. A dispute can also include a refusal by the licensee to offer access on the grounds that insufficient capacity is available. The Commission may, pursuant to section 34A(5) of the 1999 Act, settle any terms in dispute and the licensee shall comply with and be bound by any such determination.

Comments Received:

No comments were received on this Condition.

Part II – Section B: Revenue and Third Party Access

An applicant may seek and be granted an exemption only from the provisions of Section B of the licence.

Condition 17 Use of Revenues

As set out in this condition revenues which the Licensee has received from the allocation of Interconnector capacity can only be used for one or more of the following purposes by the licensee:

- Guaranteeing the actual availability of the allocated capacity; and/or
- Investment in maintaining or increasing interconnection capacities.

The condition also requires the licensee to prepare and submit to the Commission an annual “use of revenues statement” setting out how the use of these revenues satisfies the above condition. The condition also sets out the timings around the preparation and submission of this statement.

However, if the revenues cannot be efficiently used for the purposes above, they may be used, subject to the approval of the Commission, as income to be taken into account by the Commission when approving the methodology for calculating network tariffs, and/or in assessing whether tariffs should be modified.

Comments Received:

EirGrid stated that the timing of the production of the use of revenues statement should be more flexible than in relation to the anniversary of issuance of the licence. While required every year it should align appropriately with the tariff setting timetable, in particular insofar as the use of revenues from a regulated Interconnector shall be used to offset these tariffs such that the forecast offset can be as materially accurate in all regards.

CER Response:

The timing of receipt of revenue statements should be such that they are received on a timely basis to fulfil the reporting requirements under this licence and also to fulfil the requirements of tariff setting. The CER has modified Paragraph 4 to reflect this change.

Condition 18 Access to the Licensee’s Interconnector

This condition stipulates that the licensee shall offer access to the interconnector and enter into agreements for capacity with any person on a non-discriminatory, objective and transparent basis. The licensee shall submit a charging

methodology and any subsequent modification to the charging methodology to the Commission for approval having ensured that it has taken all reasonable steps to ensure that all persons who may have a direct interest in the access arrangement are consulted. The licensee is required to furnish to the Commission a report setting out:

- The terms originally proposed in the charging methodology;
- The representations, if any, made by interested persons; and
- Any change in the charging methodology intended as a consequence of such representations.

The licensee is also required to demonstrate how the proposed charging methodology meets the congestion management guidelines as set out in Regulation 1228/2003. As discussed previously Regulation 714/2009 repealing Regulation 1228/2003 will come into effect on 3 March 2011. The interpretation section of the licence (“Condition 1 – Interpretation and Construction”) already refers to “references to an enactment shall include.... any re-enactment thereof” but the references throughout this Condition are “...as set out in Regulation (EC) No. 1228/2003 of the European Parliament and of the Council of 26 June 2003 on the conditions for access to the network for cross-border exchanges in electricity, or any re-enactment thereof” makes it clear for the avoidance of doubt.

If the licensee refuses access on the grounds that it lacks the necessary capacity it must inform the person seeking access and the Commission giving it substantiated reasons for the refusal and demonstrating that it is either not economic or not technically feasible to provide the capacity. As a result the licensee shall not be in breach of this condition where there is a lack of capacity in respect of which to grant access to the Licensee’s Interconnector.

However, if the licensee refuses access on the grounds that it lacks the necessary capacity and the person seeking access so requests, it shall provide relevant information on measures that would be required to provide that capacity.

Comments Received:

In its response EirGrid suggest that in Paragraph 7 the clause “at least once in each calendar year” should be replaced by “periodically” as this provides for a reduced burden on the Licensee while still providing an obligation that the statement be reviewed periodically.

CER Response:

The CER agrees with the suggested modification and is reflected in the licence. EirGrid and other respondents suggested minor editing changes which have been incorporated into the finalised licence.

Condition 19 Application of Licence Conditions 17 and 18

This condition provides for an exemption to be granted to the licensee for all or some of the provisions of Condition 17 “Use of Revenues” and Condition 18

“Access to the Licensee’s Interconnector”. Licence Conditions 17 and 18 are collectively termed “the relevant conditions”. Such an exemption would constitute any or all of the relevant conditions not being in effect or being suspended from operation.

The Commission in considering such an application must be satisfied that the following requirements are met²:

- The investment in the Licensee’s Interconnector enhances competition in electricity supply;
- The level of risk attached to the investment is such that the investment would not take place unless an exemption order was issued;
- The licensee’s interconnector will be owned by a natural or legal person which is separate at least in terms of its legal form from the relevant system operators to whose systems that infrastructure will be connected;
- Charges will be levied on users of the licensee’s interconnector;
- Since the partial market opening referred to in Article 19 of Directive 96/92/EC, no part of the capital or operating costs of the licensee’s interconnector has been recovered from any component of charges made for the use of transmission or distribution systems linked by the licensee’s interconnector; and
- That it is not detrimental to competition or the effective functioning of the internal electricity market, or the efficient functioning of the regulated system to which the licensee’s interconnector is linked.

Comments Received:

EirGrid in its response consider that this condition would benefit from greater clarity being provided between the use of the terms ‘Licensee’s Interconnector’ and ‘new Interconnector’ in this condition.

