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30<sup>th</sup> March 2016

Dear Sir Madam

this letter is in response to your consultation document on the Alternative Connection Application and Offer Process Proposal.

It has been prepared to represent the position of the British Hydropower association and also reflects the views of the Hydro industry in Northern Ireland.

We believe the current proposals are deeply and fundamentally flawed and will not serve the consumer interests to deliver the most efficient outcome for the delivery of renewable energy.

The proposed process will not maximise the delivery of renewable energy to meet EU Energy targets at minimal cost.

We urge you to reconsider these proposals and hereby notify you that we will consider pursuing the legal process to ensure the most efficient technologies are connected to the limited grid capacity remaining. This is a requirement in the EU 2003 Electricity Directive which is not met by the current proposals and will form the basis of a legal action against the proposed mechanism.

Yours sincerely

*Trevor McBurney*

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NI representative of the British Hydropower Association

Director, Hydro NI Ltd.

# Response to Consultation Questions

Question 1: Do you have any additional suggestions for consideration in relation to continuing to apply the existing connection application and offer process given the recent influx of connection applications received?

The existing and proposed processes are all based on the principle of “first come first served”. The fundamental weakness of these processes are that there is no economic assessment of the proposed connections to determine their efficiency. An efficient use of the existing or new capacity will not, therefore, be achieved.

The current scenario is one where grid capacity is limited and the construction of additional capacity is highly expensive.

The consumer interest is in achieving the most efficient outcome for the connection of new capacity and the progression towards EU mandates on energy production.

The current proposed process will mean that highly efficient projects will be refused access to the grid in favour of those who had an application submitted first. This cannot be acceptable to consumers.

A “First come first served” approach cannot meet any of the requirements set out in Articles 11, 14 and 23 of the EU 2003 Electricity Directive.

## **Article 6 Authorisation procedure for new capacity**

1. *For the construction of new generating capacity, Member States shall adopt an authorisation procedure, which shall be conducted in accordance with objective, transparent and non-discriminatory criteria.*

## **Article 11 Dispatching and balancing**

*..they shall take into account the economic precedence of electricity from available generating installations*

## **Article 14 Tasks of Distribution System Operators**

*Where distribution system operators are responsible for balancing the electricity distribution system, rules adopted by them for that purpose shall be objective, transparent and non discriminatory, including rules for the charging of system users of their networks for energy imbalance. Terms and conditions, including rules and tariffs, for the provision of such services by distribution system operators shall be established in accordance with Article 23(2) in a non discriminatory and cost-reflective way and shall be published.*

## **Article 23 Regulatory authorities**

1. *Member States shall designate one or more competent bodies with the function of regulatory authorities. These authorities shall be wholly independent from the interests of the electricity industry. They shall, through the application of this Article, at least be responsible for ensuring non-discrimination, effective competition and the efficient functioning of the market, monitoring in particular:*

*(f) the terms, conditions and tariffs for connecting new producers of electricity to guarantee that these are objective, transparent and non-discriminatory, in particular taking full account of the costs and benefits of the various renewable energy sources technologies, distributed generation and combined heat and power;*

The current proposals do not take into any account the costs and benefits of the various renewable energy sources and hence fail to comply with this directive.

The proposed mechanism is discriminatory in that the change in policy was introduced without warning to many industry participants while others had prior insight. This insider information will result in achieving an unfair economic advantage for those parties who reacted to get applications submitted immediately after the announced change in policy.

We consider this to be in direct breach of the principles of the EU 2003 Electricity Directive. We believe that the existing proposals, if implemented, will result in direct legal challenge on these grounds.

Furthermore, the mandatory EU goals for renewable energy are expressed in energy terms so it is essential that we install technologies which will deliver the most energy on to the grid over time. This is not purely about power in MW terms. It is about energy in MWh.

The stated high level principle in the consultation document is that it “allows for efficient network investment by the Northern Ireland customer base”. This is an essential principle. It is clear, however, that no part of the proposed process considers the efficiency of the outcome in delivering energy to NI consumers.

It is also clear that certain technologies, primarily solar and wind, have extremely high levels of intermittency while others have very stable and consistent output. This intermittency leads to excessive grid management costs. It is also clear that these technologies have already achieved the highest levels of penetration on to the grid and therefore represent the bulk of the intermittency of the grid.

