



Response to Consultation by the Department of the Environment, Climate and Communications

Terms and Conditions for the First Offshore Competition under the Renewable Electricity Support Scheme (ORESS 1)

Electricity Association of Ireland

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The Electricity Association of Ireland (EAI) is the representative body for the electricity industry and gas retail sector operating within the Single Electricity Market (SEM) on the island of Ireland.

Our membership comprises utilities that represent 90% of generation and retail business activities and 100% of distribution within the market. Our members range in size from single plant operators and independent suppliers to international power utilities. Our members have a significant presence in Ireland, Northern Ireland, and Great Britain across the sector value chain. We represent the interests of the all-island market in all relevant jurisdictions, including the EU via our membership of the European electricity representative body [Eurelectric](#).

We believe that electricity has a fundamental role in providing energy services in a decarbonised, sustainable future, in particular through the progressive electrification of transport and heating. We believe that this can be achieved, in the overall interest of society, through competitive markets that foster investment and innovation.

We promote this vision through constructive engagement with key policy, regulatory, technology and academic stakeholders both at domestic and EU levels.

Our ambition is to contribute to the realisation of a net-zero GHG emissions economy by 2050 or sooner, in order to limit the impact of rising temperatures. Electricity offers opportunities to decarbonise the Irish economy in a cost-effective manner.

Introduction

EAI welcomes the opportunity to respond to the consultation on ORESS 1 Terms and Conditions and have made specific comments in the sections below.

EAI is concerned about the timelines for enabling and delivering offshore wind. The 2019 Climate Action Plan was a watershed moment for developing our offshore wind resource and a significant investment pipeline has come forward on that back of that. We have not seen the 2019 CAP actions implemented quickly enough and 2030 targets are becoming increasingly more difficult to meet.

The reasons for these delays are not clear to us or to the wider public and there is a risk that confidence in the scheme is diminished, and that investor capital goes elsewhere. We must see a concerted effort from Government to remove outstanding roadblocks to allow this critical sector progress.

This issue of risk comes up through numerous guises in the consultation paper and this is an area of significant concern to EAI. As we approach the first ORESS auction, there is significant uncertainty across almost all areas which are important to project developers including the planning regime, grid connection, constraints and curtailment uncertainty to name but a few. EAI is unaware of another proposed offshore auction regime anywhere which involves so many risks to the project developer.

Consultation Topics

Eligibility Criteria

The June 2020 Programme for Government committed to the enactment of the relevant offshore planning legislation within nine months which would have seen a permitting regime set up from March 2021 onwards. While this is still later than the date proposed in the 2019 CAP it would have given developers an understanding of the regime that they would be operating in. It would have seen tight timelines for getting projects ready for auctions etc.

We are now in a situation where the planning legislation is still under development. Even when enacted, there are many implementation steps to be taken by various state bodies including the setting up of a new State Body to process newer projects.

All things being equal, it is hard to rationally conclude that sufficient progress has been made to allow the first ORESS auction to be run in 2022. This is a stark and disappointing conclusion but the lack of progress on this flagship issue has not been sufficient.

However, given the enactment of the Climate Action and Low Carbon Development (Amendment) Act 2021 and its 2030 emissions reduction targets, delay doesn't appear to be an available option. Therefore, where the decision to proceed in 2022 without planning consent is taken, it must consider the unique set of challenges which the system delays have unearthed; to do otherwise risks a failed auction and reduced confidence in Ireland as a place to build offshore wind projects. Therefore, given the uniqueness of the auction, the role of milestones becomes more important to allow well defined deliverable projects to be successful in the auction; this is discussed below.

Indexation

EAI believes that there is a prima facie case to apply indexation to ORESS contracts. We believe this to be the case in general but in particular in the auctions prior to 2030 which will coincide with getting the first projects established. Bidders in the early ORESS auctions in the 2020's will have significant uncertainty.

- The planning regime will be unclear and so they won't know with certainty exactly what they will be building. This takes away the ability to get any adequate level of comfort on expected spend with an OEM before bidding. The projects are also unlikely to have a clear view and settled view on grid costs

- These will be the first large scale offshore wind projects to be built in Ireland and will face many teething problems that come with being a first mover; this creates uncertainty and the potential for delays outside of the developers' control.
- There is a general worldwide dash towards offshore wind to decarbonise electricity systems and this is placing pressure on supply chains for equipment and installations.

