



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Proposed Decision Paper  
on  
Modification Requests to Connection Offers  
– Fees & Process**

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## 1.0 Executive Summary

The system operators developed a paper – “**Modification Fees for Connection Offers**” – which details their proposals for revising the process followed when dealing with applications for modifications to offers for connection to the electricity network. This paper was published for consultation on 3<sup>rd</sup> November 2011.

Currently, when the SO’s receive an application for a modification to an existing offer, their processes are broadly as follows:

- The distribution system operator processes modifications to offers whilst tracking the costs incurred in doing so and invoicing the customer based on outturn<sup>1</sup>
- The transmission system operator however uses estimated fixed costs which are charged either up front or during the modification process

The SO’s developed joint proposals for consultation, in relation to the process to be followed by them when dealing with such requests.

The purpose of this paper is to give the CER’s proposed decision on the matter of the system operators procedures for processing applications for modifications to offers for connection to the electricity network, as consulted upon by CER in CER/11/194. The CER now seeks the views of interested parties with regard to the proposed decisions now reached by CER in this regard.

The CER received nine responses to the consultation – all are included in Appendix A of this document.

Following the consultation, the CER engaged an independent consultant to carry out a review of the proposals made by the SO’s. The process of reviewing the detail behind the development of the fees was an iterative one, involving lengthy discussions, communications and meetings, taking several months to complete.

In April 2012, the SO’s submitted a revised table of modification levels which included a further three levels (levels 1.5, 2.5 and 3.5).

Following submission of the revised modification levels, CER and its consultant continued with a more detailed review, examining the rationale behind the development of the fees in the consultation. The review focused on two key areas:

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<sup>1</sup> Albeit this charge has in the past been capped at the level of the relevant fee for a new application

- Staff allocation - the time allocated by the SO's to complete modifications (the person day allocation including a review of the actual activities and categories of staff undertaking such work), and;
- Staff/other costs - the underlying costs incurred by the SO's in completing the modifications

As a result of the aforementioned review, CER's consultant has recommended a reduction in the staff costs submitted by the SO's for the various staff categories anticipated to be working on modifications. This reduction in staff costs, coupled with the adjustments made to the staff allocation recommended by the consultant, has led to a reduction overall in the charge levels of all modifications of 14.7%.

As mentioned in the previous section, the CER's independent consultant developed a mathematical model, the inputs to which were its own calculated levels of what it considered reasonable time, and the costs associated with the various categories of staff working on the different modifications.

The overall result of the consultant's review, is a recommended **14.7% reduction** across all modification levels compared with that originally proposed in the consultation. Table 1 below shows the resulting modification fee levels:

Level	Proposed Charge	Recommended Charge
Level 1	€1,000	€853
Level 1.5	€6,025	€5,143
Level 2	€11,050	€9,434
Level 2.5	€16,250	€13,873
Level 3	€21,450	€18,312
Level 3.5	€25,675	€21,919
Level 4	€29,900	€25,526
Level 5	As per Standard Application Fee Schedule as published separately by the SOs	

**Table 1 – Comparison of proposed & recommended fee levels**

The CER agrees with the consultants view and therefore, it is the CER's proposed decision that these recommended charges be adopted.

The SO's also provided in its response paper (included in Appendix B), a list of the modifications which will be undertaken free of charge. These include modifications:

- Where the original offer was based on assumed data, and a modification has to be processed when project specific data is provided
- Required to a subgroup connection due to a <100% offer take up.
- Required to a connection method with a view to further optimising system development

- Required due to any error on the part of the System Operators

It is now CER's intention, that following a period of a year and/or when a sufficiently representative number of modifications such that a meaningful assessment can be made, are complete by the SO's, a review of these charges is undertaken to ensure that the principle of cost reflectivity is maintained. Appropriate adjustments can then be made, if necessary to the fees.

CER stated in the consultation paper that it intended to have the final fee levels retrospectively applied to applicants who submitted a modification request in the interim period since the original consultation was published. For efficiency this retrospection will apply once the final decision has been made.

CER requests the SO's submit their amended paper to CER for publication no later than one week from publication of this proposed decision and revise the modification fees as per this proposed decision. The SO paper should provide as much detail as possible relating to the actual work to be carried out under each modification level, keeping in mind the responses to the consultation regarding the need for further clarity in this regard. The paper should also include details regarding the process to be undertaken by applicants seeking modifications to offers e.g. application form requirements, timing for modification requests etc.

The CER also now invites responses in relation to this proposed decision on the matter of modification fees and levels. The CER wishes to thank those who responded to the consultation and look forward to any further submissions. CER also wishes to draw attention to the proposal made above by the SO's (Section 4.4) in relation to introducing a priority rule set associated with processing offer modifications – the CER looks forward to industry views on this proposal.

Following close of the proposed decision period, the CER will take account of the views submitted from industry and the SO's, and, the review carried out by CER's independent consultants.

Following deliberation, the CER will develop a final decision on the matter and will publish same once this process is complete.

Upon conclusion of the CER final decision, generators who submitted application requests during the consultation period, will have the results of the final decision applied to them. This means that any increase or decrease in charges in the CER final decision, compared with fees paid based on the consultation, will be retrospectively applied to those applications made during the consultation period (such retrospective charging being an exception in this case).

