

Submission to the Commission of Energy Regulation from the Irish Home Builders Association / Construction Industry Federation, June 1st 2006

Introduction

The IHBA / CIF was astounded to hear that the Commission of Energy Regulation (CER) has proposed a 67% increase in connection charges sought by ESB Networks for domestic scheme developments, 27% for commercial developments and 27% for domestic non-scheme developments. There are a number of different issues that make this proposed increase both ill-timed and ill-advised.

The IHBA has worked with ESB Networks over the last 18 months in order to help smooth the transition for the deregulation of the energy supply market and the separation of the different ESB sectors such as supply and networks. The increase in cost to the developer is completely out of line with any comparable industry inflation or indices such as the House Building Cost Index.

What has disappointed the IHBA / CIF and its members greatly is the lack of transparency and consultation time available to discuss the proposal. Following publication of the proposed changes there were only another 11 days before the close of consultation. The IHBA / CIF is however grateful for this belated opportunity to address the issues that have arisen from these proposed increases. The following are the main points that the IHBA / CIF feel should be considered by the CER prior to agreeing to any increase in charges.

1. Previous Discussions

Following discussions with the CER in February 2005, the IHBA were informed that connection charges may be increased so as to recoup up to 50% of the actual cost during up to 2010. Clarification arose on foot of IHBA members being quoted increases between 260% and 300% from prices that were typical in early 2005.

After this meeting with the regulator, the prices dropped again to the norm and in some cases members were reissued with more realistic quotes. It is with this meeting in mind that the increase of 67% is seen as excessive in the extreme.

2. Delays and Poor Service Quality

The current quality of service provided by ESB Networks is nothing short of appalling and is costing the industry massive amounts of money in delays. Due to the monopoly the ESB Networks enjoys in the network sector, it is plain to see why there is an unfair advantage. As a result, members of the IHBA have been held to ransom while the service levels of ESB Networks continue on a downward spiral. While the industry suffers greatly from this uncompetitive scenario, it is very difficult to justify increases of 67% in capital contributions sought. The logic

of poorer service levels with increased capital contributions is baffling and requires some justification.

The proposed levels of increase have the effect of penalising members of the IHBA on two counts. Firstly with a huge impact on capital contributions and secondly the costs borne by developers due to the delay in connecting developments to the grid. While the current level of service exists from ESB Networks, the IHBA suggests that the CER should freeze any concept of an increase in connection charges as sought by ESB Networks

The IHBA could see some sort of logic if a phased implementation of increased charges was linked in an accountable manner to some obvious increase in the quality of service provided by ESB Networks but this is plainly not the case in this instance.

3. Transparency of the Cost

Having retained an independent Quantity Surveyor to look at the document CER 06/084 "Charges for connection to the Distribution System", the IHBA cannot understand how these proposed increases were arrived at. The breakdown of 5% for inflation, 25% for increase to 50% recoupment of costs and 37% for increased trenching charges does not give any real explanation as to how these figures were calculated.

Firstly, as was mentioned earlier, the IHBA has received no explanation as to why there has been a u-turn on the phased increase to 50% costs up to 2010 that was mentioned by the CER in February 2005. There is certainly no explanation in the above-mentioned document.

Secondly, as can be seen in the correspondence received from the independent Quantity Surveyor, Mr. Basil Conroy, there is no definition as to what a trenching charge entails. There are no depth or width parameters that would allow comparison of the increase of changes proposed. This is merely an example of the lack of transparency that is the basis for these latest increases.

4. Front Loading of ESB Networks' Infrastructure

Another aspect of the current design demands of ESB Networks relates to the Sub-station construction. This is in effect front-loading the infrastructure of ESB Networks. While it may be acknowledged as planning for the future the cost is borne by the developer without mention of any compensation. This scenario is aided by the fact that ESB Networks is in effect a monopoly and can demand whatever design parameters it desires.

As was mentioned in our meeting with the CER on Thursday the 18th of May 2006 the specification and capacity of these substations has increased by ESB Networks out of all order and fails to compare in any manner with the relative increase in energy demand over the last number of years. Where, in the past, ESB Networks requested plinths as substations they now demand rooms or buildings which require planning permission.

