
Diarmuid Collins

From: Des.Cox@Eirgrid.com
Sent: Tuesday 30 March 2021 11:01
To: Diarmuid Collins; Valerie.Brennan@Eirgrid.com
Subject: RE: Celtic Interconnector Project

Good morning Diarmuid.

In reply to your email below, firstly, thank you for the confirmation that that the scope of material and level of detail of information proposed is acceptable and satisfies the requirements of Article 10.4. (a) of Regulation (EU) No. 347/2013.

However, we read with considerable concern your response to our information of 18th March, regarding the schedule for the permit granting process, and in particular reference to other consents required. There may be a misinterpretation of the information contained in our submission, which I hope I can clarify with this email.

Article 10 of the Regulation concerns the *"Duration and implementation of the permit granting process"*. Article 10(1)(b) confirms that the permit granting procedure covers *"the period from the date of acceptance of the submitted application file until the comprehensive decision is taken"*. This is the basis for the provisions of Article 10(4)(b) – i.e. requirement for the competent authority to draw up *"a detailed schedule for the permit granting process"*.

Article 2(2) of the Regulation defines the *"comprehensive decision"* as *"the decision or set of decisions taken by a Member State authority or authorities not including courts or tribunals, that determines whether or not a project promoter is to be granted authorisation to build the energy infrastructure to realise a project....."*. This clearly thereby refers to authorisations in respect of the Celtic Interconnector project comprising the SID Approval, the Foreshore Licence and the CRU Authorisations. In short, these are the only authorisations that are required by EirGrid *"to build the energy infrastructure to realise a project"*.

As we have previously discussed, following such authorisation by way of the Comprehensive Decision, EirGrid and its contractors may or may not, during the construction period, require various standard licences or other approvals from different authorities to facilitate such construction. As noted in Table 1.2 of our submission of 18th March, these may include commencement notice, road opening licences, fire safety certificates (upon completion of a building) etc. However, these all relate to the actual construction of the project, and can only therefore be obtained within that construction phase. They are obtained as required imminently prior to construction. Most importantly, they therefore cannot form part of the permit granting phase (i.e. up to the Comprehensive Decision), as they can only be obtained subsequent to the Comprehensive Decision - within the construction phase; yet the construction phase cannot proceed in the absence of the Comprehensive Decision.

On this basis, these various licences etc., listed in Table 1.2 of our submission of 18th March cannot form part of any detailed schedule for the permit granting process per the provisions of Article 10(4)(b), which as per the Regulation only extends up to the Comprehensive Decision.

With regard to the potential Ministerial consent in relation to the 1982 UN Convention on the Law of the Sea, we had separately clarified at a recent meeting that such Ministerial consent is not required in this instance. Hence, it was not included in our submission to you of 18th March. For your information, we hereby re-confirm this is the case, and in support of this include an extract from email from the relevant person at the Department of the Environment, Climate and Communications.

From: Mark Willis [<mailto:Mark.Willis@decc.gov.ie>]

Sent: 07 December 2020 13:33

To: Tuite, Eoghan

Cc: Paul Corcoran; Brennan, Valerie (EXT); Cox, Des; UíChonghaile, Arlene

Subject: RE: Celtic Interconnector – Continental Shelf Act

Hi Eoghan,

I hope you're well.

Following our call on 17 November, and subsequent internal discussions at the Department of Climate, and Communications (DECC), I can confirm that it is the Department's view that the Celtic Interconnector does not require EirGrid to seek Ministerial Consent under Section 5 of the Cor

Having regard to all the above, we hope that you have sufficient information to draw up the detailed schedule for the permit granting process as per the provisions of Article 10(4)(b) of the Regulation, and in reference to Table 1.1 of our submission of 18th March 2021.

Finally, with regard to the flowchart of the Pre-Application Procedure, I confirm that this was the basis for our recent phone conversation when I sought clarification from you as to whether the drawing up of the schedule could occur in parallel with the submission of the DAF. You clarified to me that the two procedures could occur in parallel. This made sense of course, as there is no direct correlation between the drawing up of the Schedule for the permit granting process, and the process of multiple authorities reviewing the DAF.

While having regard to the flowchart within the Manual, I would note that there is nothing in the TEN-E Regulation or the Manual to specify that the drawing up the schedule by the Competent Authority cannot happen in parallel to other pre-application steps.

In this context, I think it helpful to refer to the pre-application process undertaken in respect of PCI0001 – the North South Interconnector, EirGrid's other PCI project to date. This clearly demonstrates that the process of drawing up the Schedule by ABP occurred **subsequent** to submission of the DAF. It is unclear why this would not now apply in respect of the Celtic Interconnector.

