



An Cláíomh Glas

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28 Oct 2022

The Department of Environment, Climate and Communications
Wholesale Electricity and Gas Policy Division
Department of the Environment, Climate and Communications
29-31 Adelaide Road
Dublin 2
D02 X285
By email only: energyconsultation@decc.gov.ie

Re: Consultation on the Review of the security of energy supply of Ireland's electricity and natural gas systems

Dear Sir/Madame,

An Cláíomh Glas and the undersigned in a personal capacity welcome the opportunity to engage in the above consultation. A number of brief points on the topic are provided below.

- 1. There is a flawed underlying assumption guiding this review, namely that we can, and should be trying to perpetuate and deliver on an expectation of un-interrupted energy consumption.**

As a preliminary and overarching remark we wish to take issue with the assumption and serious implications of the statement associated with this consultation on the consultation web page – that: *“Having a reliable source of energy is vital for consumers to have confidence in the transition to a net zero emissions future.”*

While undoubtedly current generations living in Ireland have come to expect and rely on a continued and generally speaking an un-interrupted supply of energy – this is simply not something we can realistically expect to continue into the future, particularly given: a) geo-political events and b) the failure to embark on a transition to low-carbon energy sooner and more effectively.

People are not fools, and we have demonstrated in the context of the limitations on personal freedoms and consumption and behavioural patterns required during the height of the Covid pandemic – that they understand and will respond to expediencies and public health imperatives. In the context of the increasing imperatives associated with the existential threat associated with climate change – it is naïve, incorrect and misleading of Government to imply that the public are not up to responding accordingly. However, instead a self-serving narrative of un-interrupted growth and consumption is being allowed perpetuate, including within this consultation, which favours the interests of the few, at the expense of the many.

In short – if people are supported and informed – they are perfectly capable and indeed willing to adjust to new expedient realities – including one where energy is not considered to be an unlimited resource whose consumption is without consequences.

Therefore any underlying assumption guiding this review that what we should be aiming for is a seamless uninterrupted transition – is a fundamentally incorrect starting premise. This has of course serious implications for what we plan for, and the security review should in the first instance be informed by an evaluation of what is a feasible but serious retrenchment in energy consumption. The ultimate threats to energy security will be the effects of climate change. So our ability to limit it, and its effects must be addressed with the utmost urgency, and this is simply not being done.

In seeking to curtail energy consumption, we of course need to identify and protect those who are particularly vulnerable to interruption in energy supply, and who will suffer unduly as a consequence. But there are tough times ahead for the rest of us and the sooner there is honesty about that – the sooner we can really assist people adjust to the minimising the impact of what is entirely unsustainable consumption of carbon intensive energy in our way of life. This is a public health imperative – even more so than the covid-19 pandemic.

2. Ireland needs to withdraw immediately from the Energy Charter Treaty and reject agreements with investor state dispute settlement arrangements such as the EU Canada Comprehensive Economic and Trade Agreement, CETA, and promote at EU level and within the EU Member States the rejection of the type of investor state dispute settlement arrangements in such agreements.

To provide for absolute un-trammelled and un-hindered autonomy to act in the public interest in respect of energy policy – the Government should withdraw immediately from the Energy Charter Treaty, ECT, lest the fear of being sued cause a regulatory chill and hinder public interest decisions. Similarly it should not enter into agreements with investor state dispute settlement arrangements. This is something we would be happy to expand on separately – but we would remind Government of the important testimonies delivered including before the Joint Oireachtas Committee for EU Affairs earlier this year in relation to CETA.

Other EU member states such as France, Spain and the Netherlands have finally and very belatedly acknowledged the futility of trying to re-form the Energy Charter Treaty, ECT, and see it as a major exposure and limitation to their Paris Agreement obligations and the interests of their citizens, and are now following the lead established by Italy many years ago.

Given the sunset provisions in the treaty which extend the application and exposure to investor state dispute arrangements for 20 years after exit from the agreements – it is all the more important to exit sooner rather than later. This is particularly in the context of the expectations which may be fuelled and disappointed in the short to medium term while we continue to adjust to the increasing issues associated with climate change and geo-political events, including the invasion of Ukraine., and further invasion threats including from China.

Additionally, as now sadly invariably we will see further increasing world tensions arising from not just those event, but also the de-stabilising effect of climate change particularly in the global south. With these, and the also now invariable increase in severe weather events and food shortages, there will be a belated and increased realisation of the imperatives to react and make much more aggressive and realistic policy choices. It is essential that these choices are not hindered or even delayed by agreements such as the ECT or CETA.

We welcome the decisions of France, Spain and the Netherlands to exit the ECT and commend them for this. We consider the current move is a vindication of the calls we and others including colleagues at a European level have been making for many years in respect of the deeply damaging aspects of such agreements.

We also call on the Irish Government as an outcome from this review – to not only exit the ECT, but to use its influence at EU level to additionally catalyse other Member States to exit, and to signal unequivocally to the EU that Ireland will not ratify CETA. This will enable a speedy reality check to stimulate negotiation of a more sustainable trade agreement with Canada and framework for other future EU trade deals. There is no place for uncertainty in relation to the issues at stake here, particularly given Canada is not party to the ECT, but it would be party to CETA clearly, and Canadian energy interests in Ireland would be a serious concern and exposure.

3. LNG and nuclear

We support the calls of many civil society organisations and eNGOs in their rejection of any future investment and reliance on LNG.

Additionally, we wish to highlight the ongoing issues and risks associated with nuclear and reliance on it as an alternative, and we reject totally the inclusion of nuclear as sustainable within the EU Taxonomy, alongside fossil gas.