Given this, EAI believes that there is a clear case to make provision for indexation, at a minimum during the construction and commissioning phase. For ORESS 1, indexation should also be applied during the planning phase before construction given the risks involved.

There are operational costs associated with offshore wind farms that will be subject to inflationary pressures right through the lifetime of the project.

- Catapult Offshore Renewable Energy in the UK suggests that 30% of an offshore wind farm's costs are not incurred at project start but instead are incurred during the project life or at the end¹.
- In addition, major parts failures towards the end of the project life would need to be purchased at a cost which moved with inflation from the day the project was financed.

Given the general uncertainties and risks faced by offshore wind developers, EAI believes that the full strike price in ORESS should be subject to an appropriate indexation metric. At a minimum, the full strike price should be indexed during construction and 30-40% of the strike price inflated thereafter.

Bid Bond and Performance Security Levels

EAI notes that the bid bonds and security levels will continue to be reviewed until the final terms and conditions are published. As a general point, EAI understands the rationale behind setting appropriate security levels etc and we note the view that the proposed levels are in line with EU norms.

¹ [Wind farm costs – Guide to an offshore wind farm](#)

The level of bid bonds, an in particular performance security, is linked to the level of certainty a project has and the level of risk it faces. ORESS projects will be asked to put down significant monies while not really knowing the full future facing them due to situations entirely out of their control.

In light of this, EAI believes that performance security should be drawn down where the project developer has failed to meet their obligations and it should not be drawn down where failure is due to considerations outside the control of developers (e.g planning delays in ORESS 1).

Interim and Final Milestones

EAI agrees that project developers should be financially accountable for actions reasonably within their control. However, and as mentioned above, bidders in the early ORESS auctions in the 2020's will have significant uncertainty. The proposed terms and conditions appear to be written assuming a largely established offshore wind regime and work from that starting point to establish the appropriate balance of risk between developer and the rate payer base. However, we are still far from having a stable and established regime and there are risks for developers at almost every stage (planning, construction, market, etc) of any project under development. The proposed milestones risk ORESS 1 failing to attract any projects given the risks they are being asked to take and this outcome would not be consistent with our climate ambitions.

Given this, EAI suggests that the Interim and Final Milestones for the early ORESS auctions will need to be sculpted to the reality of the situation faced by project developers. This might ultimately involve the state taking on more risk in terms of delayed meeting of RES targets, but this can be managed through a closer monitoring relationship with the project developer and some clear underlying ground rules. It may also be appropriate to allow for an independent opinion where a project can't meet a milestone to establish the reasonableness of drawing down security cover against it.

Offshore Community Benefit Funds

Community benefit funds are an important aspect of developing new infrastructure projects. They allow local communities to visualise a gain or dividend for new projects thereby helping communities

look at the positives of new critical infrastructure. EAI believes that the link between the project and the community is important and fears this could be lost with the proposed national fund approval, at least based on the detail presented in the consultation.

Developers are working on projects now and community engagement has started. The creation of a national fund at an undefined point in the future will negatively impact community engagement now since project developers won't be able to point exactly to governance and rules for communities looking to access funds in the future.

EAI argues that this approach should not be brought in now; instead, a separate consultation should be run on the matter after ORESS 1 which would set out detailed proposals on governance etc. If that process established a value in proceeding with a national fund, then it should be considered for implementation. Introducing the change now could reduce the number of early offshore wind projects built.

Local Operation & Maintenance

EAI understands the points made regarding the desire to create local opportunities from offshore wind projects. WE would ask that these provisions, where applied reach all offshore projects and not just RESS auctions. This may require codifying the requirement outside of RESS also, perhaps in the MAC or planning conditions.

As a general point, there is significant potential from Offshore wind. Departments in Ireland and Northern Ireland should work in a coordinated way to ensure that the infrastructure and support is in place to allow as much of the construction and operations be completed from ports on the island as soon as possible.

Conclusion

In this consultation response, EAI has highlighted a number of items that should be considered in order to ensure that the ORESS 1 T&C's can reflect the realities and risks faced by investors and thus ensure the materialisation of the significant investment that is now required. On behalf of our

members, we look forward to working closely with DECC and other relevant stakeholders on the development of a world leading offshore sector on the island of Ireland.

The Electricity Association of Ireland, December 2021

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