Response to:

CER/15/284 - Review of Connection and Grid Access Policy: Initial Thinking & Proposed Transitional Arrangements

ESB Generation and Wholesale Markets (GWM) welcome the opportunity to respond to the CER's Consultation on the Review of Connection and Grid Access Policy (CER/15/284).

ESB GWM's main points can be summarised as follows:

- A Gate Processing Approach (GPA) is only needed where there is potential for significant number of applications such as the introduction of a subsidy. At other times connection policy can rely on market signals with increased minimum requirements for applicants. Rationing of connections (i.e. a gate process) is not an effective means by which to incentivise dynamic investment behaviour.
- Where a GPA is needed, ESB GWM supports more frequent gates for connection applications as compared to the current 'drop dead date' approach which results in a race that will include non-viable applications and potential hoarding.
- To avoid the process being congested with non-viable applicants we welcome changes to criteria for applicants such as having planning permission in place.
- Co-location should be facilitated to the greatest extent possible as it furthers the objectives and principles set out by the CER for the enduring arrangements.
- Within acceptable thresholds, applications such as Autoproducers and R&D should have their own connection policy separate to the proposals ESB GWM set out in this paper. Given the current backlog in this process, these proposals should be implemented now ahead of the enduring regime being decided.
- ESB GWM believes that due regard should be given to any enduring connection policy in the context of I-SEM where the capacity market could require connection offers being made to those who are successful in the auction.
- ESB GWM welcomes the first transitional arrangement as it releases spare capacity back to the system. Voluntary release of an existing generators' excess capacity should also be incentivised during this transitionary period.
- ESB GWM does not support the transitional proposals for an increase in MEC or the proposal to facilitate connection of providers of certain scarce system services (identified through the DS3 Programme) ahead of other applications. Market signals should be the driver for new entry, not the connection policy, and this policy should facilitate entry as the market requires it rather than specifically targeting certain types of generation. The proposals specifically target certain types of generator and new entrants and more particularly seeks to exclude ESB GWM from these proposals. ESB GWM is of the view that the reasons put forward for such exclusions are inconsistent, disproportionate and unduly discriminatory.

ESB GWM would welcome the opportunity to discuss any aspects of this response and should you have any queries please do not hesitate to contact me.

Yours sincerely,

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Warren Deacon

Grid Code and Market Specialist

5th February 2016

Enduring Arrangements

Enduring Connection Policy: Objective, Principles and Approach

Do you agree with the policy objective for the Enduring Connection Policy? Are there other matters the CER should consider? Do you agree with the application of the above underlying principles to the development of Enduring Connection Policy? Are there any other principles that the CER should consider?

ESB GWM supports the policy objective and principles, to provide a fair opportunity for generation to receive connection offers in light of system needs, efficiency, government policy and consumer interest. It is our view that these same principles should also apply to the transitional arrangements. As currently presented the transitional proposals are not in keeping with a number of the proposed enduring principles including transparency, equity of treatment, security of supply and competition. We discuss these issues in further detail in response to the transitional arrangements.

What is your view on the high level processing approach outlined above? Are there other processing approaches the CER should consider?

ESB GWM supports a continuation of the GPA only where there is significant demand as this would ensure optimal and economic grid development over, for example, a first come first served approach. An obvious example of this is where there is a race for connections when a subsidy is introduced. ESB GWM would support more frequent rounds of offer processing where GPAs are required and increased criteria for developers submitting applications (e.g. planning permission requirements, capacity bond requirements).

Under normal circumstances however, it is our view that a GPA is not required. The market signals will determine the levels of new entry to the market and the connection policy should simply facilitate this on a case by case basis. If this is implemented along with increasing the requirements for an application, such as planning permission, the most economic applicants will emerge and speculative hoarding should not be an issue.

With regard to the time stamp approach, ESB GWM would support a move away from this being a criterion. Increasing the requirements for an application would be a primary mechanism in achieving this. We also recognise the need to take cognisance of the overall system optimisation and market driven connection offers should not be dismissed in this context. However, the value of any connection cannot be determined in welfare terms simply

against the costs that it imposes in capex terms and therefore careful consideration of such an approach would need to be taken.

There are some issues with the current process which results in hoarding, poor progression to energisation, and a poor incentive for the connection of the most efficient generation. This inefficiency should be addressed in the next phase of this consultation process when proposals are presented.

