



Ms Priti Dave-Stack & Ms Brid O'Donovan,  
Commission for Energy Regulation,  
The Exchange,  
Belgard Square North,  
Tallaght,  
Dublin 24

30<sup>th</sup> November 2012

**Modification Fees Consultation Follow-up**

Dear Priti & Brid,

With reference to my initial comments of 15<sup>th</sup> October 2012 (attached as Appendix 1) and the forum held on 15<sup>th</sup> November 2012, I would like to submit some amendments (Appendix 2).

I am highly concerned at the pre-prepared answers that were distributed at the forum. In particular, the whole Level 5 category is highly concerning. I believe that the prepared answers did very little to clarify or address the issues but attempted to explain away and justify the original consultation document. In other words, there was very little change. It appears that almost every calculation will be a Level 4 which is charged out at €24,773 and charged individually to all members of a group. What is even more concerning is the issue of Level 5 has not been addressed and no proper clarity was presented on 15<sup>th</sup> November 2012. The DSO stated that only in exceptional cases would Level 5 apply but failed to expand on this comment. Indeed, if you refer to Level 5 footnote on Page 13 of 28 of the Eirgrid/ESBN '*Modification Fees for Connection Offers*' document of September 2012, the comment is '*As per Standard Application Fee Schedule published separately by the SOs*'. I would interpret this as meaning the fully processing fee. Indeed the way that it is presented is an attempt to conceal or hide this extraordinary high charge.

So for example, an applicant with a 10MW project with four changes as outlined below (which would be a minimum), could incur a Level 5 charge which is circa €50K. So if there are three applicants in a group (all over 10MW), the total cost would be to the applicant that requested the change would be circa €150K, if the other applicants had no changes and the group MEC increased. This is on top of the processing fee already received from each applicant. To add insult to injury, the System Operators have a formula to ensure that all changes are at least a Level 4 with the 3+1 concept as detailed in Point 6 on page 11 of 28 (Eirgrid/ESBN document of September 2012). Obviously, this whole approach is not fair and reasonable, would be an abuse of monopoly position by the System Operators and anti-competitive.

There is no doubt that it would be referred to the appropriate competition authorities in Ireland and the EU unless deleted now. If implemented and found to be anti-competitive, the State would be at risk of severe financial penalties of multiple times the turnover of the offending Semi-State. Therefore, it would be in the interest of all parties to mitigate now against these unnecessary problems down the line now.

**Examples of required changes:**

- Name change for the formation of the Special Purpose Vehicle (SPV)
- Turbine layout as turbine blades have increased in size
- Increased MEC (due to CER Direction)
- Changes in MIC due to changes in turbine auxiliary load efficiencies
- Transformer changes

Consider the level of ambiguity that exists, I believe that the CER should issue a Draft Decision for 2 weeks considering the amount of members affected as the proposed changes are likely to affect the vast majority of Gate 3 applicants. It would be prudent to have all issues bottomed out now rather than hold up the industry further with disputes.

If you need any further clarifications, please do not hesitate to contact me.

Yours sincerely,



CC:

Mr Garrett Blaney

Ms Cathy Mannion

## Appendix 1



## **Proposed Amendments to Modification Fees Connection Offers September 12**

We suggest the following amendments:

- 1) We propose that where the DSO has not acted in a timely and efficient manner regards processing a grid application works, planning, survey, or met certain milestones as obliged to do so and requires a new connection method (e.g. changes to an underground solution) that **no modification fees shall apply**. Please add to bullet point 5 of CER proposed decision on page 28 (CER/12/153).

Reason: In the interest of fairness, equity and to encourage performance, it would not be appropriate for DSO to profit from their own wrongs and poor performance (principals of law and justice).

- 2) The DSO is proposing to limit the number of changes to 3 and apply a further penalty rule of charging one plus level above if greater than 3. Considering the lengthy delays of 8 years + and the significant amount already paid for processing fees, it has itself invalidated the applications over time. All offer will require significantly more than 3 changes and more likely 6 + changes (e.g. additional turbine as a result that all CER agreements to increase MEC, changes to electrical transformer standards with new transformer designs on the markets and changes in turbines technology). **We proposed the amendment of point 6 on page 11 of 28 of Eirgrid 'Modification Fees for Connection Offers' (Sept 2012) and delete the plus 1 concept in example 2. The highest category fee level shall apply only to all fees.**

Reason: In the interests of simplicity, clarity, and to be fair and reasonable.

- 3) **A modification level 5 fee cap** shall be applied to all fees and be capped at €26K and not based on the MEC of 'As per Standard Fee Application Schedule as published separately by DSO' CER document page 27. (Please delete)

Reason: In the interests of transparency (no hidden price menu) and not to over compensate and to avoid disproportionate double charging considering the amount already paid for processing fees and the delays caused over the years.

- 4) **Reclassify level category from 5 to 2.5 in Table 5** in Eirgrid document 'Modification Fees for Connection Offers' (Sept 2012) re MIC change (i.e. increase in MIC).

Reason: The MIC is a function of the turbine type and energy usage and this change is requested in the interest of consistency with turbine types.

- 5) Add amendment to point 7 page 18 of 28 of Eirgrid 'Modification Fees for Connection Offers' (Sept 2012) (i.e. **where all members subgroup simultaneous request a modification to their offers and provide all requested fully completed information package together, then a once off charge of the level 2.5 shall apply to all group members.**

Reason: To incentivise and improve efficiency among group applicants to work together and to encourage cost savings.

