



Energy for
generations

Offshore Grid Connection Assessment – Phase 1 Projects (CRU/21/112)

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1. INTRODUCTION

ESB Generation and Trading (GT) welcomes the opportunity to respond to the Commission for Regulation of Utilities (CRU) consultation on the Offshore Grid Connection Assessment for Phase 1 Projects (CRU/21/112). The purpose of this Proposed Decision Paper (the Paper) is to seek the views of stakeholders on the Grid Connection Assessment (GCA) which will be issued by EirGrid (the TSO) to eligible Phase 1 applicants prior to the Offshore Renewable Electricity Support Scheme 1 (ORESS 1) auction, which is due to take place in the second half of 2022.

The purpose of the GCA is to fulfil the requirement for applicants to have grid connection information to enable them to participate in ORESS 1. This is due, in part, to the absence of full planning permission being able to be obtained in accordance with the Maritime Area Planning (MAP) Bill which is currently proceeding through the House of Oireachtas. A Phase 1 project with a GCA can qualify for a full grid connection offer under the conditions proposed within the Paper, with the full Terms & Conditions for this offer subject to a separate CRU consultation which is set to be published by the end of 2021. It is proposed within the Paper that the grid connection offer will be issued but not executed until such time as full planning permission has been granted for the project.

ESB GT's response is laid out in three sections; the first is an executive summary, the second lists high level comments on the GCA proposals, and the third lists the responses to the questions raised in the Paper.

2. EXECUTIVE SUMMARY

ESB GT welcomes and acknowledges the need for a GCA to be carried out prior to the auction to give credibility to projects. Offshore wind in the Republic of Ireland has the potential to bring the country forward towards meeting the Governments RES-E and net-zero targets, provided that the challenges are overcome (such as the agreements around planning and connections) and the auction processes can progress at a timely pace without delay. This will provide the necessary investment for offshore projects and give investor confidence to continue to build out capacity in the years ahead.

Further delays in this process will only work to undermine the efforts of many to deliver this natural resource just off the island's shores, a resource that could be utilised to de-carbonise the electricity sector, provide a net-export capability and bring about a green hydrogen revolution.

ESB GT views the challenges of planning and disputes over connections as two major areas of concern that could lead to delays in the ORESS auctions and delivery of projects. The final terms and conditions associated with the GCA, connection offers, and auctions need to be correct and enduring to ensure there is no delay and mitigates against contract erosion. Investors need confidence that these arrangements will not be constantly under review and challenged, to be able to plan these large projects accordingly, which can span many years from conception to delivery.

In brief, what ESB GT believes is necessary to deliver the projects in a timely manner is:

- Adequate location resolution time afforded to applicants, to allow all parties to come to technical and commercial arrangements; 30 days is not sufficient.
- A clear and transparent process that the TSO will follow if it is to be the decision maker in cases of competing connections.
- If the TSO is to decide a winner at these competitive locations, a clear appeals process must be outlined.
- The definition of an efficient project.
- The parallel access between alternative routes to market and auctions need to be more fully considered, along with the treatment of any residual volume.

Though this Paper is intended for Phase 1 Projects, to ensure delivery of Phase 2 Projects a quick turn around on the grid connection requirements is required. The proposed consultations and decisions for this needs to be addressed urgently to allow for sufficient time for environmental surveys and planning to be concluded, should planning become a requirement for ORESS 2.

3. HIGH LEVEL COMMENTS

ESB GT has provided below some high-level comments on the Paper.

GCA Timeline

The timeline for the GCA application is acceptable, however, further clarification is sought for the issuance process. The Paper has stated that TSO will issue GCAs within 90 days of the application window closing and give a further 30 days (a total of 120 days) to issue GCAs to applicants in competitive locations. Clarification is needed on the process for applicants who are competing for locations of connection allocation; if they are to be involved for the full 120 days to allow time to come to an agreement (in accordance with Option 3) or will this horizon be severely shortened by giving the TSO up to 90 days to make applicants aware of potential disputes first? The latter having the potential to greatly diminish the possibilities of resolution between the parties.

