

15th December, 2017

Dear CRU,

I would like to take the opportunity to respond to the ECP-1 Proposed Decision (CRU/17/309) with the following five points regarding some of the proposals and also to state my support of the IWEA Response to the Proposed Decision.

1. While I agree that the proposal to remove the option to relocate capacity is compatible with planning permission being a pre-requisite to be eligible to enter the 2018 batch, I consider that the proposal to remove this option from existing applicants is most unfair because these applicants had applied at a time when relocation of capacity was allowed. Application Fees and monies for first stage payments etc. were committed and paid, based on the ability to relocate, split, merge and change generation type, if required. To have this facility retrospectively removed is unfair and I suggest not warranted. The ability to relocate grid capacity, in the circumstance where there had been no requirement for planning permission in order to be allocated that capacity in the first place, has resulted in many projects eventually successfully building even though planning permission was refused for the initial site, because the grid capacity could be moved to a project that ultimately received planning. On grounds of fairness and practicality I would therefore argue that maintaining the present ability to relocate grid capacity for those applications already in the system, is the correct one. I note that the Proposed Decision states “The possibility to relocate capacity thus weakens project commitment and facilitates applications which might be more speculative in nature”. I strongly disagree with this sentiment; most of the grid capacity was forced to relocate to avoid wasting such capacity, due mainly to planning delays which found projects stranded in unsuitable sites according to new/updated County Development Plans or new Natura 2000 designations. The difficulty and effort to replace such a project with an alternative site with suitable zoning, environmental designations and sufficient distance from habitation, is far from speculative and requires a strong commitment and considerable outlay in monies

2. Some flexibility is required where an Applicant has received planning permission for a certain type of electricity generator when, with the passage of time, a more efficient model of that generator becomes available. Usually, a planning application must be made to amend the previous permission in order to replace the original with a more up-to-date model, but this would result in a new planning application reference number. This is a likely scenario given the long timeframes that are typical in the full planning and connection process and where 10 year planning permission durations are the norm to reflect this. Where a project amends previous permission in order to install the latest model, then a flexible approach should be taken to that applicant’s position.

3. It is proposed in Appendix 1, that in order to demonstrate planning permission a project must be outside the 8 week period for judicial review of that permission being granted. This is not a reasonable position considering that the planning permission legally exists from grant of permission regardless of whether a judicial review is taken or not. The planning is not quashed until the judicial review is either successful or the planning permission is remitted by the High Court back to An Bord Pleanála. I therefore suggest that the clause on judicial review be omitted from the final policy.

4. The proposal to prioritise capacity allocation on the basis of the planning permission expiry date, discriminates against applicants who have managed to obtain a 10 year duration of planning, which is good practice considering the delays that are met in planning for grid connections; line uprate work schedules; lead times for equipment and allowing for the requirements of financiers for an adequate time buffer between completion of construction and the expiration of the planning permission.

5. Lastly, I would also like to suggest that given that this is a new grid connection regime, the CRU consider allowing an extension of the capacity release scheme date of 30 June, 2017 in order that any released capacity can be added to the 600MW tranche of generation capacity now proposed under the ECP-1 proposal.

Yours Sincerely

Pat Brett (CEO Ecopower Limited)

Email bears no signature

--