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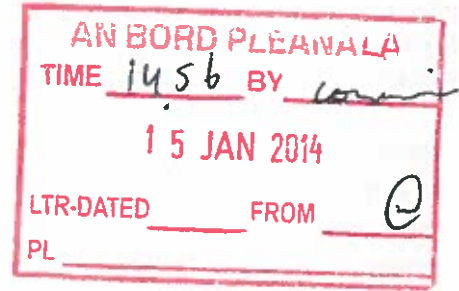
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Executive Officer,
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15th January 2014



North-South 400 kV Interconnection Development.

Designated Project of Common Interest (PCI) under Regulation 347/2013

Dear Kieran,

I refer to the above proposed transmission infrastructure development, which is currently the subject of pre-application consultation between EirGrid and An Bord Pleanála under the provisions of Section 182E of the Planning and Development Act 2000 (as amended) – ABP Ref. VC0054 applies.

An Bord Pleanála will be aware, as designated Competent Authority in this regard, that the project has been designated as a Project of Common Interest (PCI) pursuant to the provisions of Regulation (EU) No. 347/2013 of the European Parliament and of the Council of 17 April 2013 on guidelines for trans-European energy infrastructure and repealing Decision No 1364/2006/EC and amending Regulations (EC) No 713/2009, (EC) No 714/2009 and (EC) No 715/2009.

Article 10 of Chapter III of the Regulation relates primarily to pre-application procedures in respect of PCI projects. It is EirGrid's understanding that these procedures need to be addressed, notwithstanding the extensive pre-application consultation that has occurred between EirGrid and the Board in the context of Section 182E of the 2000 Act (as amended).

During our recent telephone conversation you kindly invited EirGrid to submit queries it might have in respect of the PCI process. Our queries are set out below.

In order for the Board to understand these queries, it is considered essential to set out the context for such queries - this is also set out below; this derives from EirGrid's understanding of the pre-application process for PCI projects as set out in Regulation 247/2013, which is informed by Legal Opinion in this matter.



Crucially also, EirGrid's queries are set into a somewhat unique context that pre-application consultation between EirGrid and An Bord Pleanála has occurred over the last number of years, albeit under a separate legislative process, where a range of issues in respect of the planned development have been raised and addressed. It is likely to be the case that the implementation of the PCI pre-application process will result in duplication of information and advices previously submitted to, discussed with, or provided by, the Board in the pre-application process under Section 182E of the 2000 Act (as amended).

EirGrid's Queries in Respect of the PCI Pre-application Process

The Regulations provide for a notification of the project to the competent authority and the date of signature of the acknowledgement of the notification by the competent authority establishes the start of the pre-application process. The two queries that EirGrid currently has in respect of the PCI pre-application process are as follows:-

- **How does An Bord Pleanála envisage that pre-application consultation with EirGrid can most meaningfully and appropriately occur in order to expedite the pre-application consultation process as set out under Regulation 347/2013? Specifically, is it the case that consultation in respect of the PCI pre-application process can continue between the two parties while the separate pre-application consultation process under Section 182E of the Planning and Development Act 2000 (as amended) is formally closed?**
- **Does An Bord Pleanála envisage that the "draft application file" referred to in Regulation 347/2013 comprises the entirety of the intended application for statutory approval, or is it a detailed scope of the intended application particulars?**

The Context for EirGrid's Queries in Respect of the PCI Pre-application Process

Regulation 347/2013 outlines a number of pre-application procedures for PCI projects. There is no detail in the legislation regarding the implementation of such procedures – this is to be contained in a *Manual of Procedures*, which must be prepared by the Board, as designated Competent Authority, by 16th May 2014. It is intended that, given its urgency, the application for the proposed North-South 400 kV Interconnection Development will be submitted to An Bord Pleanála well in advance of this date.

The various procedures for establishing the start of the pre-application process and the pre-application process itself, are as set out in Article 10 of Chapter III of Regulation 347/2013 are summarised as follows:-

- EirGrid to notify ABP in writing of the project, including a reasonably detailed outline of the project;
- ABP to acknowledge (in writing) the project. The date of acknowledgement establishes the start of the pre-application process
- EirGrid to submit to ABP a "*concept of public participation*" document;
- ABP approval of the "*concept of public participation*" document (or request modifications); Note in this regard that the other steps specified below do not have to await the approval by the ABP but should



operate in tandem with this step;

- ABP to confirm the scope of material and level of detail of information required to be submitted in the application (the text of the Regulation implies that EirGrid should or may submit a scope and content proposal as the basis for ABP's confirmation);
- ABP in "close co-operation" with EirGrid to set up a schedule for the permit granting process;
- EirGrid to submit a "draft application file" to ABP (this is clearly a pre-application function under Article 10(4) of Chapter III of the Regulations). ABP to determine if it is complete having regard to its previous confirmation of scope of material and level of detail of information to be contained in the application.

