

EnergyLaw@Lansdown Chambers

The Future for Renewables Generation

Developers of small to mid-sized renewable energy generators - anything up to 99MW solar farms or 20+ wind turbines and most biomass and short-duration batteries – would have experienced a check to their business as a result of the introduction of the new revolutionary connections regime. While the connections process paused to allow the changes to be made to its arrangements, all these developers would have been forced to pause, too.

The big question for these developers (and the sheer number of outstanding applications for connections shows there are very many of them) is whether the interruption to their business is more than short term and whether they can adapt the way they operate to the new connections regime.

As to the interruption, that is ending in fits and starts with the new application periods not yet specified. Even after the pause ends, there will be more changes to be made to the regime, either to ensure applicants for connections do what they say they will (a financial incentivisation is being introduced for Gate 2) and pay their ‘fair share’ of charges (a new change to recoup from co-located generation). There will be more.

So far as adaptation is concerned, the answer is, more complicated. If, but only if, a project satisfies certain strategic alignment criteria and clears specified milestones within a specified timetable to prove (a) readiness and (b) success in following the timetable all the way through to connection, will it be able to proceed (details have all been covered in previous issues). As NESO puts it, projects have to be needed (hence the ‘strategic alignment’ condition) and ready (to have satisfied an initial milestone): and then they have to proceed to a timetable (comply with the milestone timetable). Failure, outside certain reasons such as force majeure, results in termination.

The stakes in this new world for developers are high and can, if their connection offer is terminated, result in significant wasted costs. But all is not necessarily lost to the developer in this situation – the project may just be returned to its starting state and be offered a connection offer for some considerable time in the future (currently

offered dates are 2036 or thereabouts). This puts the developer in an awkward position: does it wait things out until 2036 in the hope that a connection offer with a closer date must, surely, be offered or does it cut its losses?

In the future (that future started last January) the developer needs to recognise that it is entering a race for a near-future connection and that being an applicant is no longer enough.

The developer needs to do two things.

First, it needs to establish that its proposed project aligns with the Strategic Spatial Energy Plan. But the SSEP (at least to date) can only indicate volumes of technologies that are generally available in a broad area in a period of time, e.g., 2000MW of solar in 2030 across the whole of NGED's very wide region. Discussion with the DNO is needed before all else. There are already DNO facilities available; they are connections workshops in which the DNO, given a postcode, can say whether or not there is capacity for that technology at that size within a reasonable time.

Second, and this is something that affects project funders/buyers as well as developers, once strategic alignment is established, the race is on. After all, the DNO may have given six solar developers the same answer and so now our putative developer is in a race against some, or possibly all of them. It needs as soon as possible to be ready to go - it needs to land a possible funder/buyer and agree a plausible timetable through all the milestones (from receipt of a connection offer through to operation).

The nature of development has changed and so the involvement of funders needs to change, too. They need to step in at an earlier stage than before and agree to fund or to buy in circumstances they aren't used to. Failure to do so won't mean a project is cheaper, it will mean it will fall by the wayside.

The future of development isn't uncertain, but it is very different. Funders who don't recognise that and developers who don't recognise that will fail.