The final arrangements must be decided upon and published in a timely manner and the arrangements regarding allocation disputes need to be clear and precise to mitigate against potential legal challenges which could delay the auction.

GCA Application

It is agreed that providing a single Maximum Export Capacity (MEC) value and a stated preference for an onshore connection point are reasonable requirements for the GCA application. It should be worth noting, however, that with the increase in RES-E targets and the push to net-zero it should be a reasonable ask to allow applicants to submit updated MEC values which may be greater than the original range that was applied for in 2020. Any MEC values, however, must be credible and deliverable within the ORESS milestones.

Connection Point Allocation

A dispute mechanism that allows applicants the ability to negotiate fairly and agree upon outcomes with technical and commercial arrangements, which minimises the need for intervention from the Regulator or the TSO would be favourable. This would align with the CRUs proposed decision of Option 3, however, clarification is needed on the degree of involvement that two or more parties would need to enter between themselves and the details that potentially would need to be shared as a requirement. ESB GT believes that there could be issues raised around competition law that needs to be given further consideration to ensure that there are no unintended repercussions on design going forward.

Greater information must also be given on the timeline that the TSO will use to deal with disputes that go on beyond the set time of 120 days, along with details of an appeals process which ESB GT believes is necessary.

The industry, for transparency and for reduced investor uncertainty, needs more detail on how the TSO will determine the “most efficient project”, details of this criteria and calculation must be transparent and available ahead of any auction. Offer prices should remain the deterministic mechanism for deciding efficiency in an auction process and any reason would need to be detailed as to why a project that may be outside of a clearing price would be accepted ahead of a project of lower offer.

The arrangements agreed for Phase 1 projects should be brought forward on an enduring basis for future Phases to ensure an equal and fair playing field with minimum amendments between these Phases.

GCA Conditionality

The CRUs proposals on conditionality are reasonable, there should be a requirement for Maritime Area Consent (MAC) eligibility and any subsequent ineligibility or termination of this MAC should result in the termination of the executed connection agreement.

Clarification is needed though regarding the potential for a Corporate Power Purchase Agreement (CPPA) to be agreed for less than the full MEC amount; can the residual MEC value have unrestricted access to the auction and if this residual amount is successful in the auction, will there be any impact on the grid connection offer?

GCA Validity Period

A grace period for projects that are unsuccessful in the ORESS 1 auction is welcomed, this will allow time to find an alternative route to market for some or all of their MEC. Clarification, however, is needed regarding what constitutes an acceptable route to market post auction. This grace period also needs to be long enough to facilitate these possible alternative arrangements.

Qualification for a Full Grid Connection Offer

The conditions set out in the Paper for a Phase 1 project to qualify for a full grid connection offer are reasonable, along with the proposed CPPA conditions to show credibility of those arrangements. More clarification is needed, however, on the terms of reducing MEC values in a GCA and full grid connection offer to the value of the CPPA, a main point of interest would be on the timeline for this to happen and the treatment of potential residual MEC value being offered into the ORESS auction or contracted post auction.

4. RESPONSE TO PROPOSED DECISION PAPER QUESTIONS

In this section ESB GT has provided responses to the questions raised in the Paper.

Q1: What is your view on the timeline proposed for the GCA application and subsequent issuance?

Four weeks should be an acceptable timeframe for submission of applications following the final decision on these arrangements. Clarity, however, is required on the issuance timeline as the Paper has stated that the TSO will issue GCAs within 90 days of the application window closing and give a further 30 days (a total of 120 days) to issue GCAs to applicants in competitive locations. Will applicants who are competing for locations of connection allocation be involved for the full 120 days to allow time to come to an agreement (in accordance with Option 3) or will this horizon be severely shortened by giving the TSO up to 90 days to make applicants aware of potential disputes first? This has the potential to greatly diminish the possibilities of resolution between parties. Adequate time should be afforded to applicants to come to technical and commercial arrangements, while also being conscious of the time between the publication of the final terms of these arrangements, subsequent process and then the ORESS 1 auction itself. Applicants need to be made aware of any disputes as early in the process as is possible and should be well within the early stages of the initial 90-day window.

