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| **Information Paper**  |
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Guidance Notes

Applying for an Authorisation to Construct an Interconnector

and an

Interconnector Operating Licence

www.cru.ie

An Coimisiún um Rialáil Fóntas

**Commission for Regulation of Utilities**

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1. Introduction

These guidance notes are to assist applicants in applying for an Authorisation to Construct an Interconnector and should be read with the associated CRU application form.

Applicants must be in receipt of an Authorisation to Construct before applying for an interconnector operating licence.[[1]](#footnote-1)

* 1. Legislative Background

The *Electricity Regulation Act, 1999* as amended (the Act) gives CRU the necessary powers to licence and regulate the generation, distribution, transmission and supply of electricity in Ireland. Sections 16 and 16A give the CRU the function to grant or refuse Authorisations to Construct an Interconnector (an Authorisation), following assessment of an associated application. Section 14 of the Act gives CRU the function to grant or refuse Licences to Generate or Supply Electricity following assessment of an associated application. This includes a licence to transport electricity across and maintain an interconnector i.e. an Interconnector Operating Licence.

A person who constructs an interconnector without an Authorisation is liable to a fine of up to €126,973. These powers are set out in section 16 of the Act. Similarly, a person who transports electricity across and maintains an interconnector without a Licence to do so is guilty of an offence and liable of a fine up to €1,904 or to imprisonment for a term of up to 12 months, or both. These powers are set out in S.I. No. 445 of 2000.

Environmental Compliance

The European Union (EU) (Birds and Natural Habitats) Regulations 2011[[2]](#footnote-2) as amended (the Regulations), implement the EU Habitats Directive (92/43/EEC) and EU Birds Directive (2009/147/EC). Regulation 42(1) of the Regulations requires a screening for Appropriate Assessment (AA) of a “project" as defined in those Regulations, where an application for consent is received by a public authority. Where a project is a type also requiring a development consent within the meaning of the Planning and Development Acts 2000 (as amended), the obligations under Regulation 42 do not apply and CRU is not required to undertake AA screening of that project. The application requirements for an Authorisation set out in this document are reflective of this fact. However, for untypical projects where planning permission or a development consent is not required, CRU may be required to undertake AA screening and, if appropriate, an AA of the project. This will be determined on a case by case basis. If you think your project may be ‘untypical’ then please request a pre-submission meeting to discuss your submission requirements with the Licensing Team via licensing@cru.ie.

1. When Should I Apply?

Applicants can apply as soon as they have all information required by CRU as set out in this Guidance and the associated application form.

* 1. Pre-submission Meetings

Applicants are encouraged to avail of a pre-submission meeting with CRU. At this meeting, CRU will set out the application and assessment process and answer any questions the applicant may have following their review of the guidance notes and application forms. Applicants should contact CRU via licensing@cru.ie to request a pre-submission meeting. Additionally, the CRU completeness check template is provided in Appendix I to assist applicants in developing valid applications.

1. Application Fee

The application fee of €20,000 must be paid at the time of submission of the application. Payment will only be accepted by Electronic Funds Transfer (EFT). The CRU bank details are:

**IBAN:** IE91AIBK93208677400043

**BIC:** AIBKIE2D

1. Submission Format

A ‘Completeness Check’ listing all documents that applicants should enclose with the completed application form can be found in Appendix I. The application form also details these documents.

Please ensure to number and name your application documentation in line with the Completeness Check document e.g. attach connection agreement details as ‘6. Connection Agreement’. Failure to do so, or submission of additional documents not requested will result in a return of same and ultimately a delay in the assessment of your application

All documentation should be submitted electronically via licensing@cru.ie. Hard copies are not required. Files that are too large to be submitted by email should be provided by file share software.

1. Application Validity

CRU has developed application forms and guidance documents to assist applicants in developing a valid application. The relevant application forms are available at [www.cru.ie](http://www.cru.ie).

Additionally, the CRU completeness check template is provided in Appendix I to assist applicants in developing valid applications. On receipt of an application, the CRU assessment team will carry out a **Completeness Check** to confirm that the application is valid. Should CRU receive an invalid application i.e. missing documentation or an incomplete application form, the applicant will be informed that their application is incomplete and will not be processed. A written list of the incomplete sections will be provided to support the applicant’s development of a new and valid application.