Airtricity in its response made reference to the use of the word “condition” throughout and the various meanings it can take.

CER Response:

The CER has substantially reworked the wording of this Condition but the essence remains intact.

Condition 20 Application of Licence Conditions

This condition allows the Commission to suspend from operation any condition of the licence which the Commission believes is required after consultation with the licensee.

² Article 7 of Regulation 1228/2003 and Article 16 of Regulation 714/2009

Comments Received:

EirGrid suggested that a paragraph be inserted to safeguard the ability of parties such as the licensed Transmission System Operator or Market Operator to be able to fulfil their functions insofar as the Conditions the Commission was intending to suspend from operation related to the provision of information or other engagement with third parties.

Viridian suggest this the wording of this condition be amended to reflect that licence conditions should only be suspended where clearly and justifiably needed, and recognising that any such decision has a potential impact on the wider industry.

CER Response:

The CER is cognisant of the implications of suspending any Conditions of the licence. In doing so the CER will consult with industry before suspending any Conditions.

SCHEDULE 1 Interconnectors to which this Licence Applies

The interconnector or interconnectors for which the licensee is licensed are detailed in this section. It is anticipated that the reference to the appropriate authorisation is also referenced here.

Comments Received:

No comments were received on this Schedule.

SCHEDULE 2 Right of the Commission to Revoke this Licence

This Schedule 2 sets out the terms and conditions as to how and why the Commission may revoke the licence. The reasons include, among others, if the licensee fails to comply with a direction or order under Sections 24, 25, and 26 of the 1999 Act, or fails to comply with any order made by the Minister under Sections 39 or 40 of the 1999 Act, or if the licensee is unable to pay its debts or has a receiver or an examiner or is dissolved or declared bankrupt or if there is a change in the control of the Licensee and the Commission is satisfied that the new shareholder does not have adequate technical or financial strength.

Also the licence may be revoked if in the event that licensee has not commenced carrying on the interconnector business within 6 months of the date this Licence comes into force or the date when the interconnector successfully comes into commercial operation.

Comments Received:

No comments were received on this Schedule.

3.0 Additional Comments / Conditions

The following comments were also received from the respondents. Additionally extra Conditions were added arising out of these comments.

Additional Comments:

Maintenance Requirements

Comments Received:

Endesa considers that the legal responsibilities of the interconnector operator need to be clearly defined, specifying the parties responsible for maintenance and the operator's requirement to minimise outages. It argues that the licence should require an agreement to be put in place with the interconnector owner for maintenance along with a requirement for the interconnector operator to minimise disruptions to trading.

CER Response:

The CER sees the merit and necessity for such maintenance arrangements to be put in place but does not consider that this should be dealt with in the licence. The CER considers that such maintenance requirements should be dealt with via financial incentives to ensure the availability of the interconnector. As such, and with respect to the East West Interconnector ("EWIC") the CER will be considering and publishing a paper dealing with all financial aspects of the operation of that interconnector.

Use of System Support ("UoS")

Comments Received:

Viridian stated that it is important to have a clear understanding of the eligibility criteria for UoS support in respect of interconnectors. It asks that the situation where the interconnector capacity revenue is insufficient and UoS support is required be clarified.

CER Response:

The CER will address this issue in its forthcoming paper on financial aspects of the operation of the interconnector, particularly applicable to the EWIC.

Capacity Utilisation

Comments Received:

Airtricity and IWEA raised queries regarding the allocation of capacity and whether open/rolling periods would be employed.

CER Response:

The CER considers that this is beyond the scope of the discussion pertaining to the licence and as such it will not be dealt with as part of the licence. The CER will be engaging in a consultation process dealing with the market rules associated with interconnector trading and capacity allocation in due course.

Additional Conditions:***Condition 17 Separation of Interconnection Business***

This Condition was added to ensure that adequate ringfencing measures are employed, if required. Also, provision is made such that the Licensee shall provide the CER with any information or access to information that it deems necessary for such compliance.

Condition 18 Prohibited Activities

This Condition was added following comments and concerns raised by Endesa in its response. Endesa's concerns was that it would be inappropriate for an interconnector operator to hold or acquire any interest in any generation sets, thus allowing an interconnector operator from gaining an unfair competitive advantage by also owning generation.

The CER decided that such activities would indeed constitute an unfair competitive advantage, especially with respect to the reservation of interconnector capacity. Also, this Condition is consistent with similar Conditions in other CER licences.

Condition 19 Restriction on Use of Certain Information

This Condition was added following comments and concerns raised by Endesa in its response. Endesa's concerns are that without such a Condition the interconnector could potentially benefit from confidential information or from disclosing information that may give other market participants an unfair advantage.

The CER decided that such a Condition is necessary to protect the legitimate commercial interests of market participants and prevent any party receiving an unfair advantage. Also, this Condition is consistent with similar Conditions in other CER licences.

4.0 Conclusions and Next Steps

The Commission will consider the responses to this paper and issue the finalised licence accordingly. Thereafter the Commission intends to conclude this consultation and make the new licence available to those that already have been issued with an authorisation to construct an interconnector, who by this process, would be automatically be eligible to receive a licence to operate the same interconnector and to put in place an application process for new applicants.