



**CER Consultation on Interconnector  
Operator Licence (CER/09/178) and  
(CER/09/178a)**

**A Response by EirGrid**

**November 2009**

## *Introduction*

EirGrid welcomes the opportunity to respond to the Commission's consultation on CER/09/178 and CER/09/178a on the draft Interconnector operator licence; it does so as licensed Transmission System Operator, Market Operator and as the developer of a 500MW HVDC Interconnector (EWIC) to Wales. It is therefore expected EirGrid will in due course be granted such a licence to operate the EWIC. In addition EirGrid has responsibilities under its other licences to ensure that any such licensed Interconnector facilitates both the operation of a safe, secure and reliable transmission system to which it is connected and an efficient, economic and co-ordinated operation of the Single Electricity Market.

## *Consistency with European Legislative Requirements*

The licensing of Interconnectors is set against the backdrop of EC Regulation 1228/2003 on conditions for access to the network for cross-border exchanges in electricity and its impending replacement by Regulation 714/2009. While the Regulations themselves are binding it is important the licencing arrangements are consistent and reflective of the requirements. This is, in general, the approach adopted by the Commission in its draft licence and EirGrid welcomes this.

## *Regulatory Relationship with Jurisdictions to which we are Interconnected*

EirGrid is already the holder of a licence from the Gas and Electricity Markets Authority (Ofgem) to operate an Interconnector. EirGrid understands that the Commission has sought to align its licence with that of Ofgem such that there be no conflict between the requirements of one licence and that of the other. Again, in general, this is welcome although it must, of course, be noted that this licence is generic to any such other jurisdiction as to which Ireland may in the future be interconnected.

EirGrid understands that it is the intent where an Interconnector is licensed by two Regulatory Authorities that both would co-operate and co-ordinate their activities in order to ensure both efficiency in the regulation of the regulated business of its activities and the application of the appropriate exemptions in relation to the production of charging statements etc.. Where an Interconnector is regulated in nature, and is supported by underlying network tariffs in one or other jurisdiction, EirGrid assumes that the regulator from whose jurisdiction that underlying regulatory support is being given would take a lead in regulating the Interconnector in question, approving the appropriate charging statements etc.. In the case of EWIC, EirGrid therefore assumes CER will take such a lead role given the underlying support of the Transmission Use of System customer in Ireland and that EirGrid will represent the sole operator of the interconnector.

## *Consistency with Other Licences issued by CER*

However, while alignment with the Ofgem licence is important it is equally, if not more, important that the licence places no unnecessary burden or inefficiency on the Licensee to

the extent that any conditions of the licence differ or place different requirements upon the licensed business from any other regulated license also held by the business. This particularly so where the differences would be expected to have little material bearing on the operation of the Interconnector *per se*. but rather in relation to the standard reporting requirements required of all regulatory Licensees.

Such differences are present within the draft licence as put out for consultation in relation to *inter alia*: a number of Definitions within the licence as set out in Condition1; the proposed Condition 2 on the Separation of Accounts; Condition 4 on Compliance with Laws and Directions. In each instance EirGrid supports the spirit of the Condition but believes greater harmony, efficiency and consistency of approach would be achieved through the inclusion of requirements to match those within other licences issued by the Commission. We provide further detail in relation to this point in our accompanying annex.

#### *Treatment of Interconnectors with Northern Ireland*

Finally, in addition to EirGrid's future operation of EWIC, EirGrid currently operates, in conjunction with the licensed Transmission System Operator in Northern Ireland, SONI Ltd, three alternating current Interconnectors with Northern Ireland. EirGrid is also in the process of developing a fourth such circuit. EirGrid understands it is the intention to issue a separate licence to EirGrid for the operation of these circuits and that the one licence would apply to the operation of them all.

Clearly while these lines are Interconnectors by virtue of their cross jurisdictional nature the current integrated market arrangements on the island of Ireland through the Single Electricity Market, whereby participants may be granted financially firm access rights and access to the market schedule whether or not there is physical capacity to accommodate the trades on the circuits, means that a somewhat different approach in relation to their regulation is appropriate. Moreover, given they are to a significant extent integrated within the meshed transmission system the level of reporting and separation in relation to their licensed activities need, by its very nature, be considerably less.

EirGrid understands that this is the approach proposed by the Commission and that, in consultation with the Licensee, licence conditions within this licence may be suspended from operation under Condition 20. EirGrid assumes that this will be the case in relation to the majority of the Conditions in this licence in respect of the circuits connecting the State with Northern Ireland and that it is the intent of the Commission to only grant such a licence to EirGrid plc. in its role as Transmission System Operator within the State.

#### *Next Steps*

In the accompanying annex EirGrid sets out its specific proposals concerning the drafting of the licence conditions and the rationale supporting them. EirGrid would welcome the opportunity to discuss in greater detail these comments as the Commission finalises the form of the proposed licences.



## **Annex – Consideration of Specific Amendments to the Proposed draft licence Conditions**

### **Condition 1 – Interpretation and Construction**

Definition of DSO – amend to “means the person licensed to operate the distribution system pursuant to Section 14(1)(g) of the Act”. Alternatively terms within the definition such as “Board” would need to be defined.

A definition of “Market Operator” should be included.

Market Operator “means the person licensed to operate the single electricity market pursuant to Section 14(1)(j) of the Act”

#### Definition of Transmission System

We would propose a different definition of transmission system as being consistent with that system operated by the licensed Transmission System Operator, as opposed to an Interconnector Operator or another party. It should include all circuits interconnecting Ireland with Northern Ireland. This also aids in interpretation of Condition 18.