## **2.0 Purpose of this Paper & Responding**

### ***2.1 Purpose of this paper***

The purpose of this paper is to give the CER's proposed decision on the matter of the system operators procedures for processing applications for modifications to offers for connection to the electricity network, as consulted upon by CER in CER/11/194. The CER now seeks the views of interested parties with regard to the proposed decisions now reached by CER in this regard.

#### **Target Audience:**

This paper will be of interest to parties involved or concerned with connection to the electricity system at distribution and transmission level, and the system operators.

#### **Related Documents:**

- Connection Offer Policy & Process Decision (CER/11/093) available here: <http://www.cer.ie/en/electricity-distribution-network-decision-documents.aspx?article=f60275f5-1442-4330-93f3-895a68f861b3>

### ***2.2 Responding to this paper***

Responses to this proposed decision paper must be received by Friday 19<sup>th</sup> October 2012 and sent to:

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The Exchange  
Belgard Square North  
Tallaght  
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The Commission may wish to submit responses to this proposed decision to the system operators and CER's independent consultant. Respondents may request that their response not be forwarded to these parties in which case the respondent should clearly mark the document(s) to that effect, stating the rationale for confidentiality.

Please note that the CER intends to publish all responses to this proposed decision paper on its website at [www.cer.ie](http://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, stating the rationale for confidentiality.

### ***2.3 Structure of this paper***

The remainder of this paper is structured in the following manner:

**Section 3** gives an overview of the consultation paper and proposals therein.

**Section 4** details the responses received to the consultation from industry, the SO's responses thereto and finally the CER views in each case.

**Section 5** gives details of the review undertaken by the CER of the SO's proposals.

**Section 6** provides the CER's proposed decision.

**Section 7** details the next steps in concluding to a final decision.

**Appendix A** comprises the responses received to the consultation.

**Appendix B** comprises the SO response paper to the responses received to the consultation.

### 3.0 Overview of the Consultation Paper & SO's Proposals

The system operators developed a paper – “**Modification Fees for Connection Offers**” – which details their proposals for revising the process followed when dealing with applications for modifications to offers for connection to the electricity network. This paper was published for consultation on 3<sup>rd</sup> November 2011.

Currently, when the SO's receive an application for a modification to an existing offer, their processes are broadly as follows:

- The distribution system operator processes modifications to offers whilst tracking the costs incurred in doing so and invoicing the customer based on outturn<sup>2</sup>
- The transmission system operator however uses estimated fixed costs which are charged either up front or during the modification process

The SO's developed joint proposals for consultation, in relation to the process to be followed by them when dealing with such requests.

Below is a synopsis of the content of the SO's consultation paper, and the proposals therein.

- Section 1 of the paper gave an overview of the system operators' rationale for revising the current process of modifying offers and the proposals made in the consultation.
- Section 2 of the paper detailed the proposed modification application process
- Section 3 of the paper gave an overview of the SO's method for developing the fees and includes the fee levels 1-5
- Sections 4 and 5 of the paper gave a description of the fee structure and outlines the assumptions made by the SO's in developing the fees
- Appendix 1 of the paper gave examples of which type of the levels at which different modifications are considered for charging purposes and offers more detail regarding how some modification requests will be dealt with
- Appendix 2 showed the proposed application form for completion by parties wishing to apply for an offer modification

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<sup>2</sup> Albeit this charge has in the past been capped at the level of the relevant fee for a new application



## 4.0 Responses to the Consultation

The CER received nine responses to the consultation – all are included in Appendix A of this document. The parties who responded to the consultation are listed below in alphabetical order:

1. ABO Wind Ireland Ltd
2. Art Generation
3. Bord Gais Energy
4. Endesa Ireland
5. Irish Wind Energy Association
6. Mainstream Renewable Power
7. Saorgus Energy Ltd
8. Wind Prospect
9. Windsource Ltd

The responses received are detailed below under the four broad headings of:

- General Comments
- Cost of Modifications
- Charges & Fee Levels
- Modification Processing & Timelines

In each case, the appropriate extracts from the SO's response paper (included in full in Appendix B for completeness) is included. The SO's response in Appendix B also includes (part of) a table which was submitted by IWEA in its response to the consultation, and includes SO commentary thereto.

## **4.1 General Comments**

### **4.1.1 Responses Received**

One respondent expressed concern that the interim arrangements allow the system operators to apply the new costs and timelines before consulting with industry or a decision has been made by CER which the respondent believed suggested the regulators decision is a foregone conclusion – also the respondent pointed out that table 1 in the consultation indicated that only the level 5 fee has been approved by CER and the respondent stated that it is unclear how the CER could allow the SO's to apply a non approved fee to its customers.

Several respondents commented also on the issue of standardisation with some respondents stating that the consultation proposes that there is an efficiency that comes with standardisation which results in less administration. One respondent however highlighted that such standardisation, and a review of the modification process, should introduce efficiencies resulting in decreased costs and timelines, and not just administration.

