

Nichola Meehan

From: Valerie.Brennan@Eirgrid.com
Sent: Friday 12 March 2021 17:46
To: Diarmuid Collins
Cc: Des.Cox@Eirgrid.com; Nichola Meehan
Subject: RE: Celtic Interconnector Project
Attachments: PCI0003 Covering Letter for Celtic Further Clarification Re Scope of CRU Consents including Appendix A_120321.pdf; Appendix B Further Clarification on Proposed Scope of CRU Consent Docs_PCI0003_Mar 2021.pdf

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Dear Diarmuid,

In proposed fulfilment of the requirements of Article 10(4)(a) and in response to the CRU related matters that you have indicated to be outstanding in the first paragraph of your below email, please refer to the attached 2 documents regarding the Celtic Interconnector Project (PCI0003):

1. Covering letter providing further clarity in so far as it concerns CRU Consenting documents including Appendix A
2. Appendix B which sets out further detail regarding the CRU Consenting documents (associated with item 1)

We would greatly appreciate if you could kindly please acknowledge receipt of the 2 pdf documents attached? Please note that we will also be shortly making a submission to you regarding Article 10(4)(b) of the TEN-E Regulation. We hope that it will be possible for the PCI Unit of An Bord Pleanála to revert to us formally in relation to the Proposed Scope of the Application document based on the attached correspondence, at the earliest possible opportunity.

Yours sincerely,

Valerie.

Valerie Brennan
Consents Coordinator
Celtic Interconnector Project
 Co-financed by the European Union
Connecting Europe Facility

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From: Diarmuid Collins [<mailto:D.Collins@pleanala.ie>]

Sent: 05 March 2021 15:37

To: Brennan, Valerie (EXT)

Cc: Cox, Des; Nichola Meehan

Subject: Celtic Interconnector Project

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Good Afternoon Valerie,

I refer to your scoping proposal submitted in relation to the Celtic Interconnector project. I attach a copy of a further response dated 26th February, 2021 received from the CRU. In relation to your proposal and the attached response, please note that under Article 10.4. (a) the PCI Unit, as Competent Authority, shall identify in close co-operation with the other authorities concerned, and where appropriate on the basis of a proposal, the scope of material and level of detail of information to be submitted. As matters currently stand the PCI Unit, as Competent Authority, acting

in close co-operation with the authorities concerned is not in a position to identify the scope of material/level of detail to be submitted. It is matter for EirGrid to address the areas of concern still outstanding.

I also wish to refer to two related matters:

1. Article 10.4.(b) of the Regulation relates to the drawing up of a detailed schedule for the permit granting process and I refer to the Checklist contained in section 4.2.2 of the PCI Manual of Permit Granting Process Procedures. The PCI Unit considers that more clarity is needed for itself and the authorities concerned in relation to a Schedule of permits/consents required (and timelines) to realise the project and that the Schedule should also give details in relation to permits/consents relevant to France and the UK. Please forward such a schedule as part of this pre-application procedure. It would be useful if such a Schedule was provided as a stand-alone document.
2. In relation to a joint Schedule (Article 10.4.(b) of the Regulation) to enable the Competent Authorities in the Member States concerned to endeavour to align their timetables, the PCI Unit wishes to have such details presented to the relevant Competent Authorities in written format and perhaps also as a presentation should that be considered necessary. Please forward such a Schedule as part of this pre-application procedure. Again, it would be useful if such a Schedule was provided as a stand-alone document.

Regards,
Diarmuid Collins,
PCI Unit.

Diarmuid Collins
Senior Administrative Officer
Procurement, Internal Audit & PCI
An Bord Pleanála
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Tabhair faoi deara led thoil: aon tuairimí nochtaithe san ríomhphost seo is iad tuairimí an tseoltóra féin agus níl sé intuigthe gurb iad tuairimí An Bhoird Pleanála nó go gcloíonn siad le polasaithe ráite an Bhoird.