The final arrangements must be decided upon and published in a timely manner and the arrangements regarding allocation disputes need to be clear and precise to mitigate against potential legal challenges which could delay the auction. The dispute mechanism cannot be afforded to delay the process due to location disputes that will affect all participants, cause uncertainty, and put the Governments 2030 targets and carbon budgets at risk.

For non-competitive locations, GCAs should be issued upon approval from the TSO and should not be delayed due to other locations which may be under dispute, this will allow adequate time for these projects to progress and prepare for the upcoming auction. It would be unfair for these projects which have selected a non-disputable location to be delayed due to the disputable selections of other participants. A statement regarding this issuance should be made in the final decision document to give clarity to all applicants. Additionally, clarification is required on the prioritisation method in which the TSO will employ to progress the GCA applications.

Q2: What is your view on the requirements of the GCA application? What other parameters (if any) should be included?

It is a reasonable requirement to provide a single MEC value and a welcomed proposed decision on optimisation of this value prior to submitting the expected MEC value for ORESS 1. With that said, more clarification around this optimisation process would be welcomed; how will this optimisation process work for increasing the MEC value post issuance of a GCA. With the increase in RES-E targets and the push to net-zero it should be a reasonable ask to allow applicants to submit updated MEC values which may be greater than the original range that was applied for in 2020. However, MEC values must be credible and deliverable within the ORESS milestones. Non-credible MEC values, particularly in competitive locations could lead to undesirable outcomes, contract erosion and missed targets. It would be welcomed clarification on the relation between connection agreements that were made prior to this process and how those agreements relate to this GCA process.

It is agreed that the stated preference for onshore connection point locations is an essential requirement when understanding where a project may be located and connected back to the onshore transmission network.

The methodology involved for the TSOs assessment of projects to award a GCA is unclear and therefore further information is required to allow further comments to be made on the requirements of the GCA application.

Q3: Which of the options for connection point allocation proposed here is most favourable and for what reasons? Is there a different, more optimal solution and if so, what would it look like?

The arrangements for connection point allocation need to be set out clearly to avoid locational disputes delaying the auction process and that the arrangements agreed for Phase 1 projects should be brought forward on an enduring basis for future Phases to ensure an equal and fair playing field with minimum amendments between these Phases.

A dispute mechanism that allows applicants the ability to negotiate fairly and agree upon outcomes with technical and commercial arrangements, which minimises the need for intervention from the Regulator or the TSO would be favourable. This would align with the CRUs proposed decision of Option 3. The details of Option 3, however, need to be developed further and clarification given to the degree of involvement that two or more parties would need to enter between themselves and the details that potentially would need to be shared as a requirement.

ESB GT believe that there could be issues raised around competition law that needs to be given further consideration to ensure that there are no unintended repercussions on design going forward. As has been stated already, delays in this process need to be mitigated to prevent the auction timetable being pushed back. The disputes mechanism needs formal definition of what a suitable arrangement could be and detail the process of how two or more parties come to an agreement (what is expected of them) paying due regard to competition law. ESB GT believes that it is best to use market solutions to determine an efficient outcome rather than a regulatory imposition, this may require a second step in the contest.

Greater information must be given on the timeline that the TSO will use to deal with disputes that go on beyond the set time of 120 days, along with details of an appeals process. It is a view of ESB GT that there should be a fair and level playing field between all participants.