### **4.1.2 System Operator Response (as submitted to CER)**

Given previous engagement with the industry and the limited response of industry to this particular aspect of the consultation, the SO's would assume that – with the exception of the parties who specifically stated that they were not in favour – the general industry response is to favour standardisation. In relation to the comment that standardisation is contrary to the RE Directive, the SO'S do not agree with this interpretation, however we further consider that this is primarily a matter for CER to consider.

Standardisation of modification fees (including payment prior to processing):

- Allows modifications to be processed prior to offer acceptance where appropriate Provides a clear marker as to when the modification has commenced
- Gives certainty to an IPP – prior to finally committing to a modification request – as to the cost of processing the modification
- Is in line with other policy's such as application fees and standard prices for connection costs

The SO's would further clarify – in relation to a query received post consultation – that even in the case of several changes being processed as part of a single modification request, the fee would be capped at the application fee.

#### **4.1.3 CER View**

The CER considered the principle of standardisation, its application and why it is used. Among others, standard charges are currently used in application fees and connection charges. CER believes, that standard charges offer greater financial certainty for generators whilst allowing for faster and more efficient processing of applications. The alternative is to charge generators based on SO outturn costs however CER believes that this results in losses to efficiency and indeed would likely need to be additive resulting in higher charges. Standard charges are developed such that they reflect the reasonable costs incurred by the SO's in carrying out tasks, and thereby result in broadly cost reflective standard charges.

The CER disagrees that allowing interim arrangements such as those in this case (i.e. the charging of fees for consultation), suggests a foregone conclusion on the part of CER. The CER allowed the interim arrangements be in place since standardised charges offer greater financial certainty for generators and allow more efficiency to be achieved at the SO's. In any case, the CER confirms that the decision in relation to the charges will be retrospectively applied to generators who applied for modifications during the consultation period.

Finally, a comment was made by a respondent regarding whether or not CER's consultant is economically bound in any way to the SO's - CER confirms that its consultant does not have any economic ties with the SO's in relation to these (or any other) proposed fees.

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## **4.2 Cost of Modifications**

### **4.2.1 Responses Received**

Some respondents stated that the SO's proposed a review of the fees once a sufficiently representative number of modifications had been completed however highlighted that the 150 modifications already processed by the SO's should have been used in calculating the fees now.

One respondent stated that the charges proposed are excessive and not reflective of the costs and timelines associated with an expected efficient and effective process to deal with modifications – also, the charges assume that all engagement with the developers (relating to offer modifications) is additional work.

One respondent stated that under Section 35(4) of the Electricity Regulation Act 1999 any costs charged to customers must be based on the actual costs incurred by the TSO – the respondent questioned the consistency of the message in the consultation paper that modification fees are cost reflective and the statement in case of multiple modifications, customers will be charged on the basis of one level of modification i.e. the fee is not additive.

One respondent did not accept the principle that some account should be given to smaller applications or where the price cap is less than the costs of a modification whereby under recovery will be balanced across the categories. The respondent is against the sharing of under recovery and argues that if it is shared, it should be recovered via TUoS/DUoS and not from other modification applicants. The respondent also pointed out the SO's duty of non discrimination under the TSO/DSO licences regarding discrimination.

### **4.2.2 System Operator Response (as submitted to CER)**

As set out in the consultation and as presented to industry on a few occasions, the principle behind the levying of standardised fees is that the overall cost of processing modifications should be borne by the parties requesting same. While it is intended that the level of the fee would reflect the perceived difficulty of progressing a particular modification, it is not expected that a charge levied on a given project would exactly match the cost of processing the modification.

A number of respondents have expressed the view that the cost of processing modifications should be considerably less than the cost of processing initial offers due to the fact that models are already set up.

While it is correct to state that the cost overall of processing modifications is likely to be lower (and indeed the modification fees are also lower than the application fees) the following should also be borne in mind:

- Application fees are of themselves not always reflective of the costs incurred in processing an application. This would be particularly the case for smaller applicants
- The majority of new applications are processed in batches (i.e. Gates) and as such there are economies of scale in this processing. Modifications are more likely to be processed singly. To some extent, therefore where there is a subgroup with 5 applicants, which in the Gate system would be processed all together, the SO's might be required to process 5 different modifications all at different times – for this subgroup
- The interacting nature of projects, including indeed many of the small projects, means that great care and attention has to be taken for even small modifications. This is especially the case given the high level of capacity connected, contracted or offered.
- While it is correct to state that base models have been built, such models will need to be verified and updated for updated loads, any updated circuits and in some cases revised feeding arrangements

One respondent queried the need to cover the cost of customer engagement from modification fees as they assumed the cost of such engagement was already recovered under the application fee.

It should be noted that there is substantial customer engagement during the processing of the original offer. Some of this engagement is formal – via customer meetings – and some is less formal – emails and phones calls. The cost of this engagement is recovered via the application fee.

It should also be noted that in many cases there is substantial customer engagement – both formal and informal – with customers, prior to the customer requesting a specific modification. At present the cost of this engagement is not specifically covered by either the original application fee or the modification fee.

### **4.2.3 CER View**

The issue of standardising offer modification fees was raised by the SO's at Gate 3 Liaison and as far as CER is aware, no major concerns were expressed by industry on the matter.

The COPP decision in 2011 introduced a flexibility whereby customers could apply for (and have processed) offer modifications pre offer acceptance – however without standard, up front charging, this potentially exposes the SO's to under recover costs in cases where no offer has been accepted and therefore, no contract exists between the SO and its customer.