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Mr. Diarmuid Collins,
Senior Executive Officer,
Projects of Common Interest (PCI) Unit,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1,
D01 V902
Sent: By Email to D.Collins@pleanala.ie

Date: 12 March 2021

Your Ref.: PCI0003 (PCI Project 1.6)

Our Ref.: Celtic Interconnector Project

Re: Further Clarification in Respect of Article 10(4)(a) of the TEN- Regulation¹ having specific regard to the Proposed Scope of CRU Consents Documentation

Dear Diarmuid,

We refer to your correspondence of 05 March 2021 specifically in terms of the response of the CRU to our scoping proposal in respect of the proposed Celtic Interconnector (An Bord Pleanála Ref. PCI0003), specifically in terms of Article 10(4)(a) only of the TEN-E Regulation². As noted in your email, it is a matter for EirGrid to address the areas of concern that are still outstanding. Pursuant to this, we have further engaged with Roisin Cullinan, Licensing Regulatory Manager and Lucy Cradden, Senior Analyst at the CRU on 12 March 2021 in order to clarify matters.

In the interests of clarity, please refer to Appendix A attached hereto which sets out the proposed structure of the PCI Application File for the Celtic Interconnector (hereafter the 'PCI Application File'). In identifying the proposed scope of this PCI Application File, the PCI Unit should refer to the proposed contents of the PCI Application File as set out in Appendix A in addition to the details that are contained in Appendix B.

As set out in more detail in Appendix B to this correspondence, we propose to include the following as part of the PCI Application File:

1. A Draft Application Form for Authorisation to Construct an Interconnector under Section 16(1)(b) of the Electricity Regulation Act 1999 (as amended) (the 1999 Act);
2. A Draft Application Form for Consent to Lay Electric Cables under Section 48 of the 1999 Act; and,
3. A Draft Application Form for Consent to Lay Electric Cables under Section 49 of the 1999 Act.

We have also set out our understanding of the role of the CRU in so far as it concerns Special

¹ Trans-European Energy Infrastructure Regulation No. 347/2013 EU

² Please note that we will shortly be making a submission to you regarding Article 10(4)(b) of the TEN-E Regulation.



Order(s) under Section 53 of the 1999 Act (if required only) and the Licence to Operate an Interconnector under Section 14(1) of the 1999 Act.

As previously advised in our correspondence of 10 February 2021, we propose to include all relevant CRU consents as Volume 9 of the PCI Application File. This builds upon the original proposed scope of the application document that we originally submitted to you on 21 December 2020.

As previously advised, it is acknowledged by the representatives from CRU that, under current Regulatory process that Draft CRU Consents Applications cannot be finalised until other relevant permits and consents are in place – most notably the Strategic Infrastructure Development (SID) and Foreshore Licence consents.

We trust that this further clarification can be taken into consideration by the PCI Unit as it prepares its advice in respect of the Proposed Scope of the PCI Application File.

We hope that it will be possible for the PCI Unit of An Bord Pleanála to revert to us formally in relation to the Proposed Scope of the Application document at the earliest possible opportunity.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Valerie Brennan".

Valerie Brennan
Consents Coordinator
Celtic Interconnector Project
valerie.brennan@eirgrid.com



Appendix A: Proposed Contents of the PCI Application File for the Celtic Interconnector

Consents	Volumes	No.	Contents
1. Strategic Infrastructure Development (SID) Application:	Volume 1	1A	Statutory Particulars
		1B	Planning Drawings
	Volume 2	2A	Planning Report
		2B	Public and Landowner Consultation Report
		3A	Non-Technical Summary (NTS) for Ireland Onshore**
	Volume 3	3B	NTS for Ireland Offshore*
		3C	Environmental Impact Assessment Report (EIAR) for Ireland Onshore**
		3D	EIAR for Ireland Offshore*
	Volume 4		Environmental Report for UK Offshore**and **
	Volume 5		Joint Environmental Report (JER)
	Volume 6	6A	Onshore Natura Impact Statement (NIS) for Ireland (including in-combination effects) **
6B		Offshore NIS for Ireland (including in-combination effects)*	
2. Foreshore Licence Application³:	Volume 7	7A	Statutory Particulars
		7B	Foreshore Licence Drawings
	Volume 8	8A	Planning and Consultation Report
		8B	Marine Strategy Framework Directive Assessment
		8C	Water Framework Directive Assessment
3. CRU Consent Applications:	Volume 9	9A	Draft Application Form under Section 16(1)(b) of the 1999 Act for Authorisation to Construct an Interconnector
		9B	Draft Application under Section 48 of the 1999 Act for Consent to Lay Electric Cables Applications
			Draft Application under Section 49 of the 1999 Act for Consent to Lay Electric Cables Applications
Notes:			
* This is proposed to be submitted as part of the SID Application for information purposes.			
** This is proposed to be submitted as part of the Foreshore Licence Application for information purposes.			