Hoarding of capacity is one particular issue and the CER's proposal to ensure that the most viable applicants apply (e.g. applications with planning permission) would ensure that any inefficient and costly administrative processes are avoided and the most optimal applications are revealed. This is welcomed by ESB GWM and we would also suggest that a review of the capacity bonding regime could serve beneficial to also addressing this issue (i.e. review of Stage Payments).

Another significant issue is the slow progression towards the second stage payment phase within sub-groups under a contestable build which can have implications for efficient grid planning and government renewable targets. ESB GWM acknowledges that the SOs are not a party to the commercial / contractual arrangements that exists between group members in contestable build scenarios. We also recognise that your transitional proposal for the early release of capacity will help in addressing this issue but some developers, for other reasons, may remain in the sub-group after this mechanism is closed that are still not in a position to progress. Therefore, it is our view that certain additional measures should be introduced to ensure timely delivery of contestable projects outside of the contractual arrangements.

Currently, as noted in the transitional proposals below, the termination of a connection agreement will only occur once the long stop date has been reached. This long stop date should be made shorter to remove those developers not in position to progress, allowing remaining developers proceed to the second stage payment and deliver the 2020 renewables targets. Specifically, the date for termination of the connection agreement should be reviewed and shortened to take cognisance of support schemes deadlines. This will allow viable developers to progress to energisation without being faced with any undue risks due to third parties.

In summary, if there is an efficient entry signal to the market, the connection policy should facilitate the connection of the new entrant as soon as possible once it meets the requirements of the application (e.g. planning permission, capacity bonding requirements). A gate processing process frustrates this process and is not needed unless there is an expectation of an influx of applications, e.g. the introduction of a subsidy.

Enduring Connection Policy: Key Policy Drivers to Determining Appropriate Connection Criteria

Do respondents agree that the CER should consider the connection of renewables as one of several drivers to be balanced in the development of an enduring connection policy?

No, connection policy for generation should be technology neutral and investments should be based on market signals. However, if Government policy drives the need for a particular type of technology then this will need to be done at least cost for the consumer who will inevitably be funding both the connection and the output.

Should connection policy make explicit provision for interconnectors? If so, what issues should the CER take into consideration?

The SOs have a legal obligation to ensure non-discrimination between parties seeking to connect to the network and therefore there is no need for any preferential treatment towards interconnection in connection policy. Full consideration should be given to European Regulations as it is our view that the Network Codes have made no explicit conditions for the connection of interconnectors ahead of other applications. If the CER is of the view that preferential treatment should be given to interconnection, then we suggest a separate consultation on this issue is undertaken so that a decision may be made in full understanding of EU Regulations and Projects of Common Interest.

Should the technologies and projects currently covered under the non-GPA process be processed under the GPA process when the new connection policy is implemented? Should some categories of project be processed outside the GPA process when the new connection policy is implemented?

As stated above it is our view that a GPA is not needed unless applications are reacting to the introduction of a subsidy which might result in hoarding. These applications need to be as efficient as possible as they are state sponsored and a GPA is appropriate. Where they are commercial decisions it is our view that they should not be part of any process but treated as priority as they are being driven by market signals (potentially the capacity mechanism within I-SEM).

In any event, it is our view that there is still a need to have a separate process for a certain scale and type of project (current 'non-GPA' process). Given their minimal impact on the

system, their relative size and the cumulative benefits they can provide, these projects should be fast tracked and the process for the connection made as straightforward as possible. Defining a threshold for category of connection seems to be the most pragmatic approach. However we would recommend that under certain criteria, Autoproducers (that require an MEC) above this threshold should be considered eligible under this process given the system benefits they can provide over utility scale applications.

Specifically, it is our view that Autoproducer applications with/without export should be considered eligible for this process under the following criteria:

- where the MEC of the Autoproducer is under a threshold of 1 MW or;
- where the percentage of MEC capacity to MIC capacity is under a defined percentage threshold.

The latter criteria would allow applicants that are primarily demand sites connect to the grid where they are adding benefit to the system. Guidance from the SOs on the upper threshold of export to import ratio for Autoproducers would be welcome to understand the optimal ratio above which the benefits begin to erode and the application is more akin to an export generation application.

If R&D projects are to be considered as eligible for this process, careful consideration must be given to the criteria applied. In other words, the criteria must ensure that the technology of the project seeking to connect is primarily in the research and development stage as opposed to being an addition to an already mature technology for the purposes of avoiding the main process. Also the connection policy needs to be dynamic so that as technologies mature, the policy can be updated in light of these developments (e.g. a defined periodic review of this aspect of connection policy could be implemented).