Transmission System “means the system of electric lines comprising wholly or mainly of high voltage lines and electric plant and which is used for conveying electricity from a generating station to a substation, from one generating station to another, from one substation to another or to or from any Interconnector to another but shall include any Interconnector with Northern Ireland to extent the plant and equipment associated with that Interconnector is located within the State”

This definition is closer in consistency to that in the Act but further refines the definition of an interconnector which can be considered part of the transmission system for the purposes of Transmission System Operation.

### **Condition 2 – Separation of Accounts**

The requirements for separate accounts we would respectfully suggest should be consistent with those set out in other licences granted by the Commission such as in Condition 22 of the Transmission System Operation licence or Paragraphs 1 and 3-6 of Condition 13 of the Market Operator licence. This will otherwise results in an unnecessary cost burden on the Licensee.

### **Condition 6 – Compliances with Codes (and Charging Statements)**

A third paragraph should be inserted stating

“The Licensee shall be responsible for paying any charges for connection to or use of the Transmission System applicable to it as approved by the Commission under Section 36 of the Act”

The insertion of this paragraph would obligate the Interconnector operator to pay connection and Transmission Use of System charges insofar as the Commission has approved such charges in a statement prepared in accordance with Section 35 and approved under Section 36 of the Act

### **Condition 8 – Security Arrangements**

It is important that in the event of planning for contingencies in relation to security of supply that the Licensee also co-operates with the Transmission System Operator.

Accordingly we would suggest the following amendments:-

Replace “shall co-operate with the Commission in strategic contingency planning” with “shall co-operate with the Commission and Transmission System Operator in strategic contingency planning”.

### **Condition 9 – Provision of Information**

This Condition should be expanded to include the Market Operator with whom any Interconnector operator will have one of the most critical interfaces. 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.

We also wish to clarify with the Commission and understand paragraph 4 of the same Condition and indeed how it relates to an Interconnector operator.

### **Condition 10 – Central Dispatch and Interconnector Transfers**

In paragraph 3 of Condition 10 we believe the reference to “Condition 8” should read “Condition 9”, the Transmission System Operator’s obligations in relation to Interconnectors.

We believe a new paragraph 4 should be inserted stating:-

“The Licensee shall comply with the requirements of any statement of the Transmission System Operator approved by the Commission under Condition 9 of that Operator’s licence including any arrangements for the reservation of capacity for such purposes as system security”

This change we consider is required to render Condition 9 of the TSO licence effective and to reflect the underlying original intent of the insertion of that Condition within the TSO licence.

Any such statement will, of course, have to be consistent with the Regulations (EC 1228/2003) or any re-enactment thereof.

A new paragraph 5 should also be inserted stating:-

“There shall be no automatic entitlement to the Licensee for compensation in respect of any such capacity reserved”

Paragraph 4 would then be renumbered paragraph 6 accordingly.

### **Condition 15 – Capacity Utilisation**

This Condition needs to reflect a ‘Use It or Lose It’ provision at the time of nomination as well as a ‘Use It or Sell It’ provision consistent with the Guidelines in the Annex of the EC Regulations 1228/2003 or any re-enactment thereof.

EirGrid would be happy to explore with the Commission how this might be incorporated as well as how it will work in practice.

Secondary Market – we would suggest a secondary market will need to be set up and established. Again we are available to explore this with the Commission.

Firmness of Capacity - Arrangements relating to the firmness of capacity should be consistent with, but no more onerous, than those required under Regulation 1228/2003 or any re-enactment thereof.

In the case of Condition 15 the definitions “contractual congestion” and “firm capacity” are not employed and we recommend accordingly should be deleted.

### **Condition 17 – Use of Revenues**

The timing of the production of the use of revenues statement should in our view be more flexible than in relation to the anniversary of issuance of the licence and, while required every year 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. Accordingly we would recommend that Paragraph 4 is amended to reflect this.

### **Condition 18 – Access to the Licensee’s Interconnector**

Paragraph 7 – “at least once in each calendar year” we would recommend be replaced by “periodically”.

We would agree that this provides for a reduced burden on the Licensee while still providing an obligation that the statement be reviewed periodically and providing that the Commission has the powers to request such a review.

As indicated in our covering letter and we wish to further explore Condition 18(9) in the context of both the co-operation of regulatory authorities on a cross jurisdictional basis where an Interconnector is licensed by more than one regulatory authority and, in combination, with the approach to Condition 20 in relation to any Interconnector between the State and Northern Ireland.

Paragraph 8 – we suggest adding the word “any” between “submitting” and “modified”

Paragraph 10 – should the reference here be to Paragraph “9” rather “Paragraph “8”?

Paragraph 11 - should the reference here be to Paragraph “9” rather “Paragraph “8”?

Paragraph 13 we would like to clarify further in our discussions with the Commission this paragraph.

Paragraph 17 – we would suggest removing “17” from end of sentence to refer to Condition 16.

#### **Condition 19 – Application of Licence Conditions 17 and 18**

We believe this condition would benefit from greater clarity being provided between the use of the terms ‘Licensee’s Interconnector’ and ‘new Interconnector’ in this condition.

#### **Condition 20 – Application of Licence Conditions**

In line with our general comments we would like to discuss this Condition further particularly in relation to any Interconnector with Northern Ireland

We would recommend a second paragraph be inserted into this condition along the following lines:-

“Prior to suspending any Licence condition in accordance with paragraph 1 the Commission will also consult with any other party who would be directly affected by the suspension.”

This insertion is important to be able 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.