³ Volumes 3B, 3D, 5 and 6B will be submitted to the Foreshore Unit as part of the Foreshore Licence Application.

Appendix B:

Further Clarification in respect of Article 10(4)(a) having specific regard to the Proposed Scope of CRU Consents Documentation¹

11 Volume 9: CRU Consent Applications

11.1 Interaction to date with CRU

EirGrid plc (hereafter 'EirGrid') is developing the proposed interconnector under the requirements of Regulation 8 of SI 445 / 2000 - European Communities (Internal Market in Electricity) Regulations, 2000 and the Transmission System Operator (TSO) license issued by the CRU to EirGrid.

EirGrid is developing the Celtic Interconnector in conjunction with Réseau de Transport d'Électricité (RTE), the French Transmission System Operator.

As a regulated entity, EirGrid has been engaging with CRU on the proposed interconnector since 2012 following and throughout the development phases to date.

In September 2018, EirGrid and RTE, in their capacity as TSOs, and as project promoters, submitted a Joint Investment Request (IR) for the development of the Celtic project to the National Regulatory Authorities (the NRAs), the Commission for Regulation of Utilities (CRU) in Ireland and the Commission de Régulation de l'Énergie² (CRE) in France.

As part of the IR, EirGrid and RTE requested a cross border cost allocation (CBCA) decision in respect of the investment costs including a decision on their inclusion in each country's tariffs from the NRAs, under Article 12 of the TEN-E Regulation³.

In 2019, the NRAs published their coordinated CBCA Decision (CRU/19/125) supporting the Celtic Interconnector project. The CBCA Decision set out the basis of the cost sharing between the parties and provided that the cost of the Celtic Interconnector would form part of the respective national tariffs.

In Ireland the CRU also published CRU/19/063 "*Celtic Interconnector – consultation results, Information paper accompanying the coordinated cross-border cost allocation decision under Article 12 of Regulation (EU) 347/2013*".

¹ Please note that EirGrid will shortly and separately be making a submission to the PCI Unit of An Bord Pleanála regarding Article 10(4)(b) of the TEN-E Regulation.

² Commission for the Regulation of Energy

³ Trans-European Energy Infrastructure Regulation No. 347/2013 EU

11.2 Interaction to date with other stakeholders

EirGrid is committed to public and landowner engagement as an integral part of its project development process. This approach is informed by national and European requirements and enhanced by EirGrid's organisational commitment to best practice in this area.

Throughout the project development process for the Celtic Interconnector, and in particular since 2017, EirGrid has consulted with National, regional and local stakeholders, communities, landowners, and members of the public concerned, all in accordance with legislative and formal Guideline requirements for best practice, including; the Aarhus Convention; European Directives⁴; and, Irish legislation⁵.

EirGrid has made contact with all of the landowners and stakeholders who are concerned with the onshore cable route. The consenting documentation will include a number of relevant reports describing in detail the consultation that has been undertaken by EirGrid over the last 4 years, however, in the interim the following documents are available on EirGrid's project specific website⁶; EirGrid's Concept of Public Participation⁷; Step 4 Consultation Report, April 2020⁸; and, Step 3 Consultation Report, April 2019⁹.

11.3 Consents Required

In order to construct and operate the proposed interconnector, EirGrid requires the following CRU consents:

- Authorisation to Construct an Interconnector – Section 16(1)(b) of the Electricity Regulation Act 1999 (as amended) (the 1999 Act);
- Consent to Lay Electric Cables under Section 48 of the 1999 Act;
- Consent to Lay Electric Cables under Section 49 of the 1999 Act;
- Special Order(s) – Section 53 of the 1999 Act (if required only); and
- A Licence to Operate the Interconnector - Section 14(1) of the 1999 Act.

