



Commission for Energy Regulation

An Coimisiún um Rialáil Fuinnimh

**Removal of linkage between change of supplier process
and connection agreements in the liberalised retail
electricity market**

**A response and decision paper by the Commission for
Energy Regulation**

CER/06/143

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Table of Contents

Introduction	3
Background.....	3
Summary of Commission’s draft decision and ESB Networks proposal	4
Summary of Comments Received	5
1. Promotion of Competition	5
2. Obtaining Connection Agreements	6
3. Changes of Legal Entity (CoLE)	6
Commission’s Decision	8

Introduction

On 12 June 2006, the Commission published two papers in relation to completion of change of supplier registrations at sites where there was not a signed distribution connection agreement in place. These two papers are listed below:

- Connection Agreements and Change of Supplier Process: Draft ESB Networks Proposal (CER/06/106).
- Removal of the linkage between change of supplier process and connection agreements in the liberalised retail electricity market: A draft decision paper by the Commission for Energy Regulation (CER/06/105).

The Commission asked for comments in relation to both of these papers to be forwarded by 30 June 2006. Three comments were received, from the following market stakeholders:

- Airtricity
- Viridian Power and Energy
- ESB Networks

These comments can be viewed in full on the Commission's website (www.cer.ie).

Background

According to the market rules (Market Process Document - MPD 2: Change of Supplier QH metered)¹, a change of supplier (CoS) registration at a site with an MIC (Maximum Import Capacity)² of greater than 100 kVA can not complete until a connection agreement for this site is signed by the customer and returned to the Distribution System Operator (DSO). The connection agreement is a standard ESB Networks document required in order to formally outline the connection details at that site. Although the number of sites where signed connection agreements were not in place was recognised to be small (but nevertheless persistent) in the context of the total market, Independent Suppliers had argued that the existence of this linkage between the two

¹ MPD2: Change of Supplier QH Metered: *“(The registration is provisionally accepted if) the (customers) MIC is equal to or exceeds 100 kVA and there is no connection agreement in place or there is a change of customer name or registered customer number. In this case, the DSO must confirm the existence of a signed connection agreement before the registration is accepted.”*

² Maximum Import Capacity is defined as the maximum rate of energy use (power) to be borne by the connection as agreed between ESB Networks and the customer (in kVA). The MIC is on the basis of a year.

processes was causing significant delays for them as well as adding costs for the resolution of a process which was ultimately out of their control. In effect, these suppliers believed that the continued linkage of the Change of Supplier Process and the signing of connection agreements would have the following impact:

- Cause delays in registering certain customers. As many of these customers are quite large, significant revenue could be lost through this delay.
- Some CoS registrations were timing out and the customer remained with the incumbent supplier as a result of a failure to return the connection agreement to ESB Networks. CoS registrations time out after 40 days if a signed connection agreement is not returned.
- It would cost suppliers resources as the onus rested with them to help ensure that connection agreements were returned. Connection Agreements are the responsibility of ESB Networks as the Distribution System Operator (DSO) and as such Independent Suppliers should not have to invest time, effort and resources in obtaining connection agreements at these sites.

At the Electricity Supplier's Forum of 7 November 2005, independent suppliers requested that the Commission examine the current market arrangement where the change of supplier process will only complete at sites with an MIC of greater than 100 kVA if a signed connection agreement is in place. The Commission considered this issue and it was discussed at a number of Industry Governance Group (IGG) meetings. The Commission also requested that ESB Networks examine ways in which to resolve this issue. On 12 June 2006, the Commission then published ESB Networks proposals as well as the Commission's draft decision on decoupling the change of supplier process from connection agreements.

Summary of Commission's draft decision and ESB Networks proposal

ESB Networks proposed that in order to deal with this issue, they would identify all of the existing sites with an MIC of over 100 kVA, which had not yet concluded a standard connection agreement and target these sites for the completion of the connection agreement. This would involve issuing a single page schedule of the connection details to these sites along with a cover letter advising the customer that in the absence of a response within a specified period, the standard conditions and the MIC specified on the schedule would be deemed to apply. ESB Networks were of the opinion that this arrangement would result in the successful processing of all change of supplier requests at each of these sites.