Applicants should note that updating their application mid assessment will delay the CRU assessment process and may necessitate a full reassessment. It may also invalidate the original application and result in the requirement for a new application. The decision to require a new application or recommence an assessment will be made on a case by case basis and is fully at the discretion of CRU.

1. How Long Will it Take to Consider my Application?

CRU aims to meet the following application assessment timelines:

|  |  |
| --- | --- |
| **Assessment steps** | **Timeline** |
| Acknowledge receipt of application | Within 1 week of receiving application |
| Completeness Check  | Within 2 weeks of receiving application |
| Assessment | Up to 13 weeks |
| CRU final decision-making process  | 3 weeks following completion of assessment  |

The assessment timeline is dependent on the applicant’s response times to Additional Information requests. Please note that requests for an update on the application assessment progress will be responded to only by reference to the above assessment timelines.

1. CRU Assessment and Applicant Updates

Once the application has passed the Completeness Check, the applicant will be notified that the assessment has formally commenced. A CRU application reference number will be assigned for assessment and this should be used in all correspondence with CRU.

The assessment will cover the following disciplines:

* 1. Administrative
	2. Impact on Safety and Security of the System
	3. Feasibility of the project
	4. Technical capability of the applicant, and
	5. Financial capability of the applicant.

To keep applicants aware of assessment progress, fortnightly **Assessment Progress Reports** will be issued by CRU for the duration of the assessment. An example of an Assessment Progress Report is provided in Appendix II.

Should an applicant require information that is not contained in the Assessment Progress Report, they may submit a request for information to CRU by email via licensing@cru.ie. This will be responded to in the next Assessment Progress Report.

During the assessment, CRU may require **Additional Information** from the applicant to support their submission, or to clarify information already submitted. These requests will be issued within the Assessment Progress Report.

Where matters arise that have the potential to result in a refusal of an application, the applicant will be informed at the earliest opportunity to afford them the time to address the matter through the submission of Additional Information.

1. CRU Decision Making Process

If CRU determines an Authorisation should be granted, the applicant will be issued with a soft and hard copy of the signed Authorisation.

If CRU decides to refuse an Authorisation, the applicant will be notified in writing of the reasons for the refusal and will be informed of the appeals process as per Part IV, Sections 29 to 32 of the Act. Please note that the appeals process is external to CRU procedure.

In granting an Authorisation, CRU is not endorsing the plans of an interconnector and it cannot be relied upon as an indication of the likely commercial success or otherwise of its holder.

1. Inactive Applications

Where CRU has not received a material response to a request for additional information for a period of 3 months, CRU will notify the applicant that the issuance of the Assessment Progress Reports will be put on hold until the applicant has provided an appropriate response or update.

Where CRU has not received a material response to a request for additional information or has had no contact from the applicant for a period of 6 months, CRU will write to inform the applicant that their application is deemed to be expired. If the applicant subsequently wishes to reapply, they must submit a new application form and associated documentation.

1. Terms and Conditions of an Authorisation

Details of all terms and conditions can be found in the Authorisation. Of particular note:

* Authorisation holders are required to complete the construction and commissioning of the interconnector no later than seven years from the date that it comes into force, unless otherwise directed by CRU.
* CRU may revoke an Authorisation if the holder fails to comply with its terms and conditions.
1. Confidentiality of Information Submitted

Information provided in an application form and supporting documents will be covered by Section 13 (Prohibition on unauthorised disclosure of information) of the Act. However, the information we hold is subject to the access provisions of the Freedom of Information Act, 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (AIE Regulations). Details of the information we will publish can be seen on the CRU website. Applicants are reminded that when providing confidential or commercially sensitive information, this should be clearly outlined within the application.