## Appendix 2



**Proposed Amendments to Modification Fees**  
**Connection Offers September 12**  
**Version 2**

We suggest the following amendments:

- 1) We propose that where the DSO has not acted in a timely and efficient manner regards processing a grid application works, planning, survey, or met certain milestones as obliged to do so and requires a new connection method (e.g. changes to an underground solution) that **no modification fees shall apply**. Please add to bullet point 5 of CER proposed decision on page 28 (CER/12/153).

Reason: In the interest of fairness, equity and to encourage performance, it would not be appropriate for DSO to profit from their own wrongs and poor performance (principals of law and justice).

- 2) The DSO is proposing to limit the number of changes to 3 and apply a further penalty rule of charging one plus level above if greater than 3. Considering the lengthy delays of 8 years + and the significant amount already paid for processing fees, it has itself invalidated the applications over time. All offer will require significantly more than 3 changes and more likely 6 + changes (e.g. additional turbine as a result that all CER agreements to increase MEC, changes to electrical transformer standards with new transformer designs on the markets and changes in turbines technology). **We proposed the amendment of point 6 on page 11 of 28 of Eirgrid 'Modification Fees for Connection Offers' (Sept 2012) and delete the plus 1 concept in example 2. The highest category fee level shall apply only to all fees.**

Reason: In the interests of simplicity, clarity, and to be fair and reasonable.

- ~~3) **A modification level 5 fee cap shall be applied to all fees and be capped at €26K and not based on the MEC of 'As per Standard Fee Application Schedule as published separately by DSO' CER document page 27. (Please delete)**~~

~~Reason: In the interests of transparency (no hidden price menu) and not to over compensate and to avoid disproportionate double charging considering the amount already paid for processing fees and the delays caused over the years.~~

**Delete Category Level 5 completely as there is inadequate justification and reasoning for its existence. It is open to abuse and controversy as outlined in attached letter.**



- 4) **Reclassify MIC change from level category 5 to 2.5 in Table 5 (page 15 of 28)** in Eirgrid document 'Modification Fees for Connection Offers' (Sept 2012) re MIC change (i.e. increase in MIC).

Reason: The MIC is a function of the turbine type and energy usage and this change is requested in the interest of consistency with turbine types. This is an overcharge and as a result of DSO's explanation at the Forum of 15<sup>th</sup> November 2012, Level 5's would be rare. Please delete Level 5.

- 5) Add amendment to point 7 page 18 of 28 of Eirgrid 'Modification Fees for Connection Offers' (Sept 2012) (i.e. **where all members subgroup simultaneous request a modification to their offers and provide all requested fully completed information package together, then a once off charge of the level 2.5 1.5 shall apply to all group members.**

Reason: A once off Level 4 shall apply and be divided and pro-rated among group members to incentivise and improve efficiency among group applicants to work together and to encourage cost savings.

- 6) The number of changes should be increased from 3 to 6 as this would appear to be a more realistic average. Most applicants will have to undertake the following changes:
1. Name change for the formation of the Special Purpose Vehicle (SPV)
  2. Turbine layout as turbine blades have increased in size
  3. Increased MEC (due to CER Direction)
  4. Changes in MIC due to changes in turbine auxiliary load efficiencies
  5. Transformer changes

- 7) Increases in MEC but does not change other individual applicants total capacity-where projects reallocate capacity among group members, Level 1.5 shall apply. Please insert into Table 5 on Page 15.

Reason: This is to facilitate turbine relocations considering planning guidelines.

- 8) Maximum cap will be Level 4 by the main applicant requesting the change and sub-applicants shall be charged a Level 1.5 subject to six changes as the base case, equalling a Level 3.



Additional proposed changes to **Table 5** – General table of chargeable modifications  
(Page 14/28)

Basic type	Type of modifications	Level	Main Driver	Change from consultation paper	Comments
Relocation	Capacity Relocation with significant expected change to shallow works	4	All (Main applicant plus other applicants as Level 1.5)	No	Propose Level 2.5
MEC Change	Increase in MEC	5	All (Main applicant plus other applicants as Level 1.5)	No	Propose Level 2.5
MIC Change	Increase in MIC	5	All (Main applicant plus other applicants as Level 1.5)	No	Propose Level 2.5
Change to overhead or underground cable	Change from overhead line to underground cable or vice versa for connection method with significant potential additional change to shallow works	4	All (Main applicant plus other applicants as Level 1.5)	No	Propose Level 2.5
Extension to term of contract	Extension to term of contract with expected significant change to shallow and deep Transmission works	5	All (Main applicant plus other applicants as Level 1.5)	New	Propose Level 2.5

**IWEA response to the Proposed Decision on Modification Requests to Connection Offers – Fees & Process**

**30 November 2012**

The Irish Wind Energy Association (IWEA) welcomes the opportunity to comment on the Proposed Decision Paper on Modification Requests to Connection Offers – Fees & Process. IWEA welcomes that the proposed new fees are significantly lower than those that had originally been proposed, however we believe that the fees could be further reduced. IWEA believes that an improved system could be designed based on streamlined processes and economies of scale to deal with any increase in the number of modifications which could further reduce the modification fees.

IWEA welcomes that following a period of a year and/or when a sufficiently representative number of modifications such that a meaningful assessment can be made, a review of these charges is undertaken to ensure that the principle of cost reflectivity is maintained. We look forward to being involved in a transparent and useful process and expect that experience and practice will drive further efficiencies by the SOs which should be reflected in a cost reduction.

