Commission for Regulation of Utilities,
P.O. Box 11934,
Dublin 24

Submitted by way of email: electricityconnectionpolicy@cru.ie

Dear Sir/Madam,

We would like to thank the CRU for the opportunity to make a submission on the published proposed decision on the Enduring Connection Policy – Stage 1. Windsource is a renewable energy development company active in the wind industry. We have a number of successful operational projects that we have taken from initial feasibility right through to operation.

Windsource has the following observations to make with regard to the published proposed decision on the Enduring Connection Policy - Stage 1.

Observation 1

Under Section 10, Changes to COPP, the changes to Chapter 17 will not allow any capacity relocation beyond 100m under the ECP-1 ruleset. Further Item 3 on the letter of November 2nd, 2017 (Ref D/17/19787) states that all capacity relocation has been suspended until a final decision on ECP-1 has been published. This has effectively implemented the changes proposed by ECP-1 prior to any final decision on ECP-1. There has been no notice of such a sudden rule change, and applications already in queue and in process would have a legitimate expectation to be allowed operate by the rules under which they applied. Further legitimate expectations would be sufficient notice of such an impending rule change, and consultation on such a rule change prior to effective implementation, allowing such applicants the opportunity to undertake at least one final capacity relocation, if their need arose. In the interests of fairness to all applications already in process, at least one capacity relocation should be allowed beyond the limit of 100m to counteract the sudden rule change, implemented with no notice or consultation.

Observation 2

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Under Section 3.1.1 there seems to be some confusion over the timing allowed from Local Authority planning consent. The document states that the project must satisfy one of a number of criteria, two of which are as follows:

- If planning permission was granted by a local authority, it must have passed a period of four weeks after the date of the decision to grant without appeal.

- If planning permission was granted by An Bord Pleanála (ABP), or has a final grant from a local authority, it must have passed a period of eight weeks after the date of the decision to grant without being challenged by way of a judicial review.

A project is required to be appeal free for 4 weeks after 'decision to grant', **OR** for a period of 8 weeks after a 'final decision to grant' it should be free from judicial review. A Local Authority makes a 'decision to grant' and then allows a 4 week period for objections. If after that 4 week period there are no objections it then makes a 'final decision to grant'. Therefore those terms are two different milestones on the planning timeline. The first criterion comes before the second criterion on the planning timeline. Clarification is needed as to what the required criterion for planning is under ECP-1 so that consistency can be applied across each applicant.

Observation 3

Under Section 3.3 it is stated that a DS3 qualified project does not require planning permission to be eligible for the ECP-1 2018 batch. Under Section 4.1 it outlines that 40% of the threshold will be given to DS3 projects. This implies that 40% of the capacity will be allocated without planning permission being in place. Under Section 10, amendments to Chapter 19 of COPP exceptions are made in order to mitigate against capacity hoarding. The following sentence is included in the document,

This is to mitigate capacity hoarding where projects are deemed to meet the eligibility criteria but then do not progress to connection.

There is no provision within ECP-1 for DS3 projects to not engage in capacity hoarding. ECP-1 allows DS3 projects to hoard capacity up to a theoretical 40% of the total capacity threshold. It has been made clear that ECP-1 is being introduced to eliminate any practise of capacity hoarding in connection applications, but in reality all ECP-1 is achieving is eliminating capacity hoarding in renewable projects and allowing it to continue in DS3 projects. Some DS3 projects may be CO_2 emitters and ECP-1 is giving advantage to carbon emitting technologies in Ireland by allowing them to gain capacity without planning and then undergo the planning process, potentially tying up capacity for 5 to 10 years in the case of large projects which require long planning horizons. Such a policy has the potential to send signals to the renewable energy industry in Ireland and internationally, that Ireland favours carbon emitting technology now over renewable technology, as carbon emitting technology is planning exempt and renewable technology isn't. Similar negative sentiments to the Apple Datacentre case could be likely with multinationals reconsidering investment in Ireland due to changing energy practices. Great care must be given so that there is no advantage, or perceived advantage, given to

carbon emitting technologies. Making planning permission a requirement for all applications under ECP-1, including DS3 qualified applicants would go a long way to ensure this.

Observation 4

Under 3.3.1 if an applicant is removed after the closing date, costs may increase for other applicants at that node. Further under 7.1, this is expanded upon, where a project is removed from a sub group, the connection charges for all the subgroup are withdrawn and reissued with a potential increase in charges to cover the cost of the project that has been removed. This may lead to a situation where when one project is removed, and the costs increase for the other projects, one of the other projects may have to withdraw as the increased costs could make it financially unviable.. This could lead to a snowball effect across all the projects in that subgroup or at that node, leading to no development taking place. This introduces an extra element of financial risk to project development .

Observation 5

Under Section 5, the second bullet point states that projects will be prioritised under order of planning expiry dates, with shorter expiry dates getting priority. The third bullet point then states that where planning expiry dates are equal, the date of application will be the deciding factor, with earlier application dates being given priority. We would disagree with this order as it goes against good long term planning to reward those with short planning periods. It also introduces an additional risk that projects could be removed after being accepted as they cannot secure extensions of planning and lead to the financial risks outlined above for those projects that have obtained longer planning terms. We contend that it would be more appropriate to first prioritise those projects that apply first and then separate those that have equal application dates with the order to planning expiry. This in our view would go some way to alleviate a potential risky regime which could discourage financial investment in renewable energy projects due to increased uncontrollable project risks.

Yours sincerely,

David McDonnell

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