11.3.1 Volume 9A - Authorisation to Construct an Interconnector – Section 16(1)(b) of the 1999 Act

Pursuant to Section 16(1)(b) of the 1999 Act a person shall not construct an interconnector unless an appropriate authorisation has been granted to the person by the CRU.

⁴ Including the EIA Directive 2014/52/EU and the Public Participation Directive (2003/35/EC).

⁵ Including the requirements of the Planning and Development Act 2000 (as amended) and the Foreshore Act 1933 (as amended).

⁶ <https://www.eirgridgroup.com/the-grid/projects/celtic-interconnector/related-documents/index.xml>

⁷ <http://www.eirgridgroup.com/site-files/library/EirGrid/Celtic-Interconnector-Project-Concept-for-Public-Participation-EirGrid-2020.pdf>

⁸ <http://www.eirgridgroup.com/site-files/library/EirGrid/Celtic-Interconnector-Step-4-Consultation-Report.pdf>

⁹ <http://www.eirgridgroup.com/site-files/library/EirGrid/Celtic-Interconnector-Step-3-Consultation-Report-030919-FINAL-FINAL.pdf>

Applications for an authorisation to construct an interconnector are made to the CRU by way of an application form which is available on the CRU website¹⁰.

Volume 9A will comprise a Draft Application Form under Section 16(1)(b) of the 1999 Act for Authorisation to Construct an Interconnector.

The final application to the CRU will include the information as set out below, as required by the application form¹¹:

- (a) Points of contact for the application assessment;
- (b) The applicant's name and address and the details to appear on the authorisation;
- (c) Details of the company's directors and the company number;
- (d) Where a holding of 10 per cent or more of the shares of an applicant is held by a body corporate or partnership or an unincorporated association or a co-operative carrying on a trade or business with or without a view to profit, the name and address of the holder of such shares shall be provided;
- (e) The name and address of the intended operators of the interconnector;
- (f) Details of the entities responsible for the engineering and construction of the proposed interconnector;
- (g) A description of the proposed location of the interconnector, including information for Ireland and the point of interconnection in France, including the location of grid connection points, convertor stations, route of cables / overhead lines, and associated landing points, the identity of sites owners, etc.;
- (h) A description of the technical specification of the proposed interconnector;
- (i) A description of the measures to be taken by the application to ensure the safety and security of the electrical system;
- (j) A summary of the Connection Agreement Details made or being sought with the transmission system operator in Ireland (EirGrid) including the Maximum Export Capacity (MEC) Maximum Import Capacity (MIC) and expected term of the agreement;
- (k) The expected start date for construction and the expected commissioning date;
- (l) Information as to how the project is to be financed in the construction phase and forecast financial information for the operational phase of the proposed Interconnector; and,

¹⁰ <https://www.cru.ie/professional/licensing/electricity-interconnectors/#interconnector-operator-licence>

¹¹ EirGrid notes that elements of the information required will not form part of the PCI Draft Application File or Final PCI Application File but rather will be provided in the Final Application to the CRU, most notably, the names of affected landowners.

- (m) A progress report on the application for the proposed interconnector project under the PCI process in Ireland and France.

The application form must be accompanied by the following documents:

- (a) Financial Statements of the accounts;
- Statements of the accounts for the last two years kept by the applicant in respect of relevant undertakings carried on by him, showing the financial state of affairs of that undertaking and its profit or loss, together with copies of the latest audited accounts;
 - If more than three months have elapsed since the end of the accounting year covered by the accounts submitted, a certificate from the applicant stating that no material adverse change has occurred;
 - *An outline statement of the proposals for the business of the applicant, or where already provided to the CRU reference to same, to which the application relates, for the next five years, including:*
 - Annual forecasts of costs, sales and revenues and project financing, stating the assumptions underlying the figures provided;
 - Details of any expected subsequent substantial capital outflows, including major decommissioning costs;
 - Estimates of net annual cash flows for subsequent periods sufficient to demonstrate the financial security and feasibility of the project(s) to which the application relates; and
 - Information on the intended source of finance and (where relevant) confirmation from the relevant lender(s).
- (b) Map(s) and marine chart(s) sufficient to identify the location of the interconnector in both jurisdictions;
- (c) A PCI process planning compliance progress report;
- (d) A copy of the Connection Agreement (signed and dated) from the Transmission System Operator (EirGrid plc) or A copy of the Application for Connection to the transmission system; and
- (e) A Construction and commissioning programme, identifying the major milestones in the project development, from authorisation to completion.

