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RE: ‘Consultation on First Stage Payments on Acceptance of a Connection Offer to the Electricity Network’

The following are the observations of Saorgus Energy Ltd in relation to the consultation on “First Stage Payments on Acceptance of a Connection Offer to the Electricity Network”.

The grid deposits scheme has a useful purpose in weeding out unrealistic projects. However, such completely speculative action is rare and has been made even rarer by being allowed to relocate capacity. For genuine developers and good projects, the payment of high, uncapped grid deposits is a mandatory gamble (using scarce working capital) on inevitable, and unknowable, regulatory and financial risks. Because of the large sums involved, the scheme will tend to cause genuine market participants to decline connection offers, either because they can’t raise the deposit (which may be the largest single cost item pre-financing) from the debt markets or because the risk of losing the deposit is too high. It is clear to us that no bank will finance these large deposits unless backed by a utility balance sheet - this is a market distortion in itself. Once paid, the deposit plays absolutely no further role in encouraging the eventual physical take up of the capacity. Physical take up of capacity is dependent only on the financeability of the generation project at financial close. For these reasons, we suggest that high, uncapped grid deposits will have unintended negative consequences that outweigh any benefits. In the current economic climate, there should be no such needless discouragement of investment.

In contrast, the secondary relocation market is already vibrant and effective in ensuring that grid capacity is taken up. The CER’s encouragement of this market, via the recently issued rule set on relocation, is a recognition of this. This market has the same aim as the grid deposits scheme but the two schemes are not complementary - the grid deposits scheme is merely an ineffective add-on that removes working capital from the renewables industry.

The rebate option, proposed by CER as a way of mitigating the unnecessary investment burden of the grid deposits scheme, is a welcome change but will be obviously ineffective in situations where REFIT becomes available before all other regulatory risks have been eliminated. If REFIT arrives before other essential pieces of the development jigsaw, the

benefit of the rebate option disappears. The grid deposits scheme then reverts to being a barrier to normal investment. We argue that the grid deposits scheme is a negative blunt “stick” approach (you will lose large amounts of tied-up working capital) as opposed to the market-driven and positive “carrot” approach of capacity relocation (you will make profit if you sell your connection to a viable project).

A particularly unhelpful aspect of the grid deposits scheme is that it distorts the market for those who will need to negotiate site agreements after the payment of grid deposits. It will introduce an unfair burden on offshore developers who are negotiating with the state for offshore leases. This will be of particular relevance in situations where the window for rebate has passed; e.g. where an offshore REFIT PSO has been signed and the grid deposit has become non-refundable. No developer would choose to publicly pay a very large non-refundable deposit to an unrelated party prior to entering negotiations with a private landowner – this would put the developer in a very poor negotiating position with the landowner. However, situations will arise where the state (via CER and Eirgrid) will have required the non-refundable payment of very large cash sums by Gate 3 offshore developers. This will put officials of another state entity, the Minister for Environment, in an improved negotiating position when the terms of the offshore lease are under discussion. We do not argue that the grid deposits scheme was designed with this in mind, but it is an unintended and unavoidable effect. High and uncapped grid deposits will inevitably put the developer under pressure (the pressure comes ultimately from CER) to accept more onerous terms in a third party contract than would otherwise be the case. This is an unnecessary market distortion.

It seems self-evident that if a place in the Gate 3 queue is being held with no prospect of either project construction or capacity relocation, then a very low level of penalty will discourage the continuation of the hoarding. What level of penalty is required to deter those who are speculatively hoarding connection capacity? We argue that this level is quite low, on the order of tens of thousands of euro. A maximum deposit that is tailored specifically to purely speculative situations would make good regulatory sense and would not act as a serious barrier to investment in a large project. However, a very high level of prospective penalty will discourage sincere developers who, through no fault of their own, cannot control such public policy factors as changes in Natura 2000 policy and uncertain levels of constraint.

The question for CER is: what is the justification for high and uncapped grid deposits?

Regards,

A handwritten signature in black ink, appearing to read 'A. Forde', with a stylized flourish at the end.

Aidan Forde
Director
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