



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Commission Decision
on Future of Direction on Firm and Non
Firm Access to the Transmission System**

**Cer/03/036
6 March 2003**

Background

1. On 19th June 2001 the Commission issued a direction to ESB National Grid concerning firm and non-firm access to the transmission system – see CER/01/72. The direction was due to lapse on 18 February 2003. The direction provided that intending generators applying for connection to the transmission system would have included in their connection offer a Deemed Firm Date¹. From this deemed date generators would have firm financial access to the transmission system notwithstanding that the associated Deep Reinforcement Works necessitated by the application might not have been completed by that date. The methodology for calculating the Deemed Firm Date was set out in the direction, as were other conditions.
2. The direction had cost implications for general customers of the transmission system in terms of additional potential constrained off payments to IPPs who would have met their Deemed Firm Date but for whom the associated Deep Reinforcement Works might not have been completed. However, the Commission considered that this was more than outweighed by the encouragement of new IPP entry which the direction would bring about and which would be in the long term interests of customers. The rationale for the direction was to encourage market entry by new IPPs. To date, one large generation project has benefited from the direction.
3. On the 5th February the Commission proposed to allow the direction lapse on 5 March 2003 (see CER website, 05/02/03). The Commission's thinking was that the direction was being overtaken by events. In particular, there is now an urgent need to secure new IPP entry with *actual* – as opposed to *deemed* – deep connection to the transmission system i.e. with all Deep Reinforcement Works completed. This urgency is borne out by ESBNG's Generation Adequacy Statement 2003-09 and is the basis for the 2005 generation capacity competition which is currently underway (see Advance Notice of Competition for Generators of 28 February 2003 on Commission website).
4. Before making a final decision on the issue the Commission invited interested parties to make submissions by 14 February 2003.

Submissions from Interested Parties

5. Three parties made submissions. All emphasised the positive aspects of the direction. Two urged that it be extended in its present form, the third that it be extended in modified form.

Among the main points made in the submissions were the following:

- Reverting to the access regime in place prior to the direction would be a backward step, given the changes in the Trading & Settlement Code.

¹ Phrases or terms in upper case are defined in Direction CER/01/72

- System connection remains a key potential barrier to entry. Nothing has changed in the standard ESBNG connection offer that eliminates risks regarding assurance of access. Rather than generators simply benefiting from the Deemed Firm Date the deep operational date must occur for the CER's objective of Generation Adequacy Decision for 2005 to be realised. Eirgrid and ESB, in their respective roles, should have economic incentives to minimise constraint costs and risks in the interests of final consumers. One respondent proposed the enactment of a locational investment signals through the transmission charging/loss adjustment regime.
- All respondents emphasised to the issue of uncertainty facing potential investors. One respondent believes that letting the direction lapse would spell the return to an anomalous situation. Another argued that the direction duration should be extended to allow IPPs assess the format of the competition for 2005 generation capacity and the importance of this in promoting competition and encouraging investment in new capacity. Up to now the certainty afforded by the direction has allowed IPPs to carry their developments forward.
- The issue of risk allocation was raised. Two respondents argued that the direction achieved significant progress in appropriate risk allocation. One respondent believed that in order to promote competition the risks and costs of electricity generation should be placed with the players who can best manage those risks. Another argued that the allocation of the risk involved in the upgrade of the national grid must rest with the system owner and operator. It would be unreasonable and economically sub-optimal to expect a generator or supplier to manage risks and circumstances, which are clearly under the direction and control of the system owner and operator.
- Extending the direction is important to achieving the CER obligation of promoting competition. A significant proportion of the benefits of the competition for the construction of further generation capacity would be offset if the direction were allowed to lapse, as new and additional timing risks would be created in the absence of a clear and certain access date.
- The issue of project finance is very important. Funding from banks would not be attracted without full financial access to the grid from a certain date.
- A modified version of the direction was proposed by one respondent is as follows:
 - Firm access provided from Shallow Connection Date up to the Shallow Connection capacity, with non-firm access for all capacity above that. Firm access for MEC should be provided at the Deep Operational Date.

- The direction should be applied to non-dispatchable generators. In order to overcome the difficulty in giving partially firm access to a non-dispatchable generator, two options could be considered:
 - Where the deep transmission system reinforcements in an area with significant dispatchable generation are not yet built, earlier access to the system could be given to non-dispatchable generators.
 - Subject to a suitable temporary operating protocol non-dispatchable generators could be allowed on the system where there is not significant dispatchable generation.

Decision

6. As indicated above, the main rationale behind the Commission's thinking that the direction should lapse was that the Deemed Firm Date would not, in itself, do anything to resolve the problem of ensuring security of electricity supply in the timeframe required by the Generation Adequacy Statement 2003-2009. For a new plant to constitute a net addition to available capacity by a set date, the necessary Deep Reinforcement Works for that plant must be complete by that date. The Deemed Firm Date is potentially very helpful to an IPP in terms of securing project finance. However, it does nothing for security of supply. It would not contribute capacity in 2005, which is now clearly required. For this reason, the Commission has decided that, even if the direction does not lapse, the Deemed Firm Date which an IPP might have received from ESBNG will not be taken into account in evaluating bids for the forthcoming 2005 capacity competition as it would have no bearing on the rationale underlying that competition².
7. The Commission accepts, however, that the disregarding of Deemed Firm Dates for the purpose of the 2005 capacity competition does not *necessarily* imply that the direction should lapse. While the potential value of the direction to some IPPs will change by virtue of the exclusion of the Deemed Firm Date from the 2005 capacity competition criteria, it may still be perceived as having a value to IPPs who do not participate successfully in that competition.
8. The other aspect of the direction to consider is any potential implications it may have for the new trading arrangements which will replace the current interim arrangements. These interim arrangements will lapse on 19 February 2005 under the terms of the policy direction issued by the then Minister for Public Enterprise on 27 July 1999.

² The Commission will be issuing guidelines on the 2005 capacity competition within the next couple of weeks. These will include the evaluation criteria for the competition. However, the Commission considers it should anticipate and alert potential participants at this stage of its plans regarding Deemed Firm Dates given its relevance to the present decision.

9. The Commission's work on the review of trading arrangements is well advanced, as evidenced by various publications and public fora. Final decisions on the form and content of the new arrangements have yet to be taken. Nevertheless, the possibility has to be acknowledged that some of the core concepts which underlie Direction CER/01/72 may well, even if the direction were extended, become redundant under the new trading arrangements. Examples could include the Trading and Settlement Code and Deemed Firm Date. Any possible extension of the direction could not be allowed to have the effect of immunising an IPP from the full impact of the new trading arrangements from the date these come into effect. This principle is clearly anticipated in Clause 5 ["Variation – New Industry Structure and Regulatory Regime"] of the current approved grid connection agreement between ESBNG and generators.
10. In conclusion, the Commission has decided to let the direction continue in force until further notice but draws the attention of potentially affected parties to the following:
 - The Deemed Firm Date which dispatchable IPPs have included in their connection offer from ESBNG under the direction will not be included in the evaluation criteria under the forthcoming 2005 generation capacity competition.
 - This decision to extend the direction is strictly without prejudice to the new trading arrangements which will come into effect from February 2005. No IPP may expect to be exempted from the application of the new trading arrangements by virtue of any provision in a connection offer made pursuant to the direction.
11. The Commission is not making any decision for the moment on the application of the direction to non-dispatchable generators.

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