ESB GWM would also welcome clarity on grid applications for technologies (and system sizes) that sit outside of this connection policy process, with the defined process for these being published. It is our view that there may also be merit in a 'fit and inform' process for connections <40kW (or 50kW DC)

Lastly, these measures need to be implemented as soon as possible. Given the backlog of applications in non-GPA, this process is no longer fit for purpose and the implementation of these proposals cannot wait until the overall enduring arrangements for connection policy is decided.

Do respondents agree that the CER should progress the development of the Enduring Connection Policy in advance of I-SEM go-live?

Yes, ESB GWM agrees that connection policy can be progressed ahead of the implementation of I-SEM. However, there is some interaction that needs to be taken into consideration. Specifically, any enduring policy should facilitate efficient new entry to the market and therefore needs to provide connection offers to applicants that are receiving clear market entry signal from the I-SEM. Their entry should be facilitated as soon as is practicable.

Should connection policy facilitate a mix of generation and in particular facilitate providers of system services? Should connection policy focus on certain technology types or rely entirely on market signals?

Connection policy should facilitate a mix of generation, rather than being technology specific meaning that connection policy should focus on market signals and not on certain technology types. Being technology neutral serves the needs of the final consumer (lower costs).

It is our view that specific targeting of connections that will offer DS3 system services is not necessary. DS3 services will be determined through an auction and as such connection will either be a prequalification to the auction or allocated as an outcome of the auction if it is cost efficient (which may take in to account the negative externalities incurred through the deep reinforcements). A non gate processing approach with increased requirements for applicants would facilitate this approach.

Should projects which make the most efficient use of the existing network be prioritised over projects driving more deep reinforcements?

The value of any connection cannot be determined in welfare terms simply against the costs that it imposes in TAO capex terms. For example, the overall savings offered by a more cost efficient (newer technology) or carbon saving type of technology may provide greater welfare savings than the capex saving that would have otherwise have been discounted according to this criteria. Such simple correlations between capex and welfare in terms of customer benefits cannot be drawn. However, we do recognise there may be significant build out of the network due to subsidies and/or government policy. In such an instance, we would agree that deep reinforcements should be taken into consideration as part of the overall system optimisation and market driven connection offers could be one approach to recognising these costs.

Should large demand connection which make the most efficient use of the existing network be encouraged through the Enduring Connection Policy?

Ultimately, a demand connection could become a DSU in the I-SEM and therefore in the interest of equitable treatment and transparency, ESB GWM contend that demand connections should be addressed under the same connection policy i.e. the same objectives and principles outlined in this consultation should apply to all connections - demand and generation.

Are there any specific issues the CER should take into consideration regarding community based schemes?

It is ESB GWM's view that all applications should be treated on an equal footing and notes the CER's comment that 'the CER and SOs have legal obligations of non-discrimination between users seeking to connect to the system'.

Should the CER include planning permission in the criteria for receiving a connection offer?

It is ESB GWM's view that planning permission should be a criterion for receiving a connection offer. This requirement would serve a number of benefits.

Firstly, the current GPA is significantly swamped with applications (c.25GW). A large number of these applications are speculative and may or may not progress for various reasons. However, there are also projects that are in a position to progress but do not currently have the mechanism to do so even if there is an efficient entry signal from the market. In other words, efficient new entry of generation is being prohibited by speculative applications that in all likelihood are less viable (e.g. less optimal grid location resulting in higher connection costs or the need for a support scheme to be commercially viable). Having to provide planning permission, amongst other criteria, would serve as a mechanism to filter out applicants that are the most economic and provide the least cost to the consumer.

Secondly, as highlighted in the consultation, as a result of difficulties in obtaining planning permission, developers are exploring other avenues (relocation) to realise their projects. This is putting significant pressure on the Modifications process. Consequently, depending on the type of modification, a minor change to the connection agreement that does not have a material impact is taking up to 90 business days. This is putting additional pressure on these

projects (that have consents in place) to connect and become operational in light of support scheme deadlines.

Thirdly, the delays and issues in obtaining planning permission are having a knock on impact on other developers where they are in a sub-group. As mentioned previously, while shortening long stop dates would help, having all developers on an equal footing in the sub-group would be a welcome requirement (i.e. all with planning permission).

It is worth noting the recent developments in Northern Ireland which would appear to support this position whereby planning permission was removed as a requirement and consequently the SO has been inundated with applications leading to a moratorium. Given that currently a review of both policies in ROI and NI is being undertaken, ESB GWM would recommend that a unified approach to connection policy in both jurisdictions would be beneficial to developers seeking to connect to the system (e.g. agree principles of connection policy).