**Costs of Modifications**

IWEA welcomes the proposed reduction in modification fees and the work undertaken by the CER in this process, however we believe there is scope for further reductions here. It is disappointing that it has taken such a long time and that the input of external consultants is required to ensure that a more equitable charging regime can be implemented.

**Charges & Fee Levels**

IWEA welcomes the clarification regarding 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

The principal of not charging for a modification where the original offer is based on assumed data is welcomed however we still believe that the 12 month limit proposed is excessive for charging where specific data was originally submitted. IWEA has argued for the assumed data approach based on the simple fact that no early application will ever know the final technology to be installed at a given

site. Even in cases where specific data was submitted this fact is equally applicable and the free of charge modification rule should apply.

IWEA welcomes the clarification at the industry forum regarding the importance of these studies, the time taken to complete them and we acknowledge that results can be different for different turbine types. The provision of information such as this is useful to provide clarity as to what levels of information are required and when. IWEA notes that the timelines also need to be realistic for project developers and the timelines for modelling should take into consideration the stage at which these decisions are made, for example the exact turbine type is not always fully determined 12 months prior to connection. Further information should be made available as to what types of changes are acceptable with little or no impact and what changes are more significant, as it may be possible to provide sufficient information to allow modelling to proceed without having the exact data.

The principal of having to pay for rework where resources are scarce is accepted. But the possible double charging for studies not yet complete is not acceptable. Either the studies have been done and need to be reworked or they have not yet been carried out. In some instances IPPs connecting have learned that studies have not been completed as they sought to energise their connections. Even within 12 months some studies had not even been started. In the case of any modification where studies are required the results of any previous studies should be made available. If studies have not yet been carried out for whatever reason the principal not to double charge must be implemented.

IWEA welcomes the clarification that a change to the internal network through the provision of “as built” data is processed free of charge.

**IWEA proposes that all offers be allowed one change of turbine without a charge. This principal should be followed for all site data, including internal network and transformers where actual data is not available until after procurement.**

IWEA recommends that for any future Gate process the process is improved such that assumed data is used for modelling until there is increased certainty in the equipment being used. It is important that developers are made aware of the implications of providing data at an early stage and any follow on impact this may have on their connection offers.

Additional modifications which should be undertaken free of charge:

- Where the DSO has not acted in a timely and efficient manner regards processing a grid application work, planning, survey, or meet certain milestones as obliged to do so and requires a new connection method e.g. changes to an underground solution - **no modification fees shall apply.**

#### **Level 5 fees**

IWEA requests that a Modification Fee Cap should be applied instead of the open level 5 fee. This fee should be capped at €26,000 and not based on the MEC ‘As per Standard Fee Application Schedule as published separately by DSO’.

This should be applied to prevent against over compensation and avoid disproportionate double charging considering the amount already paid on processing fees.

IWEA welcomes the clarification presented at the forum that they do not envisage any situation where a Level 5 modification is likely to apply. This needs to be clarified in the decision paper and the reasons for its inclusion should be outlined. It is essential for investor and developer confidence that there is more clarification around this. One area where this is of particular concern is combined with the statement that if a number of modifications are being processed that the highest level will apply and in certain instances it could be increased by a level. If the highest level was a Level 4 modification there is concern that this could be increased to Level 5 and the Application Fee may apply. Reassurance is required that this will not arise. IWEA welcomes the clarification provided at the forum and notes this should be included in the final decision paper.

### **Modification Processing**

The following proposal has been made by the SO's in relation to introducing a priority rule set associated with processing offer modifications:

"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 be 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"

IWEA agrees with the priority order proposals however we do not believe that modifications to progress temporary connections should have any priority over other modifications.

### **Leadtimes for processing**

IWEA still finds that the proposed timelines for processing modifications offers to be excessive. IWEA welcomes and acknowledges that lower level modifications will have shorter processing time due to lower complexity. While members accept that certain modifications can be complex and require interaction with multiple SO personnel and possibly other developers, the upper end of the scale at 90 days plus the time taken to request and agree a modification is not reflective of an efficient system.

The SOs assume a work load of processing 5 offers per month. In the time taken to agree the modification, check all application data, decide whether it can be permitted and a decision on the fee level to be applied IWEA believes a large percentage of work for many of the more straightforward modifications could be complete.

IWEA welcomes the provision of a timeline of 20 days to ensure all the appropriate information has been provided as a maximum timeline. While we would welcome a shorter timeline on this, it is acknowledged that in some instances this can be more complex. A shorter timeline would be welcome wherever possible.

IWEA requests that the timelines be monitored and reduced where possible. It should also be reinforced that these timelines should be considered a ceiling and not a target so that modification requests can be processed faster whenever possible.

### **Multiple Modifications**

The SOs propose the following for multiple modifications:

*Where there are a number of modifications (to a single connection agreement) requested together the level that will be applied will typically be the highest level for those particular modifications where they are largely driven by the same work.*

*In some cases, where there are a high number of modifications being processed (i.e. greater than 3), and even where the driver is the same it may be appropriate to increase the fee level by 1.*

IWEA believes many offers will require more than three modifications due to the protracted nature of many connections. IWEA notes that the increase in level will only apply in some instances, however further clarification is required on when this will arise as this appears to be a source of confusion. **We proposed the amendment of point 6 page 11 of 28 and delete the Plus 1 concept in example 2. In order to provide greater clarity the highest category fee level should apply only.**

### **Sub Groups**

IWEA welcomes the clarification at the forum that there are opportunities to improve efficiency among groups where modifications are applied for and processed simultaneously. This should be included in the proposed decision paper. There should also be a process identified for how the charging should be spread among group members.