In instances where an applicant requests several modifications at once, the SO's have confirmed that the fee charged for multiple modifications is not additive. Please refer to the revised SO paper for detail as to how multiple modification requests are to be charged.

To allow the charges to be additive in such cases could result in double charging, which would be unfair, unreasonable, and indeed against the principle of cost reflectivity. CER agrees with the proposal that only the maximum level modification is chargeable to such connections as this maintains the principle of passing efficiencies achieved onto customers.

The CER and its consultant carried out a review of the proposed fees in the consultation and this issue is covered separately in Section 5 below.

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## **4.3 Charges & Fee Levels**

### **4.3.1 Responses Received**

Several respondents stated that a disparity exists between the current and proposed fees stating a substantial difference in costs between the two and in some cases, citing specific examples.

Other respondents cited that the increase in fees would result in at least a 50% increase in cost for the developer.

One respondent cited article 13 of the RE Directive, stating that fees must be cost reflective and stated that the proposed fees are far in excess of private industry fees.

One respondent stated that the principle of banding standard fees is worthwhile whilst highlighting that it is important that the fees reflect the average cost of modifications rather than the potential cost of the most complex modification in a given band.

Several respondents cited that the proposed fees will lead to over-recovery by the SO's, with some citing a potential revenue of €6.5m for recovery by the SO's, which in the view of the respondents, is excessive.

Another respondent also stated that an over-recovery is likely to occur and suggested that any under recovery of costs can be dealt with by amending the fees based on actual data – finally stating that there should be no retrospective recovery of costs.

One respondent agreed that the cap up to the cost of processing original applications was appropriate and stated that where NC5A is completed for original applications no cost should be incurred for NC5 for the first time. This view was echoed by another respondent.

One respondent stated that whilst it welcomed the statement that some account should be given to smaller applications, capping of the fees at application level does not go far enough and a maximum amount paid per modification should be a 50% percentage of the original fee which would be a more reflective and fair arrangement in terms of the smaller projects.

Some respondents stated that there should be no charge for changes such as internal network or turbine changes. Also, technical studies should not be completed until confirmation of the final plant design as it is unfair to be charged

in full for additional technical studies when the studies may not have been completed or only minor model changes are required to redo existing studies.

One respondent stated that five grades of modification categories are not sufficient to capture all possible requests and that the SO's are left too much discretion to assign a category to the modification application. The respondent stated that this applies particularly where the category is dependent on whether change to shallow works is 'expected' or not stating that it is not clear what criteria is applied in forming this expectation.

One respondent stated that assumed data when submitting applications has been used by a large number of gate 3 wind farms and the SO's should confirm that the work associated with submitting actual data would not be recovered through the modification fees charged for other modifications.

One respondent stated that the SO's could stand to gain revenue from generators' efforts to correct sub-optimal offers and as there is a clear conflict of interest for the SO's and CER and therefore a modification request to correct a sub-optimal offer should attract no fee.

One respondent stated that the proposed costs are not reflective of private industry norms and that the actual level of man hours are significantly less than what is being presented.

One respondent stated that there should be no charge for a modification to reduce MEC.

One respondent highlighted that Northern Ireland NIE do not currently charge for modifications to connection offers.

#### ***4.3.2 System Operator Response (as submitted to CER)***

A number of respondents felt that the charge for modifications is proposed to increase compared with what had been charged previously. The SO's would contend that there are a number of factors at play here:

- In some cases – as is the case with all standardised processes – there will indeed be an increase compared with what might be charged based on out-turn cost. However in other cases the charge will decrease
- The range of modifications being offered by the SO's has increased (as set out via COPP) to reflect a revised demand for modifications from the industry
- In the past, the charge levied for processing of a modification did not always reflect recovery of the costs incurred. Following a review of the workload involved in processing modifications the SO's have the view that the proposed fees are more cost-reflective



- There have been a number of policy changes implemented in recent years at industry request. These changes (in particular in the context of charging policy) – while overall of benefit to the industry – introduce a level of complexity to the processing of all offers including modifications.
- As stated at the beginning of Section 2 (of SO's full response included in Appendix B), the increased level of capacity being modelled on the system greatly increases the complexity involved in modelling.

Some respondents commented that it was incorrect to set the level of fees based on the resource which would need to be present to process an assumed level of modifications. Respondents also commented that the SO's had underestimated the number of modifications to be expected.

In relation to this particular issue the SO's would comment as follows:

- While it is correct that the resource required to deliver a good service was part of the
- consideration when revising the process and associated fees for modifications, the fees charged also line up with the expected workload associated with processing a modified offer
- On a number of occasions pre-consultation, the SO's requested feedback from the industry and expected numbers of modifications. Prior to the consultation there was no indication that the numbers assumed by the SO's was incorrect. Based on the SO's experience from earlier Gates the level of modifications being suggested by some respondents appears to be very high
- To date the number of modifications requested has been low. While this is most likely due to the delay in the timeline for offer acceptance, it also means that the revenue from modifications to date is very much less than expected. The SO's have, however, committed to staff being available to processing these modifications. To date, therefore, there is an under-recovery in this area. The SO's do not intend to modify the current fees table to correct this under-recovery.