5. Logic of Increases

The IHBA also wishes to question the logic that the largest increases should be forced upon the scheme housing. Surely this is the most cost effective and sustainable manner of development where ESB Networks are concerned with less material and labour costs than one-off developments. Why then there is a requirement to increase costs by the order of 67% seems completely illogical especially when 25% if this increase is related directly to trenching charges. Could it be that ESB Networks feel that the best way to increase profits is to target the largest proportion of development types in the country i.e. the domestic scheme development? The IHBA / CIF is opposed to any increase in any of the different sectors mentioned is the circular from the CER i.e. commercial, non-scheme domestic and scheme-domestic.

6. Lack of Consultation

The main customers of ESB Networks are members of the IHBA specifically and the CIF generally. The IHBA / CIF are disappointed that they were not consulted on a more formal basis to discuss these possible price increases. This is exasperated by the fact that it was the IHBA in January 2005 who approached ESB Networks to come to some arrangement with regard to procedures going forward. The continued poor quality of service provided by ESB Networks make it difficult to come to agreement but none the less information was distributed to IHBA members with regard to market opening for energy supply and the introduction of Meter Point Registration Numbers (MPRNs).

7. Regulatory Capture

As can be seen from the attached correspondence received from Mr. Basil Conroy the document Cer06/084 contains very little in the way of Cost Breakdown. The breakdown of these charges is a vital requirement for two reasons.

Firstly, the developer should be able to calculate with some degree of accuracy the capital contributions that he will be required to pay prior to starting a development. This is achievable if one is working with a breakdown that can be used by a Q.S. to determine overall price. Secondly, it makes it very difficult for members or indeed the CER to examine the capital contributions in a transparent and open manner and hence to query the costs.

In the instance of the IHBA / CIF this is a worry going forward in terms of business decisions and procurement of sites. For the CER it raises the issue of “Regulatory Capture” where the entity that they are regulating is also the only source of information. This would certainly appear to be what has occurred in this case as the document gives no explanation as to how the totals are reached.

The most typical symptom of regulatory capture is when the Regulating Body comes to decisions that side very closely with the objectives of the entity it is regulating. It would seem that this is certainly the case with this latest document which:

- Does not include a breakdown of costs
- Grants a decision that will boost the revenue of ESB Networks

- Refuses to take into account the poor quality of service provided by ESB Networks

8. Customer Charter

ESB Networks currently has in place a Customer Charter which is frequently broken due to current poor levels service. In March 2005 the IHBA was informed by ESB Networks that they would be working within the boundaries of this Charter towards the end of 2005. This is not the case in the vast majority of instances and due to the derisory penalties that the Charter applies it means that ESB Networks are not compelled to improve their customer service. The position of ESB Networks as a monopoly should mean that any Customer Charter should have real implications for the company if standards of service fall to levels experienced by CIF members over the last number of years.

9. Recent Increases

Over the last number of years members of the IHBA have experienced increases in capital contributions on similar type schemes without any justification. This undermines the decision to add 5% onto capital contributions from 2004 figures. There has been evidence that costs per unit have increased by significant amounts but it is not known how these increases have been determined, as the methodology for calculation is not known.

10. Future Consultation

As mentioned earlier the IHBA CIF as main customers of ESB Networks would appreciate consultation on further developments in this particular sector of energy supply and any other developments that may have such serious implications for their businesses.

While at the meeting with the CER on May 18th last it was mentioned that your office intends to investigate the quality or service provided by ESB Networks in the near future. The IHBA / CIF wishes to be consulted to provide empirical information that will describe some of the instances of poor quality of service as discussed in an informal and anecdotal manner during our last meeting. The poor quality of service not only impact on the business of our members but also has an effect on their reputation going forward.

Recommendations

- (i) Increases to ESB connection charges must be deferred pending a full independent examination of the basis of the calculation of the charges and the current cost of connection. No increase should be envisaged without meaningful consultation with the construction industry on whom these charges are levied.
- (ii) No increase in charges should be approved by the CER without clear independent evidence of improved customer service delivery by ESB Networks. CIF/IHBA welcomes the opportunity to undertake meaningful dialogue with the CER and ESB on current levels of customer service and measures for improvement.
- (iii) Any proposed increase in charges should be linked with reference to movement the DoEHLG House Building Cost Index.
- (iv) No increase should be permitted at the cost to the developer and subsequently the home purchaser.
- (v) Regulatory measures limiting the demands of ESB Networks on developers to build capital infrastructure including on-site sub-stations should be introduced prior to CER approving any increase in charges for ESB Networks.
- (vi) The CER should request that the ESB Networks Customer Charter is a meaningful document with real penalties for poor quality of service. This is especially required due to the fact that ESB Networks are essentially operating as a monopoly.