This will incentivise and improve efficiency among group applicants and such efficiency by applicants will lead to direct efficiency cost savings during processing of such modifications.

### **Metering**

IWEA welcomes the clarification at the forum that the separate metering charge is to be removed as this is typically a subset of the merging/splitting modification. This will need to be reinforced in the decision paper.

## Modifications Forum

IWEA welcomed the clarification presented at the industry forum in relation to the modification fees and process. It would be useful to provide more information in the decision paper as to when the different levels are likely to apply. For instance, in the case of changes to MIC, there is significant variation in the fees which may be applied. While some explanation is provided of what the different levels involve, further clarification needs to be provided. Also MIC changes which result from changes to assumed data should not be charged. The provision of additional information in relation to the work required for phasing, merging and splitting of projects is also required. In particular the provision of detailed information on what is deemed "significant work" would be welcome. We acknowledge that there is some information already provided on this on page 16 of the SOs document.

## Conclusion

IWEA welcomes the opportunity to comment on this important consultation. The comments and queries outlined above are of concern to our members and IWEA would like to request a meeting to discuss our response in more detail and to work with the SOs to continuously improve the modifications process.

Table 5 – General table of chargeable modifications					
Basic Type	Types of Modifications	Level	Main Driver	Change from consultation paper	IWEA Comments
Name Change	Applicant Name Change/Change of Legal Entity	1	Commercial	No	
Application Data for applicant in queue – second and subsequent changes	Where an application has been submitted, the first such change will be processed at no charge and a level 1 will apply thereafter.	1	Commercial	New	The SO's should provide more information on what work has been completed to date on applicants in the queue. Minimum work completed would indicate that no charges should apply for these projects
Merger	Merging projects with no significant expected change to shallow works (note 2)	2.5	Tech Studies	Up (note 4)	
	Merging projects with significant expected change to shallow works	4	All	No	A change may seem "significant" in nature but require much less work – further clarity required
Splitting	Splitting projects with no significant expected change to shallow works(note 2)	2	Tech Studies	No (note 4)	

	Splitting projects with significant expected change to shallow works	4	All	No	
Relocation	Capacity Relocation with no significant expected change to shallow works (note 2)	1.5	Tech Studies	No	
	Capacity Relocation with significant expected change to shallow works	4	All	No	
MEC Change	Decrease in MEC with no significant expected change to shallow works (note 2)	1.5	Commercial	Down	
	Decrease in MEC with significant expected change to shallow works	4	All	No	
	Increase in MEC	5	All	No	
MIC Change	Decrease in MIC with no significant expected change to shallow works (note 2)	1	Commercial	No	
	Decrease in MIC with significant expected change to shallow works	4	Commercial	New	
	Increase in MIC	5	All	No	Clarification required that where this is based on changes to assumed data, no fee shall apply
Change to overhead or underground cable	Change from overhead line to underground cable or vice versa for connection method with no significant expected additional change to shallow works (note 2)	1.5	Tech Studies	Down	
	Change from overhead line to underground cable or vice versa for connection method with significant potential additional change to shallow works	4	All	No	
Temporary Connection	Temporary Connections	4	All	No	
Phasing	Phasing Projects as per COPP ruleset	2.5	Construction and Commercial	Down	€13,000 is a high fee to inform the SO that a project will be constructed in stages. Following on from the forum IWEA understands the modelling work is required, however this does deliver a benefit



					to the system. The SOs cannot simply say that “studies” are required to justify high costs. Not all studies are cost sensitive.
	Phasing legacy projects (no impact on connection works timeline)	1.5	Commercial	New	
Extension to term of contract	Extension to term of contract with no significant expected change to shallow or deep Transmission works (note 2)	1.5	Commercial	Up	
	Extension to term of contract with expected change to deep Transmission works but no expected significant changes to shallow works	3	Technical and Commercial	New	
	Extension to term of contract with significant expected change to shallow works	4	All	No	
	Extension to term of contract with expected significant change to shallow and deep Transmission works	5	All	New	
Longstop Dates	Change to longstop dates where allowed	1.5	Technical and Commercial	New	Clarification is required that where this is updated due to SO works no fee will apply. This is a high fee level for a zero impact modification.
Contestability	Change to contestability decision where allowed	2	Construction and Commercial	No	
Metering	Change to sub metering arrangements	1.5	Construction and Commercial	New	It was noted at the forum that the charge for Metering is to be removed as covered elsewhere. Clarification to be provided on rationale for change to RTU – IWEA considers this to be too high.
	Change to main metering arrangements	2	Construction and Commercial	No	
RTUs	Change in number of RTU devices	2	Construction and Commercial	New	
Firm or non-firm	Change in choice of a firm or non-firm/firm offer where no shared shallow works	1	Commercial	New	Clarification to be provided on rationale as provided at the forum

	Change in choice of a firm or non- firm/firm offer where shared shallow works	2.5	Construction and Commercial	New	
--	---	-----	-----------------------------	-----	--

Level	Initial deposit (excl VAT)	Balance of fee (excl VAT)
Level 1	€853	-
Level 1.5	€853	€4,290
Level 2	€853	€8,581
Level 2.5	€853	€13,020
Level 3	€853	€17,459
Level 3.5	€853	€21,066
Level 4	€853	€24,773
Level 5	€853	As per Standard Application Fee Schedule published separately by the SOs



**PROPOSED DECISION ON MODIFICATION REQUESTS TO CONNECTION  
OFFERS – FEES AND PROCESSES**

**CER/12/153**

**30<sup>th</sup> November 2012**

SSE welcomes the publication of this proposed decision on the topic of Modification Requests to Connection Offers. We welcome the refinement and reduction of the proposed fees but believe that some points require further analysis.

