

Department of the Environment, Climate and  
Communications  
Government Buildings  
Newtown Road  
Wexford  
D02 FX65

**SSE plc**  
Red Oak South  
South County Business Park  
Leopardstown  
Dublin

**Re: Review of the Access to Information on the Environment (AIE) Regulations 2007-2018**

Dear Sir/Madam

I am writing to you in response to the consultation on Access to Information on the Environment (AIE) Regulations 2007-2018. SSE has a number of operations in Ireland with the potential to be impacted by the interpretation and implementation of the regulations. In summary, our response calls for increased guidance to be provided for businesses such as our own.

**Who we are**

SSE is one of Ireland's largest energy utilities with responsibilities which include:

- Owning and operating 28 wind farms totalling 890 MW across the island of Ireland, offsetting over 700,000 tonnes in carbon emissions annually;
- Supplying over 700,000 customers with green electricity and natural gas, as well as providing energy efficiency services and rooftop solar installation to businesses and households;
- Owning and operating four thermal power stations, totalling 1,292 MW, including one of Ireland's newest and most efficient gas-fired power stations at Great Island, Co Wexford;
- Employing 1,000 people as a Living Wage employer and proud recipient of the Business Working Responsibly and Fair Tax marks; and
- Providing over €1.5m annually in community funds, bringing our total community investment to over €10m so far.

**Increased applicability**

As the Department will be aware, in a judgment on 25 January 2021, the High Court overturned the decision of the Commissioner for Environmental Information that the notice party, a wind farm development undertaken by a joint venture between ESB and Coilte, was not a "*public authority*" for the purposes of Article 3(1) of the European Communities (Access to Information on the Environment) Regulations 2007.

This decision was partially based on the project having an authorisation to construct a generation station provided by the Commission for Regulation of the Utilities (CRU), and also on this conferring special powers on the party in question. As such, it was determined that the company should be considered a public authority for the purposes of the AIE Regulation. This decision, subject to appeal, brings all private electricity generation within the scope of the AIE Regulation as a "public authority".

**Further Guidance**

Whilst the practical implications of this for the sector remain to be seen, SSE has significant concerns related to the relatively low levels of guidance available for parties in relation to implementation of the AIE Regulation. Unlike public sector bodies that have experience dealing with this particular matter, we are unused to dealing with requests for information under, and implementing the machinery of, the Regulations.

In particular, we would request that the Ministerial Guidelines that were prepared by reference to Article 14 of the Regulations be revised and updated as they are now quite out-of-date, and of lesser assistance accordingly. Also, we would request that Article 14 be amended so as to require a regular revision and updating of the Guidelines every number of years.

Furthermore, it would be useful if the Commissioner could publish guidance notes on the interpretation and application of the Regulations, and, in particular, the exemption/exclusion provisions, similar to the ones published by him in his role as Information Commissioner. Again, the Regulations might also be amended to provide for the publication and regular revision and updating of such guidance notes by the Commissioner.

Should you have any questions in relation to our response, please do not hesitate to get in touch.

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Head of Policy & External Relations - Ireland, SSE plc