A number of respondents set out specific types of modifications which they considered should not incur a charge. The modifications referenced included :

- Provision of specific turbine detail where an offer has been processed based on assumed data
  - SO response :While it should be noted that there is additional work in accommodating this change in process compared with issuing an offer based on specific data, the SO's position as set out in the consultation paper is the provision of specific data - where an offer was originally based on assumed data - will not incur a charge
- Change of specific turbine detail where an offer has been processed based on specific data
  - SO response In acknowledgment of the fact that dynamic studies will typically not commence until 12 months pre-energisation, the SO's consider that – where a change in specific data is submitted at least 12

months in advance of energisation – this modification request would be processed as a level 2 modification

- Reduction in MEC
  - SO response A number of respondents commented that as there was an overall system benefit where a reduction in MEC is being processed, a charge should not be levied for such a modification. The SO's consider that a charge should be levied on the party requesting the change as it is not appropriate for the End-User to cover the cost of this work.

One respondent also commented that NIE do not charge for modifications. From our contact with NIE it is not our understanding that this is always the case. However as the charging model under which both ESB Networks and EirGrid operate requires costs to be collected from the IPP's, how other utilities operate is not necessarily relevant.

With regard to the comment that the charge for level one (typically a Change of Legal Entity) is too high, the SO's experience is that this is not the case. While the SO's accept that this is a charge for administration work only, there are also changes required to business software; verifying customer details on companies register; verifying of documentation provided<sup>3</sup>; issuing a revised Connection Agreement. In addition, for DSO customers with an MEC>5MW, a revised TUoS agreement will have to be issued. Furthermore given the scarcity of capacity, the value of offers, or even submitted applications which are being processed, is high and therefore there is a high level of rigour involved in ensuring that any Change in Legal Entity is processed correctly and only when requested by parties entitled to do so.

In relation to the comment that the steps between levels are too high and that a level should be set at the average cost for that level rather than the most costly job at the level. Firstly the SO's agree that the fee associated with a given level would not reflect the cost associated with the most difficult job to be processed at that level, and that is not how the levels are currently priced. The SO's are happy to discuss further with CER whether additional levels might be more appropriate in order to reduce the size of the steps between levels. However it should be noted that this would reflect a rebalancing of costs such that in some cases parties would pay more than they would on the current system and in some cases less.

In relation to the comment that parties who had paid for modifications should be rebated where a review noted that there was an over-recovery, the SO's are happy to discuss this further with the Commission. However this process would have to be matched by approval to revert to those who had paid for

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<sup>3</sup> In some cases application forms provided have included changes to other details such as site co-ordinates or even MEC

modifications, and request an additional payment, should there be an under-recovery. Were such a principle adopted, this would undermine the certainty which standardising of fees is intended to offer. In addition it should be noted, that any such exercise would only be done based on the bulk of modifications – i.e any over- or under-recovery would not be on a project specific basis. Finally it should be noted that (as set out in the consultation paper) the SO's do intend to review the fees on a regular basis, but with a view to adjusting fees for future modifications – rather than those already complete.

Some parties commented that the SO's need to specify what is meant by a 'significant' change – leading to a higher level modification. While an effort has been made in the table provided in the consultation to identify the levels which might apply to different types of modifications, each modification must be assessed prior to assigning a level, and as such it is hard to identify in the general what scenario might drive a change to be significant. However where a modification is being charged at the higher level, the SO's would propose – when advising the customer of their fee – to identify why the change is deemed to be significant.

### **4.3.3 CER View**

The CER wishes to highlight the following points:

- Section 5 of this proposed decision details the review undertaken by CER as part of this process
- The CER requested the SOs introduce further/new modification/fee levels – there are now 8 fee levels
- The overall reduction across all fee levels is 14.7% as a result of the CER review undertaken

## **4.4 Modification Processing & Timelines**

### **4.4.1 Responses Received**

Several respondents expressed disappointment regarding the timelines for processing modifications, stating that they were excessive.

Several respondents suggested that level 1 modifications should be processed in 10 business days whilst level 2-3 modifications should be processed in no longer than 45 business days.

Some respondents suggested also that the timeline from modification submission to invoice issue should be 5 to 10 days.

Some respondents suggested that an expedited ('fastrack') service should be made available where modifications are critical for project development such that the modification is dealt with on a priority basis. One respondent suggested an additional cost of say 30% could be added for such an option.

One respondent confirmed that the proposed timeline of three months for request for information or payment of invoice is appropriate.

One respondent stated, in relation to the two year timeframe within which it was suggested in the consultation that modifications would be submitted (from offer acceptance), that a more realistic timeframe would be five years. Also, in relation to the acceptance rate, the respondent suggested that 85-95% and at least two modifications would be submitted for each project, with one of the modifications being a level 1.

#### **4.4.2 System Operator Response (as submitted to CER)**

As set out above, many respondents commented that the timeline for progressing modifications was too long. The SO's are conscious of the need to provide modified offers as quickly as possible, but are also conscious of the need to ensure that those modified offers are accurate. It is also important – given that both SO's are licensed SO's with a mandate to treat all parties fairly and equally - that the modified offers are processed in line with current connection policy and that there is a clear audit trail documenting the changes from the original offer. To aid in the understanding of the work involved in processing a modification, Appendix 2 (of the SO full response included in Appendix B) sets out the typical work areas involved in processing a modification, much of which is sequential.