The main points which we are concerned with are:

- Breach of principle of cost-reflective fees and non-discrimination.
- Whether the CER's proposed decision and the SOs' paper are consistent with respect to:
  - Basis for calculation of fees – to cover discrete costs of an application or the provision of a resource to deliver modifications.
  - Whether costs are fully recovered from fees imposed for different categories.
  - Discretion and power given to SOs by CER's paper and legislation to devise sub-rules for calculating fees.
  - TSOs' paper presents reasoning and motivation for move to standardised charging which does not agree with CER's paper in all respects. As the decision to implement this regime lies with CER we consider that the TSOs' paper should refer to the decision by the CER and list the applicable fees, it should be a factual paper which does not engage in debate over how fees are/should be calculated. At present, a person who reads only the SOs' paper will not get a true impression of the regime.
- Inconsistencies with respect to double charging/fee cap/cost recovery.
- Not appropriate for SOs to take on role of 'protecting' generators.

These points are elaborated further below.

### ***Cost-Reflectivity and Non-Discrimination***

SSE agrees with the principle of standardisation in general and with the principle of up-front charging for modifications pre-offer acceptance.

As regards the point made in our response to the Consultation on this matter, we accept that standardised costs will not meet the exact costs of a modification in all situations. However, when the charging methodology is consciously designed so that applications from some customers under-recover, ie small developers, distribution connected generators and multiple modification applicants, and where that under-recovery is split amongst other modification applicants, we consider that the principles of cost recovery and non-discrimination are breached.

If this under-recovery were to be split between all customers this would be less material than when it is split only between those customers seeking modifications. Among this small group, large customers would carry an undue burden under the rules proposed. If there is to be any under-recovery built into the charging regime, we consider that the balance should be recovered from all TUoS/DUoS customers, and not from other modification applicants.

### *Basis for Calculation of Fees*

SSE agrees with the CER and its consultants that modification fees should cover the discrete pieces of work involved in processing a modifications application. We would highlight that this seems to be at odds with the SOs' statement that one of the features of a standardised approach is that 'the fees are also calculated to enable a level of resource to be available to deliver modifications within reasonable timelines'<sup>1</sup>; rather we consider that the fees should be calculated to cover the actual work carried out on a modification, as stated by CER and not the estimated costs of having resources on 'standby'. On this basis we question whether a number of assumptions set out by the SOs in their paper are relevant – namely guidelines, lead time to acceptance and acceptance rate.

In addition, we detect that there is some divergence between the CER's paper and the SOs' proposal on the related issue of sufficiency of the proposed fees. We understand that the CER proposes that the fees given will cover the actual costs of modifications – that this is the efficient level of costs that can be recovered by the SOs. However, the SOs argue that there will be systematic under-recovery in the lower categories<sup>2</sup> and that this will be compensated for by other generators.

We consider that under the CER's proposed decision if the SOs incur more than the efficiently incurred costs in processing a modification, then, under the principles of regulation adopted for TSO revenue recovery, the TSO should bear the additional costs itself and thus be incentivised to operate more efficiently. Other applicants should not bear the costs of inefficiency. For this reason we consider that the SOs statement that they 'reserve the right to remedy the situation [under-recovery], which may include reviewing fees and fee structure' is misplaced; we would highlight that the power to determine such charges rests with the CER under section 35 of the Electricity Regulation Act 1999.

We note that the CER and its consultants propose a 14.7% decrease on the fees proposed by the SOs and welcome this reduction.

Section 1 of the SOs' paper sets out the 'philosophy' of standardised charging and Section 4 the basis for calculating modification fees, we consider that the decisions on this policy sits with the CER and it is not proper that the SOs should provide an interpretation unless this exactly reflects the CER parent decision paper.

### *Timelines*

SSE agrees with the SOs that all modifications must be processed as quickly as possible. As regards the priority rule set we agree that modifications to offers which have been accepted should receive greatest priority, we also consider that projects which are in construction or whose timelines have earlier completion should be given priority in processing modifications.

---

<sup>1</sup> SOs' Paper: *Modification Fees for Connection Offers*, page 3.

<sup>2</sup> Section 4 of SOs' paper

As for the second category, we accept that there are difficulties where two modifications for the same subgroup are submitted. We would argue that there may be scope for increased efficiency if both modifications are treated together, for example, there may be possibility of processing the necessary modelling work or technical studies together. We do consider that if one modification is holding up another that the first modification applicant should be obliged to process the modification promptly so as not to hold up the later applicant.

In general, we consider that the SOs should have some discretion to expedite modifications where these constitute a critical path issue for a project. We believe, however, that the processing of connection offers is always of great importance to all projects and that in the case of disagreements the CER should decide whether a project should be treated with priority.

We agree with the SOs' proposal that where a customer does not provide information or remainder of fee within three months that the application will be considered abandoned. Waiver of this rule must be exceptional and should be subject to the agreement of projects which may be delayed as a result.

We also agree that original longstop dates should continue to apply in the case of modifications.

### ***Categories***

As discussed in the CER's paper we agree that standardisation of the modification process has the potential to increase efficiency, which should result in decreased costs and timelines. If this proves not to be the case, the regime should be reviewed. We consider that it is a useful approach where modification applications are in fact standard. However where the applicant and SO do not agree that the requested modification is analogous to one of the standard fee categories or where there is no agreement on a custom fee for a non-standard request (based on costs) the CER should determine the issue.