Date	Action	Duration
3 Oct 2014	EirGrid submitted Draft Scope to PCI unit of ABP: Draft Scope to describe what would material and level of detail that would be contained in the Draft Application File (DAF) submitted to PCI unit of ABP for their review.	
13 Oct 2014	PCI unit of ABP confirmed Draft Scope is acceptable: ABP reverted to EirGrid advising that proposed Draft Scope was acceptable.	10 days later
7 Nov 2014	EirGrid submitted DAF to PCI unit of ABP: EirGrid submitted 3 hard copies and 6 soft copies of its DAF to ABP for review. This was administrative and does not involve ABP making any judgment as to the merits of the application. Instead its purpose is to allow the competent authority to assess the extent of the information provided in the DAF and, as set out in the Regulation, request any "missing information" that it deems necessary.	26 days later
16 Dec 2014	PCI unit of ABP identified missing info: ABP informed EirGrid that certain specified missing information was required to be submitted.	39 days later

13-Mar 2015	EirGrid submitted missing info to PCI unit of ABP: EirGrid submitted information to ABP which included the information that was requested by ABP on 16 December 2014. ABP was then required to consider the information submitted.	12 wks. later
mid Mar 2015	PCI unit of ABP issued EirGrid a Schedule for the Permit Granting Process: ABP was required to draw up, in close cooperation with EirGrid, the schedule for the permit granting process. EirGrid was then required to publish the information leaflet and advertisement required as part of the modified CPP and thereafter finalise the application file and submit it to ABP in accordance with the schedule.	-
29 Apr 2015	PCI unit of ABP confirmed DAF complete: ABP advised that it had considered the information provided to it by EirGrid in March 2015 and that it was satisfied that EirGrid has now complied with its request of 16 December 2014 for the provision of certain specified missing info. On that basis ABP stated that it would now accept the application subject to the drawing up by ABP of the detailed schedule for the permit granting process. ABP further advised that EirGrid can now proceed to inform the general public, as required under the modified CPP of the indicative date for lodgment of the application.	6.5 wks. later

On our recent call we also discussed how the PCI process is intended to fast-track key infrastructure projects. EirGrid unfortunately now has a very significant concern that there is a real risk to the project meeting a Final Investment Decision (FID) post-consent date of August 2022, due to the delays that will inevitably arise in entering the application process if the DAF cannot be submitted over the next very short while. The FID decision relates to the drawdown of the European Grant for the project which as you know is very significant, and without which the project is not viable.

I hope this email clarifies these matters. Please don't hesitate to contact me should you require further clarity.

Kind regards,
Des

From: Diarmuid Collins [mailto:D.Collins@pleanala.ie]
Sent: 29 March 2021 16:00
To: Brennan, Valerie (EXT)
Cc: Cox, Des
Subject: Celtic Interconnector Project

CAUTION: This email originated from outside of the organisation. Do not click on any links or open attachments unless you recognise the sender and know the content to be safe.

Good Afternoon Valerie,

I refer to the scoping proposal submitted by EirGrid, under Article 10.4. (a) of Regulation (EU) No. 347/2013 in relation to the scope of material and level of detail of information to be submitted as part of the application file. I attach a copy of correspondence dated 23rd March, 2021 received from the CRU in response to your letter and appendices of 12th March. With the circulation of this letter to you, you have now received copies of all the replies received from other authorities concerned. These replies were from: CRU, An Bord Pleanála(SID) and the Dept

AFM. It should be noted that not all authorities concerned replied. Having regard to the content of the responses, An Bord Pleanála (Competent Authority) acting in close co-operation with the other authorities concerned informs you that the scope of material and level of detail of information proposed is acceptable and satisfies the requirements of the Article.

In relation to Article 10. 4 (b) and the detailed schedule for the permit granting process, which is to be drawn up in close co-operation with you and the other authorities concerned, I refer to the information submitted by you on 18th March. Your Proposed Schedule relating to the National process refers on page 5 to the structure of the document and the document addresses the consents required for SID, Foreshore and CRU consenting. Apart from listing other consents required in Table 1.2, I do not see any details for those consents, which should be in line with the guidelines set out in Annex V1(2) to the Regulation. Also, in relation to Table 1.2, your letter of 27th November, 2020 which gave an updated list of possible consents required referred on page 4 to a Ministerial consent in relation to the 1982 UN Convention on the Law of the Sea. That consent is not listed in the Table. Please address the matter of detail for all consents required and clarify the position in relation to a possible consent concerning the UN Convention on the Law of the Sea.

When the above matters have been addressed we, as Competent Authority, will be able to further progress the detailed schedule for the permit granting process in close co-operation with the authorities concerned.

In your email of 26th March, Eirgrid stated that it is ready to submit the DAF. Please refer to page 24 of the Manual of Permit Granting Process Procedures for a flowchart of the Pre-Application Procedure Overview in this regard. Pending finalisation of the detailed schedule for the permit granting process, any submission of the draft application file would be pre-mature.

Regards,
Diarmuid Collins,
PCI Unit.

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