1. Further Information on the Irish Electricity Market

There are a number of websites that can provide applicants with information about developments in the Irish electricity market including:

* CRU: Regulatory Information: [www.cru.ie](http://www.cru.ie)
* SEMO: Market Information: [www.sem-o.com](http://www.sem-o.com)
* EirGrid: Connection Matters [www.eirgrid.com](http://www.eirgrid.com)
* Gas Networks Ireland: Connection Matters [www.gasnetworks.ie](file:///C%3A%5CUsers%5Cacronin%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5C39BJUDGW%5Cwww.gasnetworks.ie)
* SEAI: Sustainable Energy: [www.seai.ie](http://www.seai.ie)
* DCCAE: REFIT – Renewable Subsidies: [www.dccae.ie](http://www.dccae.ie)

**AUTHORISATION TO CONSTRUCT AN INTERCONNECTOR**

**CRU COMPLETENESS CHECK**

**Submission of Supporting Documentation**

Supporting documentation must be submitted in accordance with the below references to ensure an efficient application assessment e.g. attach connection agreement details as ‘6. Connection Agreement’. a delay in the assessment of your application.

**All applications must include the following information:**

1. **Application Form**

Signed and completed application form.

1. **Application Fee**

Proof of payment of application fee.

1. **Financial Information**
	* 1. Statements of the accounts for the last two years kept by the applicant in respect of relevant undertakings carried on by the applicant, showing the financial state of affairs of that undertaking and its profit or loss, together with copies of the latest audited accounts.
		2. 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 no material adverse change has occurred.
		3. Where the applicant is a special purpose vehicle, a statement of relevant parent company accounts and guarantees.
		4. An outline statement of the proposals for the business of the applicant 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

Information on the intended source of finance and (where relevant) confirmation from the relevant lender(s).

1. **Location of Interconnector**

Map(s) or marine chart(s) sufficient to identify the location of the interconnector in both jurisdictions.

1. **Planning Compliance**

PCI process planning compliance progress report

Non-PCI process proof of planning compliance or progress report

1. **Connection Agreement**

Proof of connection agreement

**or**

Proof of application for a connection agreement from the transmission system operator

Both must include a reference number and MEC

1. **Technical Information**

Company profile showing the qualifications and experience of company who will operate the proposed interconnector

1. **Construction Timeline**

Construction and commissioning programme, identifying the major milestones in the project development, from authorisation to completion.

The submission of additional information by CRU may be requested at any stage in the assessment process.

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**ASSESSMENT PROGRESS REPORT [DATE]**

CRU APPLICATION REFERENCE:

INTERCONNECTOR NAME:

DATE RECEIVED:

ASSESSMENT AREA PROGRESS REPORTS

|  |  |  |
| --- | --- | --- |
| **Assessment Area** | **Progress Update** | **Additional Information request**  |
| **Administrative** | e.g. Complete/ In process/ On hold pending response to additional information request |  |
| **Technical** | e.g. On hold  | Awaiting response to additional information request of [DATE] |
| **Financial**  | e.g. In process  |  |

|  |  |  |
| --- | --- | --- |
| **Query type** | **Date received**  | **Response**  |
| e.g. voicemail query, email query | [date] | CRU will provide responses to all written or voicemail queries received via the fortnightly progress report |

Applicant responses to Additional Information requests must be sent to licensing@cru.ie. Applicants must insert the CRU application reference number into the subject line on all email correspondence.

* A delay in responding to an Additional Information request may result in a delay to the overall assessment timeline.
* Where CRU has not received a response to a request for additional information or has had no contact from the applicant for a period of 3 months the issuance of the Assessment Progress Reports will be put on hold until an appropriate response is provided.
* Where CRU has not received a response to a request for additional information or has had no contact from the applicant for a period of 6 months, the application is deemed to be expired.
1. Regarding an Interconnector Operating Licence, the Commission for Regulation of Utilities (CRU) decision paper CER/11/055 stated that *“The CER* [now CRU] *will grant this [interconnector operating] licence upon application to those that already have been issued with an authorisation to construct an interconnector pursuant to Section 16 of the 1999 Act, who by this process, would be automatically eligible to receive a licence to operate the same interconnector.”* CRU will inform eligible parties of the application process for an Interconnector Operator licence at the appropriate time.  [↑](#footnote-ref-1)
2. S.I. 477 of 2011 [↑](#footnote-ref-2)