We also submit that objective criteria must be set out for the assignment of categories where a judgment call by the SOs is involved; particularly where an assessment of 'significant expected change' can elevate the application to a higher category. This would aid the aim of this initiative in allowing developers to calculate in advance what fee will apply to their modification. With respect to the statement in the SOs' paper that 'significant expected change' means "where the modification is likely to affect the connection charge"; we would submit that the connection charge will be payable separately so the modifications charge should reflect only the work done in processing the modification. Also, where it turns out that there is less than the expected level of work, the additional modification fee should be refunded.

Although we welcome the additional categories proposed, we consider that the gap in cost between Level 1 (€853) and Level 1.5 (€5,143) is still too large and there will be a huge deviation from the average cost chosen for those categories for projects falling within those categories. That means that modification requests in the lower end of Level 1.5 will pay much more than the cost of the modification they seek; this tolerance for approximation is too much

and outweighs the benefits of standardisation. On this basis we argue that additional categories are necessary.

### *Quantum of fees*

As regards the fees themselves, SSE re-iterates its argument that the minimum fee should be €0, as there are some changes to connection offers which create very little work for the SO. It must be remembered that these are standard agreements. For example, we consider that updating the contract with correct and more precise information should not incur a fee – in particular, the inclusion of actual consents issue dates in a Connection Agreement before it has been signed, rather than a generic definition where actual dates are not available, does not warrant a fee of over €2,800 as was charged in respect of the Great Island project. Under the present proposals we consider that this type of change would fit within the category 'where the original offer was based on assumed data, and a modification has to be processed when project specific data is provided' and seek clarification of this. In this type of case the assumed data is not due to a delay on the applicant's part; rather it is due to the design of the Gate Process.

SSE submits that where technical studies have still to be completed or need to be re-run in any case (perhaps due to a member of a sub-group not accepting its offer) that the modification applicant should not be required to pay twice for these studies. As stated by the SOs, dynamic studies typically will not commence until 12 months pre-energisation; if a modification affecting such a study is submitted before that time then the costs of the study should not be charged to the applicant in the modification application, otherwise there will be double recovery by the SOs. We do not see the logic in the SOs proposal that this would be treated as a Level 2 modification.<sup>3</sup> In addition, where a study can be shared between modification applicants or carried out more efficiently in tandem, this should be reflected in the fees paid by those applicants.

With respect to Level 1 changes, we do not accept the SOs' argument that, for example, a change of legal entity, should incur the costs set out. Changes to business software, verifying customer details on CRO register and re-issuing documents cannot cost €853 if carried out efficiently. We would highlight in response to the SOs' points that it is not in the applicant's interests that there be any errors in such a change and we believe that applicants can be trusted to submit the necessary documentation. The SOs have stated in their response that they consider that it is their role to assess such modifications thoroughly to ensure that changes are not made without full agreement of initial party – we consider that the SOs should require that the instruction must come from the initial party in writing (as included in the SOs' document) but that it is not appropriate for the SOs to 'protect' participants. Similarly, we do not consider that the costs of issuing a revised TUoS offer should be recovered through the modification fee nor do we consider that the value of connection offers is germane in any way to the costs of this type of modification, the fee should simply reflect the costs of processing the modification.

---

<sup>3</sup> Page 18 of SOs' Paper



We do not follow the logic in the SOs' paper regarding Mergers and Splitting which states that these changes drive similar technical studies but recommends fees on the basis that there will be one fee charged for merging (category 2.5; €13,873) whereas there will be a number of fees for splitting (category 2, €9,434). As a result, it appears that applications for splitting will recover significantly more revenue for the SOs despite the costs being similar. We would ask the CER to clarify this point.

We note the comment in the SOs' response that policy changes increase the complexity of processing offers and modifications and that the increased level of capacity on the system also increases the complexity of modelling, both of which increase costs. We are not convinced that this is the case, once models are established we would have thought that amendment to one input should not require great marginal expense. As participants are not privy to the software used, we would ask that the CER take special care to ensure that costs incurred under these headings are efficient.

In general, we consider that the SOs should provide more detail on the costs driving modification fees, as was requested by the CER in section 6 of the proposed decision. We see that the process has been set out in Section 3 of the SOs' paper but the technical resources and time needed to process the applications is not broken down. It is these resources that drives the costs of modifications, which is why we require further information.

#### **Multiple Modifications**

As regards the proposal that for multiple modifications applications fees would not be additive, we consider that this encourages generators to group modifications and to wait until latest date so as to limit the fee that will be paid. If the standard fees are in fact cost reflective and multiple modifications are not additive, the logical outcome is that there will be an under-recovery. As discussed above, we do not agree that other applicants should bear this cost of cross-subsidy and, as outlined above, argue that fees for all modifications must be cost reflective.

Another disadvantage is that incentivising generators to hold back on informing the SOs of modifications which they plan means that the TSO will not be acting and carrying out studies based on the most up to date plans of developers. There is therefore a perverse incentive against transparency on the part of generators.

SSE would support reduced costs for multiple modifications where this does in fact reduce the costs borne by the SOs in processing the application, eg where one study has to be conducted rather than two, but not as a general rule as it breaches the principles of cost reflectivity and cross-subsidy.

### *Upfront fee*

We agree with the proposal that the fee, or part of it, be required upfront in order to discourage spurious applications, with the caveat that this should not apply where the total fee is less than €853.

### *General Principles*

As these General Principles did not appear at consultation stage and are not discussed in the CER's decision we question whether they have been approved by the CER. We highlight that the SOs do not have the discretion to devise sub-rules which have not been mandated by the CER.