The Commission's draft decision proposed the following:

- The implementation of ESB Networks proposal in order to address the problem of a lack of a completed connection agreement at each of the identified sites.
- In addition to this, the complete removal of the linkage between the change of supplier process and connection agreements. This proposal was designed to ensure that change of supplier registrations would not be delayed (or fail entirely) due to the lack of a connection agreement at the site.

Summary of Comments Received

The comments received were in general favourable towards the Commission's draft decision. In general, there were three substantive issues raised. These are outlined below, accompanied by the Commission's response.

1. Promotion of Competition

Both suppliers expressed their support for the Commission's draft decision with one supplier stating that the draft decision if implemented would promote competition and ensure that parties are responsible for aspects of the market over which they have most control. ESB Networks also stated that in general they were in agreement with the Commission's draft decision. Suppliers stated that continuing the linkage between the two processes would cause significant difficulty plus loss of revenue for them.

Commissions Response:

The Commission welcomes the support it has received from all respondents to its proposal and as outlined in the draft decision and believes that the market is appropriately mature at this point for an important market functions such as the change of supplier process to operate separately from the need to obtain connection agreements for existing customers. The Commission is confident that all market participants will play their part to ensure that both processes operate as smoothly as possible, to the benefit of customers.

2. Obtaining Connection Agreements

Both suppliers accepted that it was important that customers should have a signed connection agreement but stated that they did not see any reason why such agreements should be linked to the change of supplier process. The Commission views it as important that all market participants recognise the importance of and necessity for connection agreements.

Suppliers also made the point that it was important to emphasise that the connection agreement is an ESB Networks document and therefore the onus should be on ESB Networks to ensure that connection agreements are obtained. One supplier stated that the process overhead required to resolve the lack of connection agreement at sites which they had registered added significantly to the cost of acquisition as well as significantly delaying the effective date for the transaction.

Commission's Response:

The Commission agrees with these points and believes that it is appropriate that ESB Networks put in place appropriate arrangements to ensure that all sites over 100 kVA has a signed connection agreement in place. In this regard, ESB Networks proposal as published (CER/06/106) is a welcome step forward. However suppliers must also retain a certain level of responsibility with regard to the completion of connection agreements as customers will often contact their supplier in the first instance when seeking assistance or advice. Where possible, suppliers should provide this level of service to their customers.

3. Changes of Legal Entity (CoLE)

ESB Networks in their submission asked the Commission to clarify the intentions and implications of the draft decision paper (CER/06/105) on the processing of changes of legal entity (CoLE) at existing sites. Changes of legal entity occur where a new customer takes over an existing site. There may or may not be a requirement for changes to the connection details at the site, dependent upon the similarity of the needs of the new customer to those of the previous customer at the site. Market Process Document 25 (MPD 25) outlines the rules surrounding a change of legal entity.

DSO has argued that when a new customer takes over at an existing site, there is not a connection agreement in place and this customer has no previous consumption history. For this reason, it is not possible to issue a connection agreement with a deemed MIC, as would be possible for other sites.

Commission's Response:

The Commission agrees that it is not appropriate that this new customer is simply deemed to have the same MIC and connection details as the previous customer at the site. This issue has not been explored or discussed in detail at appropriate industry fora, such as the Industry Governance Group (IGG).

At present the market rules state that there is a requirement for a new signed connection agreement to be completed when a new customer takes over at an existing site (i.e. when a change of legal entity takes place); this rule is in place for similar reasons to the requirement for a signed connection agreement for all new connections over 100 kVA.

Effectively the new customer at the site can be viewed similar to a new connection in that this customer has no previous transaction history with ESB Networks at this site. The Commission believes that it is therefore appropriate that the connection details be agreed before any further market transactions take place at the site (for example, re-energisation, meter works). It must be remembered that these sites (i.e. a site over 100 kVA where a Change of Legal Entity takes place) will be sites belonging to all suppliers and as such any rule in relation to changes in legal entity treats all suppliers equally.