It is essential that a diverse base of renewables technologies are connected to the grid to ensure that intermittency issues are minimised and that the most stable supply of renewable energy possible is achieved.

It is, therefore, essential that a mechanism is introduced which prioritises the technologies which will give the most efficient and consistent use of the finite, limited and expensive grid capacity.

We propose that a mechanism is adapted where renewable technologies are grouped into tiers as follows:

Tier 1 – high load factor connections (e.g. >40%) with capability to meet high winter loads and also low levels of intermittency.

This would include technologies such as AD and Hydro where a high load factor and consistent output of power can be delivered.

Tier 2 – medium load factor installations (e.g. 15-40%)

This would include technologies such as large scale and small scale wind, combined technology connections and overcapacity installations where the core technologies are highly intermittent.

Tier 3 – low load factor connections (e.g. <15%)

This would include technologies such as solar PV. Large scale solar is particularly wasteful of the scarce grid resource as approximately 90% of the capacity is not used and it also delivers negligible output at the times of peak demand to the grid.

Note that small scale solar has advantages over large scale in that much of this solar power will be used directly in households without impacting the grid. Small scale solar has the further advantage that much of it may be used for applications such as heating water and hence displace use of oil.

Based on the above tiered hierarchy the available capacity should be allocated to all projects based in Tier 1 first and so on.

Question 2: Do you consider that the underpinning principles of the proposed connection application and offer process at a high level address the approach necessary to deal with the influx of connection applications? Can you suggest any further principles that should be considered?

Absolutely - See response to Q1.

Question 3: Do you agree that the Batch Process is the most pragmatic alternative connection application and offer process to deal with the recent influx of applications? Do you have any other suggestions or specific comments on the proposed approach?

The broad principle of considering applications in batches is understood. If, however, any part of the outcome is influenced by the application date then we believe that this is discriminatory and will result in an unfair economic advantage being achieved by those parties who had insider information or early warning of the sudden change in policy by NIE. It is our view that a process based on the "earliest valid connection application date" will be challenged as unfair, uncompetitive and not in the consumers interests.

At some point in the process it will be necessary to confirm that applications can proceed to connection. A mechanism must be in place at some point in the process to require all legal approvals and permits to be in place.

In essence we agree with the original policy that full consenting was required prior to an offer being made for grid connection.

Question 4: Do you agree with the proposal to remove all consenting requirements for transmission connection applications?

We believe that at some point in the process all consenting requirements must be met and that this should be a requirement early in the process and certainly before it has the potential to impact other parties.

In essence we agree with the original policy that full consenting was required prior to an offer being made for grid connection.

Question 5: Do you agree with the types of connection applications that are proposed to be included in the Batch? Please provide reasons for any views expressed.

One area of concern is those applications which had been submitted prior to August 15 with full planning consents but had not got connection offers for various reasons. It is essential that these are not dropped out of the system. How are they being addressed?

Question 6: What do you believe would be an adequate length of time between a decision paper from this consultation process being issued and the proposed Closure Date? Do you agree that a 4 week period would be adequate? Please provide reasons for any preference.

4 weeks should be adequate

Question 7: Is there any information you can provide to describe how it is proposed that the over-installed plant, particularly in the case where there is a mix of generation technologies, is capped to MEC safely and securely?

In the hydro sector this is already ongoing on many installations where the capacity has the potential to exceed the MEC or is tight up to a ROCs threshold. This control is done through the turbine controls using a simple feedback loop measuring the output power and regulating the turbine to not exceed a set value.

Hydro power output is stable and consistent so allows this type of mechanism to work well.

Other control mechanisms exist which can divert output to dump loads such as heating systems.

Ultimately the G59 control mechanisms protect the grid at the point of supply.

Question 8: Is there any information you can provide to describe how it is proposed to limit the availability declarations from the generation site to the SEM and the SONI control centre via SCADA?

Question 9: Please provide any information you feel could explain how, if there is more than one technology type on site, the generation behind the connection point will be reduced in the event of a system constraint or curtailment?

Question 10: Are there any further considerations for the TSO and DNO before this type of connection can be facilitated?