Q4: What are stakeholders view on the consideration of the ORESS 1 auction allocating scarce grid capacity to the most efficient project? i.e., for resolution of specific competitive locations, should Option 3 proposed in this paper result in an inadequate resolution for stakeholders

ESB GT would welcome further clarification on how this consideration would be integrated into the auction. A point to address would be regarding the definition of the “most efficient project”. The industry, for transparency and for reduced investor uncertainty, needs more detail on how the TSO will determine the “most efficient project”, details of this criteria and calculation must be transparent and available ahead of any auction. Offer prices should remain the deterministic mechanism for deciding efficiency in an auction process and any reason would need to be detailed as to why a project that may be outside of a clearing price would be accepted ahead of a project of lower offer.

This raises the question on the outcome of the GCA and its impact on the auction; does the GCA have the potential to lead to an imperfect auction where eligibility is given to compete in the auction but potentially not deliver. The possibility of speculative values agreed upon in a GCA could lead to concerns on the credibility of the auction and the competition within it to deliver actual MWs. A clarification would be needed on the ability for applicants to enter the auction without an agreed GCA or, would two or more applicants be allocated GCAs for the same disputed locations, in effect, over qualifying the amount of capacity in the auction.

Q5: What is your view on the proposed conditionality of the GCA? i.e., the ability to apply for or hold a GCA being dependent on being able to apply for or hold a Maritime Area Consent and (a) be eligible to apply for (and subsequently take part in) ORESS 1 or (b) confirm a CPPA in advance of ORESS 1

The CRUs proposals on conditionality are reasonable and that there should be a requirement for MAC eligibility and subsequent awarding of a MAC to be needed in order to apply for or hold a GCA. Ineligibility or termination of this MAC should result in the termination of the executed connection agreement.

A CPPA is a reasonable alternative route to market and a project with a CPPA should not be required to enter the ORESS auctions but at the same time keep their GCA. Clarification is needed though regarding the potential for a CPPA to be agreed for less than the full MEC amount; can the residual MEC value have unrestricted access to the auction and if this residual amount is successful in the auction, will there be any impact on the grid connection offer, where the Paper has stated the MEC value would be reduced to the CPPA value.

Q6: What is your view on the proposed validity period of the GCA? i.e., the earlier of (a) three months before eligible Phase 2 projects are due to submit their initial grid applications for processing or (b) two years after issuance.

A grace period should be given to projects that are unsuccessful in the ORESS 1 auction, to allow them time to find an alternative route to market for some or all of their MEC. Clarification is needed regarding what constitutes an acceptable route to market post auction; the Paper discusses the possibility of a CPPA prior to the auction but doesn't specify terms for alternative options post auction and the subsequent interactions with the grid connection offer and planning processes. This grace period needs to be long enough to facilitate these possible alternative arrangements.

Q7: What is your view on the conditions for a Phase 1 project to qualify for a full grid connection offer? i.e., confirmation of either (a) ORESS 1 success and acceptance, or (b) Corporate Power Purchase Agreement(s)?

ESB GT is of the view that the conditions outlined in the Paper are reasonable. Clarification on the definition of granted planning permission would be welcomed outlining how the potential effect of a Judicial Review (JR) would have on the process and subsequent awarding of a grid connection offer.

Q8: What do you consider as sufficient information to confirm a CPPA for the purpose of being issued a full grid connection offer?

ESB GT considers the requirement for signed director declarations between the parties as a reasonable condition to show sufficient information to confirm a CPPA. It is agreed that any CPPAs should be signed with a financially capable organisations to give credibility to the CPPA. It may also be worth considering the possibility of a credible CPPA term length requirement based on current industry standards.

Q9: What is your view on the terms of reducing MEC in a GCA and full grid connection offer for CPPA(s)?

The terms are reasonable in principle, however, more clarification on how this process would work, mainly around the timeframe of this reduction and how it relates to the GCA, CPPA and ORESS timeframes is required. At what point would the MEC reduction be applied, would this be post auction and grace period to allow for alternative routes to market to be found. This relates to the response for question 5 regarding any residual MEC value that was not included in a CPPA prior to the ORESS auction being allowed to participate in the auction. Further to this, clarification is need on the treatment of residual MEC value which is not successful in the auction but gains another CPPA post auction.