It should also be noted that – in acknowledgment of the possible delay in progressing connections due to the delays in the Gate 3 acceptance process - the SO's have offered to IPP's the option of progressing their modifications pre-offer acceptance where to do so is not seen to disadvantage other parties or otherwise cause problems in progressing. It is hoped that – by offering this option

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- The flood of modification requests on offer acceptance will be reduced
- The time required to progress a modification will not be in the critical path of project development

In addition, while the timelines given are considered to be typical timelines, the SO's intend to advise parties prior to payment of the modification fee, of the timeline for processing their modification once all customer requirements have been fulfilled.

In summary, while the SO's appreciate the urgency in processing modifications, we do not consider it possible to offer a shorter 'standard' timeframe than that published in the consultation paper. In addition – as there is a need to have trained personnel processing these modifications, the speed of processing modifications will depend on the level of requests at any one point in time.

A number of respondents also requested that the SO's advise a timeline from modification request to progressing a modification and suggested that 5-10 business days would be appropriate. Experience to date of modification requests received is that there is often a lack of clarity from the customer as to exactly what changes are required. In addition, where a detailed application form is required, clarification of the details provided on the form can take some time. It is not possible, therefore, for the SO's to commit to a timeframe for this element of the process much of which is outside the control of the SO's.

However the SO's are aware that in some cases the timeframe from modification request to commencing processing the modification has been long and as such

are exploring ways in which this time can be shortened. The introduction of a clear form – such as that proposed in the appendix of the consultation – is one such way of providing clarity as to what changes are requested<sup>4</sup>. The SO's are also considering whether most modifications are best progressed using the short form<sup>5</sup>.

In relation to the suggestion that the SO's offer a fast tracked service to those parties who are prepared to pay an additional fee, the SO's do not consider that this is appropriate. As stated above the SO's will always endeavour to process modifications as quickly as possible. In addition where there is a particular urgency with a modification the SO's will try to expedite the modification. However any such effort to expedite a modification should not be at the expense of another party who has submitted a request at an earlier date.

The SO's would request that a basic priority rule set be included within the proposed decision with a request for industry comment. Having considered this matter the SO's would suggest the following – where work needs to be prioritised :

1. Modifications to offers which have been accepted should be first priority on the basis that the modification is likely to be in the critical path of project delivery. Within this group, the SO's would further consider that a modification request to progress a temporary connection is of highest priority albeit only once a window is closed and/or capacity exhausted
2. Where a modification within a sub-group has been requested then a subsequent modification request within that group can only progressed where it can be done so independently. Where the 2nd modification request may impact on the first (or vice versa) the second modification can be progressed :
  - a. When the first modification has been issued and under the assumption that the modification will be accepted. In the event that this assumption fails, the offer would be re-issued or
  - b. When the first modification is accepted<sup>6</sup>

#### **4.4.3 CER View**

In relation to comments suggesting that timelines for processing modifications are too long, the CER understands the SO's response regarding the need to ensure accuracy of modified offers, and the knock on effect this has on the timelines involved in processing modifications. Also, the CER agrees that it could be very difficult in reality to ascertain accurately, the number of modifications that

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<sup>4</sup> Although one respondent commented that such a form was not required

<sup>5</sup> With the exception, obviously, of modification specifically being submitted to change specific data

<sup>6</sup> As modifications will remain live for the same timeline as the original offer, this might have the effect of 'stalling' progress on modifications

may/may not be sought by generators in the coming months and year ahead, which could ultimately alter the timelines for processing in any case.

In the meantime however, the CER believes the SO's have made a meaningful effort to avoid an excessive backlog of modification requests in offering the option to apply pre-offer acceptance.

The CER also supports the view that a fast track option should not be introduced – this would only exacerbate the issue for parties who did not apply for the fast track option in that it could potentially further delay their processing. Offering fast track options to those who are willing to pay a premium for it could also lead to distortion of the 'modifications queue' as generators who perhaps entered the queue later, but who have larger financial backing, could essentially skip the queue. In any case, the SO's have confirmed that they will continue to monitor priority cases in an effort to alleviate concerns with regard to projects for whom a modification request, is a critical path issue.

CER requests however that the SO's keep records of any such cases whereby modifications are expedited ahead of others for reasons of critical path and/or other related issues.

Finally the CER wishes to draw attention to the proposal made by the SO's in relation to introducing a priority rule set associated with processing offer modifications – the SO's proposal is detailed in section 4.4.2 above, for clarity:

*“The SO's would request that a basic priority rule set be included within the proposed decision with a request for industry comment. Having considered this matter the SO's would suggest the following – where work needs to be prioritised :*

- 3. Modifications to offers which have been accepted should be first priority on the basis that the modification is likely to be in the critical path of project delivery. Within this group, the SO's would further consider that a modification request to progress a temporary connection is of highest priority albeit only once a window is closed and/or capacity exhausted*
- 4. Where a modification within a sub-group has been requested then a subsequent modification request within that group can only progressed where it can be done so independently. Where the 2nd modification request may impact on the first (or vice versa) the second modification can be progressed :*
  - a. When the first modification has been issued and under the assumption that the modification will be accepted. In the event that this assumption fails, the offer would be re-issued or*
  - b. When the first modification is accepted<sup>7</sup>”*

The CER looks forward to industry views on this proposal.