Ireland's energy security must be seen not just as an end in itself – but as a means to an end – which is for a sustainable existence of our society, environment and economy. For a small open economy like Ireland that in turn is dependent on the same in other economies we therefore need to concern ourselves, for our interest in the sustainability of the economies on which we depend, while recognising their sovereign right to determine their energy solutions. However, the endless delays, technical issues and cost over-runs associated with new nuclear as we have seen in Hinkley Point C, Flamanville in France, Olkiluoto in Finland and technical issues in Taishan in China – should be a sufficient salutary warning about the delusion of seeing nuclear as an alternative energy solution. This is quite apart from the extent to which France earlier this year experienced with around half of its nuclear power fleet off-line for significant periods and most not for routine maintenance. Given the scale of the energy output of these plants – the issues which arise when they go offline – particularly unexpectedly has major consequences. The recent pursuit of nuclear is a dangerous delusion which has served to delay the transition to renewables and the necessary investment in same. Ireland needs to exercise its voice more robustly in transboundary consultations on such matters.

Further, there remains still no solution to dealing with the waste and this is a huge issue of concern given the known flood-risk status of so many of the UK's nuclear power plant sites, and their plans to continue to maintain storage on site for upwards of one hundred years. This will only be exacerbated by further sea level rise. Ireland's energy security – not just in terms of the interconnectedness of the energy supply and demand frameworks across nations – must be more proactive in terms of protecting our interest against further and further reliance on nuclear by our energy partners. While we must of course respect the sovereign right to determine energy choices of other nations – we also need to look to our common interests – and the risks associated with not just energy supply – but the very under-lying reasons we want to protect energy supply. The continued pursuit of new nuclear and the delays in delivering that, has resulted in the extension of the lifetime of operation of the existing fleet of plants well past their sell by date across Europe. This presents not just an increased risk of a nuclear incident, the consequences of which Ireland is not immune too, but also means a major risk in the overall energy infrastructure of our energy partners, and to their economies, and in turn to us. Ireland needs to be more proactive once again in advocating strongly against nuclear.

4. Offshore Renewable Energy, ORE – address the non-compliant framework, including in respect of access to justice.

In order to be able to deliver on the expectations around what offshore renewables can deliver – Ireland needs to come to terms with the serious legal issues within the National Maritime Planning Framework and the Maritime Area Planning Act and the changes effected to the Planning and Development Act for ORE. Without question the issues therein are going to lead to delays and frustrations for all who seek to see truly sustainable energy delivered in a legally compliant manner which does not thrash marine biodiversity and the critical role that plays in maintaining life on earth. It is futile and insane to pursue renewable energy for climate – at the expense of a natural climate change resources in the marine environments, and ones so fundamental to life on earth and atmospheric regulation. This is an issue we would welcome an opportunity to expand on – as there remains a serious failure to appreciate the gravity of the legal issues, and the risks to marine life associated with the current approach.

It is also futile to believe that legal challenges can be suppressed – what will result in even more complex and lengthy legal proceedings if the Government continues on the route of impinging on access to justice rights and obligations. This will not only delay delivery of projects but undermine confidence in Ireland as a place to do business.

5. Vulnerability of ORE and sub-sea cable infrastructure and the wider impacts of this.

The events last year in particular with exercises proposed in the Irish Exclusive Economic Zone, EEZ, by the Russian Federation, which then moved outside the EEZ – was a signal warning in terms of the vulnerability of our sub-sea cable infrastructure. An energy solution which is dependent on this is vulnerable to sabotage or accident. The configuration of this needs to address the issues with single points of failure or of vulnerability.

The feasibility and tolerance of ORE to increased severe weather events has also not been properly assessed. It was very clear in the context of recent consultation exercise from the EU Commission on the potential for ORE in the north Atlantic – there was no proper consideration of this as a limiting factor.

Ireland also needs to better avail of the intersections between EU law and the United Nations Law of the Sea to limit the use of sonar in our waters, given the serious consequences this has for one of our most important natural carbon sequestration assets – cetaceans, and indeed to facilitate better oversight of movements through our waters. The resourcing of the Irish Naval service and Air Corps also needs to be considered here, and investors making profits in our seas need to support such infrastructural development.

Further serious consideration is needed on the overall configuration of our energy organisations, and what elements need to be in the public domain – and the public interest remit under which they operate, which needs to have a very clear and unequivocal sustainability priority.

6. Data Centres and the obligations to provide connections.

The requirement for grid connections to be provided to any development which has secured planning permission is a fundamentally flawed model – particularly given the deficit in sustainability and climate and energy consumption considerations in our planning and planning decision-making processes. This is a time with the relevant legislation, and in particular the Electricity (Supply) Act 1927 needs to be revisited as a matter of urgency.

The failure of the National Planning Framework to properly assess and capture the issues which arise consequent on the over-proliferation of data centres and the energy exposure we have consequent on this is in itself a serious issue which needs to be addressed and re-dressed. In the first instance a policy driven it seems primarily by the IDA has had the most serious consequences for the State. Lessons need to be learned from this and the IDA need to ensure that current and future investments attracted to Ireland are in fact properly sustainable, and not just economically.

A moratorium on data centres needs to be imposed, and serious legal evaluation of how we can limit our exposure to those here and with permission also must be considered as a priority.

7. Carve-out from EIA obligations

We understand from media reports that it is intended to exempt/exclude certain emergency energy projects from EIA. It is imperative that the tests and thresholds for this are observed properly, and that the benefits of the assessment and participation elements of the process are observed – lest we end up with multiple “Derrybriens windfarms” in terms of serious environmental consequences not properly appreciated with devastating effects.

Conclusion

Finally, Ireland’s expectations of sectoral emissions need to be rebalanced to ensure they do not compromise our biodiversity further.

Yours sincerely

Chair of ACG – [REDACTED]

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