In the absence of any guidance in this matter, EirGrid has identified the following strategy as a practical response to the requirements of the PCI pre-application process set out under Regulation 347/2011:-

(a) EirGrid to notify ABP in writing, including a reasonably detailed outline of the project

This comprises a letter to ABP, referencing the governing Regulations, making formal notification of the application, and enclosing the *Preferred Project Solution Report* (previously provided to the Board during pre-application consultation under Section 182E of the 2000 Act (as amended)) as the "reasonably detailed outline of the project".

(b) ABP to acknowledge (in writing) the project, (on the assumption that there is no basis for rejecting the notification as not being mature enough to enter the permit granting process)

(c) EirGrid to submit to ABP a "concept of public participation" document

Paragraph 4 of Annex VI of the Regulations sets out the minimum requirement of this document to contain:-

- (a) the stakeholders concerned and addressed;
- (b) the measures envisaged, including proposed general locations and dates of dedicated meetings;
- (c) the timeline;
- (d) the human resources allocated to the respective tasks.

However, this is clearly predicated on the assumption in Regulation 347/2013 that this document is prepared at the outset of the pre-application process. It seems appropriate therefore, that given the stage of development of this particular project, EirGrid's "concept of public participation" document comprises an outline summary of public and stakeholder consultation in respect of the proposed development to date, in particular referencing all meetings, open days etc that have occurred, referencing the project website and its content that has evolved over the stages of project development, and including the various brochures and other documents produced. Given that this is mostly historic, the document should also extend to discuss the anticipated future consultation that will occur during the formal application process.

(d) ABP approval of the "concept of public participation" document (or request for modifications)

Of particular note, Article 9(3) of the Regulation states that, in making its response, "the competent authority shall take into consideration any form of public participation and consultation that took place before the start of the permit granting process, to the extent that such public participation and consultation has fulfilled the requirements of this Article".

(e) ABP to confirm the scope of material and level of detail of information required to be submitted in the application

The statutory requirement relates to ABP confirming the scope and detail to be submitted in the application. It is suggested that this can most reasonably occur within the context of a prior submission by EirGrid of the intended detailed scope of the application submission. While there is no detail in this regard set out in the Regulation, it would appear that this is restricted to a high-level scope of the application,



rather than the detailed scope of any particular element of the application. As such, the submission by EirGrid should set out in summary detail the intended content of the application—the Tables of Contents and outline scope of the various volumes of particulars, samples of drawings, the scope of the EIS etc

(f) ABP in “close co-operation” with EirGrid to set up a schedule for the permit granting process
ABP has previously provided such information to EirGrid in the separate pre-application process under Section 182E of the 2000 Act (as amended); this however, could re-occur to meet the requirements of the Regulation and might probably best occur in a pre-application meeting forum.

(g) EirGrid to submit a “draft application file” to ABP. ABP to determine if it is complete having regard to its previous confirmation of scope of material and level of detail of information to be contained in the application
It appears from Regulation 347/2013 that this element is restricted to ABPs consideration as to whether the draft application contains the scope and detail that it had previously confirmed as being required under item (e) above. It does not appear to involve ABP reviewing the specific detailed content of the application submission, or indeed in considering the merit of the proposal or the quality of the proposal – it appears to be restricted to an administrative process to ensure the completeness of the application.

Conclusions

The date of acceptance of the submitted application file establishes the start of the statutory permit granting procedure within the meaning of the Regulation. The normal processes as per the SIA legislation, which has previously been advised to EirGrid in the most recent Record of Pre-Application Consultation may therefore be integrated into the process for the submission of the application file.

As noted above, it would seem prudent for a meeting to occur between the Board and EirGrid to agree a practical and expeditious approach to implementing the pre-application provisions of Regulation 347/2013. It is assumed that such a meeting would occur separate to the provisions of Section 182E of the 2000 Act (as amended), thereby facilitating formal completion of that separate pre-application process.

EirGrid would be grateful for a response to its queries at the earliest convenience of An Bord Pleanála, given the urgency for submission of the application for statutory approval of this PCI project. In this context, EirGrid is available to meet with the Board at any time.

Yours sincerely,



Des Cox

Senior Co-ordinator, Public Planning and Consents,

EIRGRID plc