APPENDIX

Correspondence received from independent Quantity Surveyor Mr. Basil Conroy of Basil Conroy & Co. Chartered Surveyors following inspection of the documents **Charges for Connection to the Distribution System © ESB 05/05/2006 ref: Cer06/084** and **Charges for Connection to the Distribution System © ESB 26/05/4**

Correspondence 1

Mr. Kevin Flavin
Construction Industry Federation,
Construction House,
Canal Road,
Dublin 6

22nd May 2006

Re: ESB Charges for House Connections 2006-2010

Dear Kevin,

Further to our discussions on the above I now confirm that I have received your email containing the 38 page document issued by **ESB Networks** and titled "Charges for Connection to the Distribution System", Revision 5, dated 2nd May 2006, (Status:- awaiting CER approval).

I've gone through the said document and speaking as a Quantity Surveyor, I have to say it is very long winded, highly technical and involves very little in the way of Cost Breakdown which I, as a QS, can comment on in terms of the charges being value for money or otherwise. (Please note, I am making the assumption that the document was supposed to offer this type of cost breakdown)

There are many spreadsheets and diagrams such as:-

1. MV/HV network charge
2. Domestic non scheme Connection charges
3. Domestic scheme Connection charges
4. Business demand customer connection charges
5. Network charges and trenching charges (see also below)
6. Refunds in respect of shared network etc

All of these are in high-tech, hard-to-understand terminology. The information is of little use in terms of compiling a report on the reasonableness or otherwise of the charges.

The only one crumb of information I could find was under Table A8: MV Network Charges and Trenching Charges whereby a rate of €140.52 applied to roads and paths and a rate of €43.54 applied to grass. I take it these are the costs of digging trenches in both of these situations, however no detail was given of the width of the trench, the depth of the trench, the finish treatment of the trench, what back filling was to be used, whether the pipe was supplied and installed by the ESB or the builder, what size ducting was to be provided and whether it was in a public or private area etc etc. Hence these two items of information cannot be even commented on in terms of their market value.

I do accept that certain lump sum prices were quoted, for instance Business demand customer connection charges relating to various KV connections etc. However, how these final quoted figures were arrived at still remains a complete mystery and I would suggest that the ESB forward fairly basic and simple information, for instance, in relation to the trenches mentioned above, answering all the questions I raised and quoting an individual rate for each of the trade items in question.

The above would be my initial response to the document sent and knowing that time is of the essence, the ESB would need to act quickly to provide the further information that this office would require in order to finalise a reasonable report, as this I believe must take place within the next two weeks.

I hope the above is of use to you at this moment.

Yours Sincerely,

Basil Conroy

Correspondence 2

Dear Kevin,

Further to our previous discussions, I confirm the following

I have received your second document as issued by the ESB (i.e. 2004 issue) and have to report that nothing further has been provided in the way of cost breakdowns that would allow any further scrutiny of the charges being levied.

On page six of the document it states “*Connection charges are based on a number of principles namely (1) Equality of treatment (2) Economic efficiency and (3) Simplicity*”. this is further expanded on page seven where it states “*Economic efficiency is desirable as it encourages the best use of scarce resources. This means that the connection charges should transparently favour customer decisions that make the best use of resources*”

It also goes on to say about simplicity “*Any system of connection charges should be as simple as possible - this has a number of advantages (1) Faster quotation to customers (2) Easy for the customer to understand and (3) Reduction in administrative and auditing overheads*

On all of the above, I have to say that the documents appear **neither simple or transparent**. In fact they will have to be transparent before the customer can agree with their above statement that he (the customer) can choose the best use of resources as they put it.

Lastly, I do concur with your view that in many cases the ESB are extremely late in carrying out the requested connections and this certainly in my experience has led to major difficulties for both the client and a builder and all the knock-on effects that the non-connection of the building in question will cause to the end-user. If and when we establish that the connections are accurately priced by the ESB (if that indeed proves to be the case) then the commensurate quality of service has to go with the price before a judgement can be made on the value for money or otherwise.

I hope the above is of further use in this matter.

Yours sincerely

Basil Conroy.
Managing Director,
Basil Conroy & Co., Chartered Surveyors