#### *Agreement of Group – Modification Applicant should not be responsible*

With respect to the first and second general principles<sup>4</sup>, set out by the SOs, SSE considers that the developer will not know whether other members of the sub-group will be affected, or how. In these circumstances it will be necessary for the SOs to assess this question before the developer in question can obtain agreement from other members.

#### *Multiple Modifications – TSO does not have discretion*

As regards general principle 5 and 6, which set out when multiple modifications can be processed at a reduced non-additive fee, although we are not in agreement with the principle as it results in under-recovery, we submit that the CER's proposed decision does not afford the SOs the discretion to determine what fee should be charged as proposed cf. 'the level that will be applied will typically be...' 'In some cases ... it may be appropriate to increase the fee level by 1'. We call on the CER to spell out applicable arrangements.

#### *Economies of Scale – Cost sharing should be fair*

We agree with the overall sentiment in General Principle 7, that where there is economy of scale in processing a number of modifications by members of a sub-group together that a reduced fee should be charged. However, we do not see the rationale for a rule requiring the first applicant to pay in full and for other members to pay at level 1.5, this scheme of charging is not justified in the TSOs' paper.

We submit that the total cost should be divided in proportion to the fee that would otherwise have been incurred by each member. There is some unfairness in requiring the first applicant, who is proactive in pursuing his/her connection, to pay a greater proportion of the costs. If all

---

<sup>4</sup> 1) That is that where a subgroup is potentially affected by a modification requested by a member of that subgroup, the customer requesting the modification should ensure that the other members of the subgroup are aware of the potential impact and that there are no objections to the modification. 2) Where there's a potential impact on another customer's connection method, the customer requesting the modification may be obliged to provide evidence of consent from the other customer(s) to proceed. This is said to be in line with the general principle of unanimous decision making in groups. Where a modification drives change to other customers' connection offers, the customer driving the change is to be responsible for payment of fees for modifying the other offers.

sub-group members' connection offers must be modified to reflect a change to shared assets we do not consider that the additional fee charged to the modification initiator for modifying others' connection agreements should be significant. The significant part of the cost should come from studies; the textual amendment of the other connection offer documents is an administrative task which, if performed efficiently, should incur very low costs.

*Refurbishment of Generation – Rule has no basis in CER proposed decision.*

We consider that there is no basis for Principle 8 in the CER's proposed decision paper regarding requests to repower or refurbish a generation plant. We are concerned that the SOs should not be given unfettered discretion in this regard and that any costs must be justified by comparison with analogous modifications. We do not believe that this issue has been discussed in sufficient detail to include in this decision.

*Refunds – must also be cost reflective*

The rationale for Principle 9, whereby a generator will be refunded its fee less €853 where it is deemed that the modification is not possible, is not explained in the SOs' paper. We consider that the SOs should process the application to the point where impossibility is determined and all costs incurred to that point should be charged to the applicant. This rule, as well as regular updates if the modification is looking doubtful, should be communicated to the applicant.

*Re-issue with minor changes – cost is not date dependent*

We consider that changes of the type described in Principle 10 (re-issue of a modified offer with minor changes to what was previously issued) should be free as costs incurred should be minimal, regardless of whether they occur within or outside 3 months of issue of the offer. Indeed, we would expect the costs incurred in invoicing and processing payment to outweigh the cost of such a modification.

## **Review**

We agree that fees should be revisited once all parties have more experience of this system.

## **Miscellaneous**

We would point out that the SOs' document on proposed modification fees as published on the CER's website does not indicate that it is draft. This status should be properly marked on the document to avoid future confusion.



**ESB Networks Ltd**  
Teach Osprey, Sráid na Canálach Móire Íochtarach  
Baile átha Cliath 2, Éire  
Fón: +353-1-6765831  
Láithreán Gréasáin: [www.esb.ie/esbnetworks](http://www.esb.ie/esbnetworks)

**ESB Networks Ltd**  
Osprey House, Lower Grand Canal Street  
Dublin 2, Ireland  
Phone: +353-1-6765831  
Website: [www.esb.ie/esbnetworks](http://www.esb.ie/esbnetworks)

Brid O'Donovan  
Commission for Energy Regulation  
The Exchange  
Belgard Square North  
Tallaght  
Dublin 24.

30 November 2012

**RE:- Proposed Decision on Modification Fees**

Dear Brid,

ESB Networks Ltd. welcomes the opportunity to comment on the proposed decision on modification fees, and also to highlight the positive aspects of the proposed changes in the modification process.

**Work to Date**

As set out in the original consultation, and post the successful completion of the Gate 3 Offer programme ESB Networks Ltd and EirGrid plc considered the process for issuing of modifications and how this process could be improved. Based on that review we identified a few key issues:

1. Given the scale of Gate 3 and experience from previous Gates, we expected a high level of modifications to be requested over the coming years.
2. There is a high level of work required to process a modification
3. In many cases, delays experienced in progressing modifications were due to lack of clarity with regard to the modification being requested and/or changes in the modification as it was being progressed.
4. In the case of ESB Networks Ltd, modifications were charged based on out-turn costs, and therefore there was a lack of transparency for the customer, and in some cases a lack of consistency, leading to customer dis-satisfaction
5. As modification fees based on out-turn cannot be charged prior to completion of the work, there was a risk where modifications were progressed in advance of offer acceptance that payment would not be made, and there would be an unfair subsidy from the UoS customer. On this basis, prior to the proposed change in process, ESB Networks Ltd did not allow modifications to be processed pre-offer acceptance
6. With a view to facilitating renewables and in particular the delivery of Irelands renewable targets, in parallel with this process, the SO's published a consultation on Connection Offer Process and Policy. This introduced new modifications which could be processed, but by doing so also introduced a greater level of complexity