Lastly it is ESB GWM's view that there is also merit in reviewing the capacity bonding requirements as this would support the same purpose that having planning permission in place is trying to achieve, i.e. a review of the levels of stage payments would aid in reducing hoarding of capacity.

Have we identified the correct policy issues? Are there policy issues which we have not accounted for?

We believe that gates are only needed where regulation or policies will drive an unprecedented demand for connections such as the introduction of state subsidies. At other times, connection policies have been fit for purpose as the market determines the greatest benefit for the consumer.

We recognise that under the current Connection Offer Policy & Process (COPP), a modification to the connection agreement can be made where there is a change to a generation facility pre and post energisation. However, it is not clear how co-location is treated under this process. There are significant benefits to co-location (max utilisation of assets, end user impact etc.) and it is therefore our view that the CER should set out defined proposals on how co-location can be facilitated or instruct EirGrid to provide clarity on the process under the current COPP so that its benefits are maximised.

Alternatively, co-location could be considered as a criterion for connection. This would further the objective and principles being proposed for the enduring connection policy, namely minimising end user impact, efficient use of resources and optimal grid development. There

are certain generation technologies that in some locations could be co-located behind the same connection agreement without requiring any additional deep reinforcements. Co-location of battery technology with renewables being one such example that would be of benefit to the system and which would facilitate greater renewable penetration levels. Similarly, the development of system services from existing sites would also be maximised at least cost to the consumer.

Should the GPA process be retained? And should there be more frequent rounds of offer processing?

It is ESB GWM's view that the GPA process should be retained only when there is an expected influx of applications such as the introduction of a state subsidy as it promotes optimal development of the existing network and its efficient build out. ESB GWM also supports more frequent rounds of offer processing in this scenario but notes that consideration needs to be given to the duration that a gate should remain open and the progression of Sub-Groups under a contestable build to avoid any unintended consequences (delays to projects, hoarding of capacity).

Under normal circumstances, a gate processing approach is not needed once sufficient requirements are in place for an application to be made i.e. the introduction of a planning permission requirement and capacity bond requirements. Market signals will then provide for efficient entry and the connection policy simply needs to facilitate this process.

Should the non-GPA approach be revised?

Yes, it is our view that an upper threshold should be set for all technologies with certain exceptions (e.g. Autoproducers and applications that support system operation) as outlined earlier in this response.

Transitional Arrangements

Comments are requested on the above proposed transitional arrangements, specifically:
Whether these transitional measures should be implemented ahead of the development and implementation of the Enduring Connection Policy;
The timing of such arrangements (30th June 2016 for policy measure (1) and (2));
The appropriate level of increase in capacity under policy measure (2) to deliver most final customer benefit.

Proposal 1: Release of Existing Capacity

ESB GWM supports the CER's proposal as outlined in the consultation whereby a developer can voluntarily seek to terminate their connection agreement in advance of the long stop date and in return are refunded 100% of their first stage payment net of SO spend. This proposal would not only release capacity back to the system but would also, to some extent, facilitate developers exiting sub-groups where they do not intend to progress, thereby allowing remaining developers in the group to proceed. The 30th June 2016 should be sufficient time for this proposal.

ESB GWM would also recommend the introduction of a transitionary proposal to incentivise the voluntary release of any excess capacity (installed capacity at a site is less than the MEC) that an existing generator may hold.

Proposal 2 and 3: Existing Connections and units seeking to provide System Services required by the TSO

ESB GWM rejects both these proposals on the basis that it is specifically targeting certain generators for connection without any objective reasoning or specific evidence and no reflection of the dynamic needs of the market.

Under Section 9 (3) (a) of the Electricity Regulation Act 1999, the CER has a duty to carry out its functions, inter alia, which '*does not discriminate unfairly between holders of licences*'. Furthermore the CER under Section 9BD of the Electricity Regulation Act (Amendment) (Single Electricity Market) Act 2007, '…. *shall have regard to the objective that…in exercising the function…is practical in the circumstances, be transparent, accountable, proportionate, consistent and targeted only at cases where action is needed'*

It is ESB GWM's view that the CER proposals conflict with its duties in respect of this legislation. Furthermore it is reasonable to assume that the enduring policy principles should also apply to the transitionary arrangements but it is difficult to see how the proposals meet the underlying principles set out in section 3.1 of the consultation, particularly those related to Transparency, Equity of Treatment, End User Impact and Competition. As presented, we believe the proposals will be difficult, if not impossible to implement in such a way as to achieve the CER's objectives but instead will lead to an inefficient allocation of resources, a less secure and reliable grid and a sub-optimal outcome for consumers.