Question 11: Do you agree with the proposal for allocating any remaining Cluster capacity as a priority and issue these offers outside of the Batch Process? Can you suggest any alternatives for consideration?

Question 12: Do you agree that a change may be required to the weighting of projects connecting into Clusters that have not submitted for planning permission and subsequent connection offers have expired or been rejected? Would you consider a weighting of zero for such projects to be acceptable?

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Question 13: Do you agree that the proposal to order the transmission assessments of the Groups based on the Groups with the earliest individual Valid Connection Application is a practical approach? If not, can you suggest any alternatives?

We absolutely do not agree with this approach on the grounds that it gives an unfair economic advantage to those parties who had advance warning or early notification of the policy change.

This will result in unfair commercial and competitive advantage to those parties and is in direct conflict with the EU Electricity directive.

The main parties in the hydro sector did not learn of this change until September 2015 and have been effectively excluded from the process if this method is adopted.

If any part of the outcome from this process is determined by the "Earliest individual valid connection application" then it will be considered to be unfair, anticompetitive, not in the consumers interests, inefficient, rewarding insider knowledge and will result in legal challenge.

Question 14: Do you believe it would be a prudent approach in the first instance for the TSO to determine whether there is existing grid capacity and issue offers where there is capacity as a priority, accepting that other applicants not included in this phase 1 would need to wait longer for connection offers?

Yes, where there is existing capacity it should be offered as a priority to those technologies which will give the most efficient use of the capacity. Our response to Question 1 details a proposed Tiered approach.

Question 15: In relation to connection offer validity periods, what length of time do you suggest would strike a balance between giving customers enough time to consider the connection offer and not unduly delay starting to process the remainder of the Batch?

One month.

Question 16: In order to reduce time, it is proposed to allow a period of 10 days from information on initial nodal assignment being provided for a decision to be made on whether to withdraw from an application from the process. Do you consider that the suggested 10 day period will provide an adequate balance between reducing delays and allowing high level decisions to be made by developers?

10 days is probably inadequate given practicalities of people being on holidays or communication time lines. We would suggest that 1 month would be adequate and practical.

Question 17: Do you believe that high level information on estimated nodal assignment, connection method, potential charges and estimated timeframes for delivery would be of value and enable a decision to withdraw early to be made?

Absolutely

Question 18: Can you suggest any alternatives to ensure that customers are committed to their connection application?

A customer should not be asked for any further commitments until he has a clear understanding of the cost and expected timeline.

Question 19: Do you agree with the proposal to share the costs of common connection assets between applicants on a per MW basis as described?

Yes.

Question 20: Do you think Proposal A or Proposal B is preferable for entry into the FAQ list? Do you have any other suggestions for entry into the FAQ list?

Our suggestion is that the position in the queue for connection should be based, not on the date of application but on the load factor of the proposed connection. In our response to Q1 we

proposed a tiered mechanism. In other words we should be prioritising those connections which will make the most efficient and stable use of the grid capacity not those who got in first in the queue because of early knowledge of the change.

Question 21: Would a connection offer for generators of 5MW and above without firm access assessment provide sufficient information for that offer to be accepted or for high level decisions on project viability to be made?

Unlikely to be adequate to base any firm decision on incomplete information.

Question 22: Would a connection offer which does not contain GOR information provide sufficient information for that offer to be accepted or high level decisions on project viability to be made?

We believe not. It may provide enough information to make a decision not to proceed but is unlikely to be adequate to make a firm positive investment decision

Question 23: Is it essential for GOR information to be issued along with FAQ and ATR information or is GOR information alone sufficient information for an offer to be accepted?

Major investment decisions cannot be confirmed without full information on the constraints or curtailments.

Question 24: Do you agree that the offer acceptance criteria outlined above strikes the right balance between ensuring that applicants are committed to their projects, without being too onerous that applicants will not be in a position to accept their offer?

Question 25: Do you agree that project milestones relating specifically to securing planning permission are required now that the planning permission pre-requisite has been removed for applications to the Distribution System? What do you believe to be an **Alternative Connection Application and Offer Process** –Consultation Paper

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adequate length of time to secure planning permission after a connection offer has been accepted?

Question 26: Do you believe that the outcome of the Ofgem milestone consultation in GB should be applied in Northern Ireland without further consultation?

No opinion at this stage