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<sup>7</sup> As modifications will remain live for the same timeline as the original offer, this might have the effect of 'stalling' progress on modifications

## 5.0 CER's Review of the proposals

Following the consultation, the CER engaged an independent consultant to carry out a review of the proposals made by the SO's.

CER's consultant has previous experience of working within network businesses and engineering service providers/consulting business, and in assessing engineering operating expenditure in other regulatory work. CER believes therefore that its consultant has a good basis from which an independent meaningful review, could be undertaken. CER's consultant also acknowledged, as did CER, that until sufficient information based on a reasonable level of experience of the multitude of modifications is gathered, the proposals would be indicative, but based on reasoned rationale. Nonetheless, the consultant has enough experience and information available to it in order to develop a cost base with which the SO proposed fees could be compared.

The process of reviewing the detail behind the development of the fees was an iterative one, involving lengthy discussions, communications and meetings, taking several months to complete. This section provides the process undertaken and the outcome of the review.

### **The Initial Review Process**

The CER and its independent consultant first undertook an initial review following publication of the consultation in November 2011. It was clear from this initial review however, and from the responses received to the consultation, that further modification levels would be necessary to reflect better, the range of modifications which could be requested and to close the gaps between the initial levels 1 to 5 (both from a charging and work level aspect). CER believed a higher level of granularity was necessary to ensure modifications were included at (charging) levels which were appropriate and reflected correctly the volume of work involved to complete them.

The CER therefore requested the SO's examine the modification table, suggesting the SO's review the levels based on where natural breaks would occur in different types of modification work. Various clarifications were requested, and queries submitted by the consultant and CER during this process, which was largely undertaken in Q1 2012,



In April 2012, the SO's submitted a revised table of modification levels which included a further three levels (levels 1.5, 2.5 and 3.5). Table 2 below is the table submitted by the SO's.

<b>Level</b>	<b>Amount</b>
Level 1	€1,000
Level 1.5	€6,025
Level 2	€11,050
Level 2.5	€16,250
Level 3	€21,450
Level 3.5	€25,675
Level 4	€29,900
Level 5	As per Standard Application Fee Schedule as published separately by the SOs

***Table 2 – SO's Revised table of fee levels – April 2012***

### **The Detailed Review Process**

Following submission of the revised modification levels, CER and its consultant then embarked upon a more detailed review, examining the rationale behind the development of the fees in the consultation. The review focused on two key areas:

- **Time** - the staff time allocated by the SO's to complete modifications and;
- **Costs** - the underlying staff (and other) costs incurred by the SO's in completing the modifications

The review undertaken was based on information provided by the SO's, the consultants own experience of working with network operators and businesses, and database information.

#### ***Time***

In relation to time, the consultant undertook an examination of the likely quantity of staff required to carry out each modification level, taking account the types (e.g. engineering, financial etc) and the level (e.g. seniority/experience) of the staff required to carry out offer modification work.

As a result of this element of the review, the consultant recommended that the time allocated to some modifications be reduced.

#### ***Costs***

In relation to costs, the consultant examined the staff (and other) costs based on the review undertaken regarding time allocation (as explained above i.e. staff type and level).

The TSO and DSO were invited to make submissions relating to the breakdown of the fees proposed including the costs associated with the staff involved in

modifying offers. The SO's submitted some information which the consultant then used to carry out its assessment, leading to a recommendation being provided to CER.

As part of the review process, the consultant developed a model using its own experience and database information, as described above, with which to compare the submissions made by the SO's.

In developing its model, the consultant first derived costs for the likely staff categories to be used on modifications. The consultant also applied a production time factor (excluding holidays and sick leave) based on its experience of a likely efficient level of utilisation which could be achieved by a design planning office with this type of workload, accounting for the size of the individual projects, the categories of staff that undertake this sort of activity, and the likelihood of peaks and troughs in workload. This utilisation factor takes account for example of administrative tasks and staff training among other things.

Completion of the consultants' model involved combining the results derived from the reviews undertaken of the staff time allocation and the staff costs.

### **Consultant Recommendation**

As a result of the consultants review explained above, CER's consultant has recommended a reduction in the staff costs and time submitted by the SO's for the various staff categories anticipated to be working on modifications. This has led to a proposed reduction in all modification fees of 14.7%.

### **CER View**

In the SOs revenue review process completed by CER in 2010 for the 2011-2015 five year period (referred to as PR3), the overall payroll costs of the SO's were examined. The PR3 review was thorough and the approval was for an overall payroll – the PR3 review did not specifically break out the precise costs of individual staff levels and as such the CER does not dictate individual staff salaries. CER is mindful therefore that the modification fees review does not undermine the principles upon which PR3 was agreed and payroll approved therein.

Since the activities associated with modifying generator connection offers covers discreet pieces of work, which can be quantified both in terms of the staff time and cost allocated thereto, the CER believe it prudent that an appraisal of these cost and time elements can be undertaken and on that basis, the appropriate fees were developed.