We note the CER proposal to introduce market power mitigation measures targeted directly at ESB GWM for the purposes of the transitional arrangements but it is unclear as to what particular underlying competition issue the CER believes needs to be addressed. There is already an existing and established market power mitigation regime. ESB GWM would question on what basis is the CER proposing to introduce new measures outside the current arrangements? The CER have a legal obligation to ensure that any market power measures are proportionate. Notwithstanding ESB GWM views on the proportionality or otherwise of existing market power measures, ESB GWM firmly believes the proposed measures here are contrary to the key principles of reasonableness and proportionality. If these proposals are adopted, either alone or together, it will result in an unnecessary, disproportionate and discriminatory market power regime targeted directly at ESB GWM.

More particularly with regard to *proposal 5.2 [existing connections],* the justification given for this proposal is that it will allow generators to bring additional capacity onto the system considerably faster than a generator that does not have a connection offer and it results in the most efficient use of the grid. However, ESB GWM seeks clarity on the driver for this proposal as none has been given in this consultation. ESB GWM cannot comment to any great extent on the proposal when it is not known what the purpose the proposal serves or issue it is trying to address.

As presented, ESB GWM does not believe that the implementation of this proposal would necessarily result in the most efficient use of the grid. It is our view that this proposal could lead to further hoarding of capacity because allowing existing generators to increase their MEC unconditionally will likely lead to speculative uptake of this valuable and scarce resource. This would appear to contradict the purpose of the first transitional proposal in this paper and one of the primary objectives of this consultation.

In addition, under *proposal 5.2*, the CER's rationale for excluding ESB GWM appears to be based on an assumption that an increase in market share would occur if ESB GWM was permitted to seek additional capacity under this proposal and that this increase in market share would "negatively impact competition". Yet the CER has put forward no specific basis

for these assumptions. We would argue that an increase in market share is not necessarily the outcome that will occur. The location of generators on the network has a bearing on whether this proposal is available to them and therefore even if ESB GWM was included, the market share of ESB GWM could proportionately remain unchanged or even result in a reduction. Regardless, even if ESB GWM's market share increased as a result of these proposals, the current market power mitigation measures would negate any concerns raised in this paper (i.e. additional DCs would be required of ESB GWM) and therefore, as above, we would question the basis and the need for this measure.

With regard to *proposal 5.3 [units seeking to provide system services required by the TSO]*, it is not clear to ESB GWM what tangible benefits are being provided to the end user with the targeted exclusion of ESB GWM as potentially being a new entrant in the DS3 system services market. We would seek clarity on what exactly the criterion is seeking to address as no justification has been given under this proposal. It is our view that:

- Allowing ESB GWM participate as a new entrant in the DS3 market does not have an impact on enduring connection policy arrangements.
- Given that DS3 service providers will typically be providing energy at peak times or in times of scarcity, the impact on market share in the energy market is minimal.
- By its nature, any market power concerns in the DS3 market are locational and therefore market share is irrelevant.

The delivery of the required DS3 system services should be done so at the least cost to the consumer. Prohibiting generators that issue DCs as new entrants, could ultimately lead to a higher clearing price in the DS3 auction for certain system services with no clear benefit to end users.

Furthermore, it is our view that this proposal is discriminatory towards new entrants in the energy and capacity markets. Under this proposal, the generator could provide a 'scarce' system service that is marginally above the grid code requirement and if successful in the DS3 auction, (or can build in 12 months) gets access to the energy and capacity market ahead of other potentially more economic and viable participants. In other words, this potential new entrant is responding to a market signal from the energy or capacity market and is using this proposal as entry to that market and only providing marginal benefit to DS3.

To summarise, in relation to *proposals 5.2 and 5.3*, ESB GWM rejects both these proposals as they are targeting specific existing generators and specific potential new entrants for connection to the network. This is manifestly discriminatory towards ESB GWM and some of the wider industry. One of the primary purposes of connection policy is to facilitate the connection of participants efficiently where there is a market entry signal for the applicant that is ready to connect. These proposals are shaping these market signals in markets that have

yet to be finalised and as such are likely to result in less economic and efficient connection to the system. Ultimately, we believe that the proposals will distort the market structure and lead to a sub-optimal outcome for consumers.