On a certain number of occasions, changes in legal entity are accompanied by change of supplier registrations. In other words, a new customer takes over at an existing site and decides to change supplier from the existing supplier registered at that site. Although this process tends to happen seamlessly, it can however be viewed as a two step process. Step one involves the processing of the CoLE, subject to the market rules. Step two in the process involves the CoS. One of the important aspects of the process is to make sure that a signed connection agreement is put in place. Therefore if a signed connection agreement is **not** in place for the new customer, the CoLE will not complete and the remainder of the process cannot proceed. What this means is that in these cases, a signed connection agreement must be in place before the CoLE can complete, and by virtue of step one failing, the CoS (step two) cannot proceed. This implies the continued linkage of connection agreements and CoLEs (but not connection agreements and the change of supplier process).

In summary the market rules at present state that there must be a signed connection agreement in place at a site with an MIC of over 100 kVA (new connection agreement for the new customer) before the CoLE can proceed. As a result, CoS registrations linked to CoLEs may also be delayed until the connection agreement is signed. The Commission does not propose to change this rule. The following reasons are given:

- The number of sites over 100 kVA where there is a CoS accompanying a CoLE will be extremely small each year. According to figures provided by ESB Networks, for the first half of 2006, 10 sites did not complete CoS as a result in a delay in completion of the new connection agreement arising from a CoLE.

- These sites will be registered to all suppliers and therefore no one supplier is benefiting (or indeed impacted negatively) either directly or indirectly from this rule.
- There is a requirement for a connection agreement to be signed when the CoLE takes place regardless of whether there is a CoS taking place or not. Therefore there is no incentive for the customer to remain with the present supplier at the site, ahead of an alternative supplier for any reason relating to connection agreements.
- Removal of the rule in relation to CoLE may open up a number of other issues in relation to CoLE transactions which have not been considered by the Commission. Furthermore these issues have not been discussed in any detail at the Industry Governance Group or any other market forum. The Commission is open to a full debate on these issues at an appropriate date in the future should market participants request it.

The Commission believes however that in relation to CoLEs, whether or not the CoLE is accompanied by a CoS, ESB Networks should make every effort to ensure that a new connection agreement is obtained as soon as possible. In general the principle of the Commission's decision on decoupling CoS from connection agreements should be maintained. This means that all parties involved in the processing of a CoS should make every effort to ensure that it proceeds smoothly and in as short a time frame as possible.

Commission's Decision

The Commission has decided to implement its draft decision of 12 June 2006 (CER/06/105). For clarity, this will mean the following:

- Implementation of ESB Networks proposal (CER/06/106). This will involve ESB Networks writing to all customers with an MIC of over 100 kVA that do not have a connection agreement in place, in order to try to secure a signed connection agreement. This communication will outline the present connection details at the site including a specified MIC. Customers will be given an appropriate length of time (three weeks has been suggested) to respond after which the specified MIC and connection conditions will be deemed to apply. Customers will be bound to comply with the General Conditions for Connection Greater than 100kVA and the Distribution Code. If a customer responds to the communication and wishes to change their deemed MIC, this will be handled through the existing market processes.
- The Commission is also open to ESB Networks proposal (Section 5.3: Changes of Customer) to hold a focussed workshop to deal with issues

surrounding CoLE, MIC disputes and the process for rapidly obtaining signed connection agreements. This will be discussed further with ESB Networks.

- Implementation of the Commission's draft decision (CER/06/105). This decision states "the complete removal of the linkage between the change of supplier process and connection agreements from relevant Market Process Documents (MPDs)." This decision does **not** state that there is a removal of the linkage between CoLE and the completion of connection agreements and this shall remain in force.
- The Commission believes that this decision will help to nurture competition in the retail market and will ensure that the twin objectives of ensuring an efficient customer switching process and the obtaining of connection agreements, will be achieved. Furthermore maintaining the link between the CoLE process and connection agreements is a sensible approach to ensure that there is not an increase in MIC disputes, or indeed customer confusion at this time.
- This decision will come into force as soon as the relevant Market Change Request has been implemented into the market rules and processes.