The CER's consultants approach examined the staff time allocation and the cost of the staff involved in offer modifications when recommending the appropriate fee levels. This approach differs from that of the SO's – in that they took account of revenue that would be recovered from the modification fees and, in this context

a cap on the fees would apply to modification requests at the level of a new application.

For example a 10MW MEC generator requesting say a level 4 modification will be charged for their modification at the level appropriate for a new application for a 10MW MEC and not the entire fee stated by the SOs in their proposal. This fee cap still applies under the CER approved modification fees.

Since the CER's consultant's approach to developing fees differed to that of the SO's, it is acknowledged that applying a cap to modification fees was not considered in the review. However, the consultant's approach does not prohibit the application of a fee cap. The SO's provided their fees based on a different approach to that which was ultimately used by the CER's consultant in its review.

The CER agrees with the consultants' recommendation and its proposed decision therefore is to adopt the recommended 14.7% reduction in the modification fees.

## 6.0 CER Proposed Decision

As mentioned in the previous section, the CER's independent consultant developed a mathematical model, the inputs to which were its own calculated levels of what it considered reasonable time, and the costs associated with the various categories of staff working on the different modifications.

The overall result of the consultant's review, is a recommended 14.7% reduction across all modification levels compared with that originally proposed in the consultation

Table 3 below shows the resulting modification fee levels:

Level	Proposed Charge	Recommended Charge
Level 1	€1,000	€853
Level 1.5	€6,025	€5,143
Level 2	€11,050	€9,434
Level 2.5	€16,250	€13,873
Level 3	€21,450	€18,312
Level 3.5	€25,675	€21,919
Level 4	€29,900	€25,526
Level 5	As per Standard Application Fee Schedule as published separately by the SOs	

**Table 3 – Comparison of proposed and recommended fee levels**

The CER agrees with the consultants view and therefore, it is the CER's proposed decision that these recommended charges be adopted.

The SO's also provided in its response paper (included in Appendix B), a list of the modifications which will be undertaken free of charge. These include modifications:

- Where the original offer was based on assumed data, and a modification has to be processed when project specific data is provided
- Required to a subgroup connection due to a <100% offer take up.
- Required to a connection method with a view to further optimising system development
- Required due to any error on the part of the System Operators

CER requests the SO's submit their amended paper to CER for publication no later than one week from publication of this proposed decision and revise the modification fees as per this proposed decision. The SO paper should provide as much detail as possible relating to the actual work to be carried out under each modification level, keeping in mind the responses to the consultation regarding

the need for further clarity in this regard. The paper should also include details regarding the process to be undertaken by applicants seeking modifications to offers e.g. application form requirements, timing for modification requests etc.

It is also CER's intention, that following a period of a year and/or when a sufficiently representative number of modifications such that a meaningful assessment can be made, are complete by the SO's, a review of these charges is undertaken to ensure that the principle of cost reflectivity is maintained. Appropriate adjustments can then be made, if necessary to the fees.

Finally, the CER stated in the consultation paper that it intended to have the final fee levels retrospectively applied to applicants who submitted a modification request in the interim period since the original consultation was published. CER therefore requests that once a final decision on the matter has been made by CER, the SO's follow-up with any effected customers.

## 7.0 Next Steps

CER requests the SO's submit their amended paper to CER for publication no later than one week from publication of this proposed decision and revise the modification fees as per this proposed decision.

The CER also now invites responses in relation to this proposed decision on the matter of modification fees and levels. The CER wishes to thank those who responded to the consultation and look forward to any further submissions. CER also wishes to draw attention to the proposal made above by the SO's (Section 4.4) in relation to introducing a priority rule set associated with processing offer modifications – the CER looks forward to industry views on this proposal.

Following close of the proposed decision period, the CER will take account of the views submitted from industry and the SO's, and, the review carried out by CER's independent consultants.

Following deliberation, the CER will develop a final decision on the matter and will publish same once this process is complete.

Finally, to reiterate, upon conclusion of the CER final decision, generators who submitted application requests during the consultation period, will have the results of the final decision applied to them. This means that any increase or decrease in charges in the CER final decision, compared with fees paid based on the consultation, will be retrospectively applied to those applications made during the consultation period. The CER highlights that allowing retrospective charging in this instance is exceptional – it has been allowed in this instance since the COPP decision last year introduced flexibility whereby customers could apply for modifications (and have them processed) pre offer acceptance – however without standard, up front charging, this potentially exposes the SO's to under recover costs in cases where no offer has been accepted and therefore, no contract exists between the SO and its customer.

## Appendix A – Responses to the consultation

The parties who responded to the consultation are listed below in alphabetical order – the responses are included under this proposed decision paper on the CER website.

1. ABO Wind Ireland Ltd
2. Art Generation
3. Bord Gais Energy
4. Endesa Ireland
5. Irish Wind Energy Association
6. Mainstream Renewable Power
7. Saorgus Energy Ltd
8. Wind Prospect
9. Windsource Ltd

## **Appendix B – SO Response Paper**

The SO's response paper dated 15<sup>th</sup> February 2012 is included under this proposed decision paper on the CER website.