
A response by EirGrid PLC

10 March 2017
Introduction

EirGrid welcomes the opportunity to respond to the Commission for Energy Regulation’s (CER) CER Consultation on Criteria for Granting Derogations Pursuant to Articles 62 and 63 of the Requirements for Generators Commission Regulation (RfG) (EU) 2016/631 of 14 April 2016 (the ‘Consultation Paper’).

EirGrid is the licensed Transmission System Operator (TSO) in Ireland. EirGrid is responsible for planning and operating the transmission system safely and securely to ensure a reliable supply of electricity.

EirGrid also operates the All-island wholesale electricity market with SONI (the TSO in Northern Ireland) through the Single Electricity Market Operator which has been in operation since November 2007.

There are two aspects of this consultation that directly relate to EirGrid's activities. Firstly, EirGrid holds a transmission licence and on occasion requires derogation from some of the provisions within that, for example derogation from the obligation to enforce a particular requirement under the Grid Code in respect of a specific user. Secondly, the European Network Codes oblige EirGrid, as TSO, to undertake assessments of requests for derogation from those codes, prior to final determination by the CER.

EirGrid's response to this consultation focuses on both of these roles.
Key Points

EirGrid’s response addresses three key issues:

- **Consistency between Grid Code and Network Code process:** EirGrid suggests that these criteria may also apply to all Grid and Distribution Code derogation requests not just specifically Network Code derogation requests. Once the Network Code requirements are adopted into National Grid and Distribution Codes EirGrid expects that the majority of derogations requested under the Grid Code will now also be Network Code derogations. Given the current primacy of the Network Codes, it may be better if all regulator assessments for derogation requests followed the same assessment criteria.

- **Rights to apply for and retain a derogation:** EirGrid notes that RfG Article 62 (12) allows for third parties to apply for derogations on behalf of licensees for Type A generators e.g. manufacturers may submit class derogation requests. RfG Article 63 allows for the relevant system operator or relevant TSO to request a derogation for a class of PGM connected or to be connected to their network.

- **Specificity of criteria for assessing derogations:** EirGrid welcomes the proposed criteria for assessing a derogation request. However EirGrid would request further specificity in respect of these criteria to fully understand how applicants for derogations will assess their projects against these criteria. It is not sufficiently clear to us where the specifics of these criteria are/will be set out and to ensure fair and transparent assessment it is important that they are set out.

EirGrid would welcome an opportunity to meet with CER to discuss this response, to ensure that the final guidance facilitates our compliance with the Network Codes in an efficient manner.
Consultation Response

EirGrid’s response to the consultation is set out using each of the relevant headings as per the consultation paper.

Section 1.2 Background

There are two items noted in this section that EirGrid would like to clarify.

Firstly, the table included in the consultation document is a good indication of the thresholds that will apply for each type of generation and has been made publically available by EirGrid at numerous fora. However, it should be noted that EirGrid and SONI will be releasing a consultation on the banding thresholds for each jurisdiction in the coming weeks and as such the thresholds are not yet finalised.

Secondly, it should be noted that the System Operators intend to have all technical requirements and parameters finalised in advance of May 2018. However the date for compliance to the Network Codes is May 2019, at that time all requirements of the network codes including processes will be adopted into national legislation where appropriate.

Section 1.5 Responding to this Consultation

Section 1.5 of the consultation states that:

“the CER is consulting on the criteria that the CER should use to assess derogation requests under the RfG. The CER is not consulting or amending the criteria used to assess the Grid and Distribution Codes derogations”

EirGrid would like to note that Network Code requirements will need to be adopted into relevant national documentation for example; connection contracts, licences and Grid Codes. It is unlikely that a derogation request against a Network Code requirement would not require a derogation against a mechanism utilised nationally for implementation. EirGrid believes that there might be efficiencies to be obtained through updating the Grid Code assessment criteria to align with that identified in the Network Codes, simplifying the regulatory arrangements for all market participants.

Section 2: Criteria for Derogation

Rights to Apply For and Retain a Derogation

EirGrid notes that the introduction of the consultation document covers derogation requests detailed in both Articles 62 and 63 of the RfG. However Section 2, ‘Criteria for Derogation’ details only power generating facility owner or prospective owner requests for derogations. RfG Article 62 (12) allows for third parties to apply for derogations on
behalf of PGMs for Type A generators e.g. manufacturers may submit class derogation requests. Furthermore, RfG Article 63 allows for the relevant system operator or relevant TSO to apply for derogations.

**Assessment Criteria**

EirGrid welcomes the proposed criteria for assessing a derogation request. However it is not sufficiently clear to us where the specifics of these criteria are/will be set out and to ensure fair and transparent assessment it is important that they are set out

While the consultation paper sets out the criteria to be applied in the assessment of derogations, in certain instances it is not clear what the basis of carrying out these analyses will be or how the CER will ensure a consistent application of approach between different applicants when submitting their own assessment of these impacts. For example, we believe that the CER needs to set out in detail how they expect applicants to assess each of these items, what cost basis should be used for carrying out the assessment and the overall framework for assessing the impact on; the electricity system, the interests of consumers/other parties, cross border trade, the potential for discriminating treatment of existing PGMs or the required cost benefit analysis methodologies.

For EirGrid to be able to fulfil our role under the codes, it will be important that these criteria are clear, specific and that the thresholds for passing or failing to meet the criteria are set out following consultation. This would allow EirGrid as TSO to take account of these criteria in a consistent, transparent and non-discriminatory manner when carrying out its own system operator assessment.

In terms of criteria number 6; EirGrid would like to note that there may be confidentiality concerns with respect to the System Operator providing compliance information of one unit to a third party.

**Non-compliance during assessment**

Under RfG Article 61 (3) the Regulatory Authority may decide that the power generating module for which a request for a derogation has been filed does not need to comply with the requirements from which the derogation has been sought whilst the assessment is being completed. EirGrid would welcome clarity from the CER if this approach is to be adopted by the CER either as a general rule or on a case by case basis. If this will be done on a case by case basis we request that the CER set out how and when applicants will be informed if they must comply with the requirement whilst the assessment is being made. The option of a derogation applying from the date of application may also merit consideration.