In order to address these issues, and taking account of the extensive delay in Gate 3 offers being accepted, the SO's proposed:

- A set of standard fees for processing modifications was appropriate. This would provide increased transparency and is in line with the general approach to charging under the GPA process.
- The fees proposed were based on
  - a. The expected level of work for different mods of varying complexity
  - b. The revenue required to provide the level of service and delivery requested by the industry
- Prior to commencing the modification request, the customer would be provided with an estimated timeline for delivery and the fee which would apply
- Modifications would not commence until there was a clear instruction from the customer and the modification fee was paid. Where a modification fee is paid upfront, this removes the risk identified in processing modifications pre-offer acceptance and allowed this option to be offered

#### **Changes following a review of responses**

Following a review of the responses received to the consultation, some experience in processing modifications over the last year and extensive engagement with CER and their consultants over the period since the modification consultation was published, the SO's have in addition

- Proposed an additional 3 interim fees
- Set out in additional detail in the SO paper what level will apply to an extensive list of possible modification requests
- Developed a modification form which will allow a customer to provide the clarity required when progressing a modification and, if used correctly, should minimise delays encountered in the pre-modification stage
- Clarified a list of modifications which are processed free of charge.

Furthermore, following ongoing changes to reflect the implementation of the PR3 determination, ESB Networks Ltd. identified a reduction in staff costs compared with those which had been used to develop the modification fees in early 2011. This led to a reduction of 4.4% in the fees being proposed.

#### **CER decision**

ESB Networks Ltd. remains of the view that the original schedule of fees – albeit with the 4.4% reduction set out above – represents a level which is cost reflective and maintains the principle whereby the party driving the work is liable for the cost. ESB Networks Ltd. is disappointed in the proposed decision to reduce the fees so significantly beyond the 4.4% reduction identified particularly as the reasons for this reduction are not clear. Furthermore we remain unclear as to how the under-recovery of costs – in particular relating to the proposal to cap the modification fees to application fees for smaller customers - is to be recovered. We would welcome further clarity from CER on this matter in the final direction.

Notwithstanding the above, at this time we will welcome a final decision on this matter. As per the original consultation and the proposed decision, once a final decision has been published we will review the modifications which have been processed over the past year to determine whether any additional payments are required or any refunds due. Any such changes in fees will then be processed in due course.

#### **Summary**

ESB Networks Ltd is of the view that the proposed move to a standardised modifications process and standardised fees is a positive one, and in general the industry responses supported the proposal.

We consider that the proposed schedule of fees is not cost reflective, and would welcome further clarity from CER as to how any under-recovery from modification fees will be dealt with.

In co-operation with EirGrid (as Transmission System Operator) we have updated the SO paper setting out the level and charge which we would expect to be levied based on a large number of different modification requests. We are committed to updating this paper as we can provide additional clarity on the charges which will apply for modifications.

We will welcome the final decision on this matter, and following same will make amendments to charges issued for modifications processed since November 2011.

**Yours faithfully,**

---

Fiona O'Donnell  
Transmission and Renewables Regulation Manager  
ESB Networks Ltd



**Response to**  
**Proposed Decision on Modification Requests to**  
**Connection Offers - Fees & Process**  
**(CER/12/153)**

**30<sup>th</sup> November 2012**



EirGrid welcomes the opportunity to respond to the Commission's Proposed Decision on Modification Requests to Connection Offers - Fees & Process (CER/12/153). In particular we welcome the fact that there is progress in moving towards the completion of a standardised modification fee model and welcomes the general acceptance by the Commission and its consultants that the proposals made and structures being adopted are reasonable. The System Operators have engaged constructively with the Commission, its consultant and the industry representatives throughout this process and have listened carefully to the concerns raised and clarifications requested. As this process has now been ongoing for well over 12 months EirGrid is now keen to see it concluded.

However, in this workstream now coming to a conclusion, EirGrid would like to highlight a number of important principles, raised in its previous correspondence, prior to a final determination being reached.

**1. The basic principle which the CER is seeking in putting in place the standardised Modification Fee structure**

It had been EirGrid's understanding that the principle was one of cost reflectivity of the CER's assessment of the efficiently incurred costs yet the failure to take into account fundamental and basic design parameters means that the fees proposed will not recover even the CER's own consultants views of the efficient costs for undertaking the works. EirGrid is working on the presumption that all costs efficiently incurred in undertaking the processing of modifications will be fully recoverable.

**2. A commitment to Regulatory Certainty**

The CER went through an extensive exercise as part of PR3 to determine the efficient costs in carrying out the TSO activities. It was these rates as determined by CER that EirGrid employed in putting in place the fee structure proposed. EirGrid welcomes CER's commitment to the price control process, however would like to see this commitment to regulatory certainty further reinforced in the final decision.

**3. Resourcing consistent with the level of Customer Service expected**

EirGrid notes that the Commission has decided it is appropriate to reduce the individual time input allocated to certain modifications. EirGrid believes it is important that time is made available for engaging with customers on application checks, preparing contracts, project management etc particularly for more complex applications. EirGrid can appreciate that customers would want to have the cheapest modifications possible however there is a balance to recognise where time should be available to explore options and concerns for customers rather than focus solely on issuing a contract on time.

EirGrid trusts that the Commission will take these comments into account in reaching a final decision.