Note: All SID application documentation and Foreshore application documentation are also relevant to the CRU Authority authorisation.

Once the application form is complete, it must be sent, along with the accompanying documents, to the CRU. The application fee is €20,000. The CRU may require additional information in respect of the application for support or clarification purposes. If the CRU

decides to grant an authorisation, EirGrid will be advised in writing and the authorisation will be issued shortly afterwards. A refusal will also be communicated in writing.

The CRU has advised that the Authorisation to Construct will not be issued until evidence of receipt of final planning consents has been submitted to the CRU. However, mindful of the timing associated with the PCI process, the CRU will proceed to carry out an assessment of the application while EirGrid are awaiting the planning consents. Once the relevant planning consents have been granted and made available to the CRU and provided, the remainder of the application meets the necessary requirements, the CRU will then issue the Authorisation.

11.3.2 Volume 9B - Consent to Lay Electric Cables – Section 48 and Section 49 of the 1999 Act

Pursuant to Section 48 and Section 49 of the 1999 Act the CRU has functions relating to the transfer of the ESB's powers under Section 51, Section 52 (1) and Section 53 (1) to (5) and (9) of the Electricity (Supply) Act 1927 (as amended).

Section 48 consent grants applicants the power to lay electric lines across or under a street, road, railway or tramway, and the right to break up any street, road, railway or tramway for that purpose.

Section 49 consent grants applicants the power to lay electric lines across or under any land not being a street, road, railway, or tramway.

The Application for Consent under Section 48 and Section 49 of the 1999 Act Forms, respectively, are prescribed by the CRU¹² and the CRU recommends that where required applications are submitted at least two months prior to the date by which the applicant intends to exercise the consent.

Volume 9B will comprise 2 Draft Application Forms, namely:

1. A Draft Application Form under Section 48 of the 1999 Act for Consent to Lay Electric Cables Application; and
2. A Draft Application Form under Section 49 of 1999 Act for Consent to Lay Electric Cables Application

Each of the final applications to the CRU will include the information as set out below, save where explicitly noted by reference to only one of the forms, as required by the application forms¹³:

- (a) Points of contact for the application assessment;

¹² The CRU approved the form of the Application for Consent under Section 48 and Section 49 of the 1999 Act, respectively, to be employed by Celtic on the 22 February 2021.

¹³ EirGrid notes that elements of the information required will not form part of the PCI Draft Application File or Final Application File but rather will be provided in the Final Applications to the CRU noting that the required supporting documentation includes a copy of the CRU Authorisation to Construct an Interconnector as referenced in Volume 9B(1) and the signed and dated planning permission for the Celtic Interconnector.

- (b) The applicant's name and address and the details to appear on the consents letter;
- (c) Details of the company's directors and the company number;
- (d) Interconnector details including, landfall point in Ireland, import and export capacity, technology type, lengths of line / cable, address of the converter station in Ireland, substation address;
- (e) In the Section 48 Form: Details of agreements and letters of consent, including original route maps, detailed justification as to why Section 48 consent is required, the date from which it is intended to exercise the consent, details of the affected land, details of consent received from the relevant County Council, if applicable, details of consent received from CIE;
- (f) In the Section 49 Form: Details of the landowner agreements and letters of consent, including detailed justification as to why Section 49 consent is required, number of and names of affected landowners¹⁴ original route maps, the date from which it is intended to exercise the consent;
- (g) Planning permission details i.e. evidence of any planning permission granted, information on the status of any application, any special conditions;
- (h) Connection Agreement details i.e. evidence of a valid connection agreement, details of the agreement; and,
- (i) Authorisation to Construct an Interconnector details i.e. evidence of a valid authorisation to construct.

The respective application forms will be accompanied by the following documents:

Application for Consent under Section 48 of the 1999 Act supporting documentation	Application for Consent under Section 49 of the 1999 Act supporting documentation
A copy of consent from CIE if the land that will be affected is a railway or tramway;	Copies of all the Letters of Consent from affected Landowner(s);
A copy of the signed and dated planning permission for the Celtic Interconnector;	Copies of correspondence with all the affected Landowner(s) who have not given their Consent (where applicable);
A copy of the Connection Agreement (signed and dated) from the Transmission System Operator (EirGrid plc);	A copy of the signed and dated planning permission for the Celtic Interconnector;
A copy of the CRU Authorisation to	A copy of the Connection Agreement (signed

¹⁴ Please note that the names of the affected landowners will not form part of the PCI Draft Application File or Final PCI Application File, but rather will be provided in the Final Application to the CRU.

Application for Consent under Section 48 of the 1999 Act supporting documentation	Application for Consent under Section 49 of the 1999 Act supporting documentation
Construct an Interconnector; and	and dated) from the Transmission System Operator (EirGrid plc);
A copy of a route map.	A copy of the CRU Authorisation to Construct an Interconnector; and
	A copy of a route map with folio boundaries clearly marked, and a sequenced list of traversed landholdings, detailing Folio number, owner, occupier, land type.

Once the application forms are complete, it must be sent, along with the accompanying documents, to the CRU. There are no fees associated with applications for Consents to Lay Electric Cables. The CRU may require additional information in respect of the application for support or clarification purposes. Once additional information or clarification received, the CRU will notify the applicant whether its application assessment timeline has been updated as a result of the timeline for receipt of the additional information.

11.3.4 Special Order(s) – Section 53 of the Electricity Supply Act 1927 (as amended) (the “1927 Act”) and Section 47 of the 1999 Act

EirGrid will endeavour to reach an agreement with all relevant landowners along the onshore cable route so as to enable the installation of cable on the landowner’s property. In the event that an agreement cannot be reached with one or more of the landowners, a process exists in legislation whereby the CRU may grant Special Orders pursuant to the 1927 Act and the 1999 Act. Each Special Order would allow EirGrid to compulsorily acquire a right of way across the relevant land in order to install the required cable across the land.

An application for a Special Order is not normally required and is viewed as a last resort. There is no standard application process for a Special Order. In the event a Special Order is required, EirGrid would engage with the CRU. The CRU has advised that the CRU may grant a Special Order to enable EirGrid to acquire rights over the land in such instances, where appropriate, and this process may potentially involve a public consultation process up to and including an oral hearing.

11.3.5 A Licence to Operate the Interconnector - Section 14(1) of the 1999 Act

Pursuant to Section 14(1) of the 1999 Act, the CRU has the power to grant or refuse to a person a number of licences, including, a licence to discharge the functions of the transmission system operator under Section 14(1)(e) and a licence to transport electricity across and maintain an interconnector under Section 14(1)(i).

EirGrid plc is the holder of the transmission system operator under Section 14(1)(e) in accordance with Section 14(2A) of the 1999 Act. EirGrid is developing the proposed interconnector under the requirements of Regulation 8 of SI 445/2000 - European Communities (Internal Market in Electricity) Regulations, 2000 and in accordance with its licence. EirGrid may own an interconnector, as provided for under Section 2(3) of the Electricity Regulation (Amendment) (EirGrid) Act 2008 ("2008 Act"), and an interconnector owned by the EirGrid (the TSO) shall be regarded as part of the transmission system for the purposes of the functions of the TSO as provided for in Section 2A of the 1999 Act.

Equally the CRU may grant a separate licence to transport electricity across and maintain an interconnector under Section 14(1)(i). The current form of the Interconnector Operator Licence was published by CRU in April 2018.

The granting of a licence under 14(1)(i) is an 'end stage' consent and is not a requirement for the construction phase of the project. The licence is granted by the CRU, in accordance with the CRU decision paper CER/11/055, upon application to those who have already been issued with an authorisation to construct an interconnector pursuant to Section 16 of the 1999 Act, and who by this process, would be automatically eligible to receive a licence to operate the same interconnector.