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# **Electricity Network Tariffs 2022/23 – National Energy Security Framework Response Proposals**

Response from the American Chamber of Commerce  
Ireland (AmCham) to Commission for Regulation of  
Utilities (CRU) consultation

September 2022

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# **The American Chamber of Commerce Ireland**

## **The Voice of US-Ireland Business**

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The American Chamber of Commerce Ireland (AmCham) is the collective voice of US companies in Ireland and the leading international business organisation supporting the Transatlantic business relationship. Our members are the Irish operations of all the major US companies in every sector present here, Irish companies with operations in the United States and organisations with close linkages to US-Ireland trade and Investment.

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## Executive Summary

The American Chamber of Commerce Ireland (AmCham) welcomes the opportunity to respond to the CRU's consultation document which includes proposals for additional electricity network tariffs.

AmCham recognises the unprecedented challenges the global community faces with regard to energy supply and pricing – as a small open economy Ireland is particularly exposed to the current unprecedented and unstable energy environment. AmCham also recognises the complexity of the challenge in meeting energy demand – especially for the coming winter months – including protecting the most vulnerable in society. However, the 'network crisis' and the lack of energy capacity which the proposals seek to respond to has been raised by AmCham, and others, for many years.

In our response AmCham will focus primarily on the issues we see arising for our members who come within the categories of Large and Extra-Large Energy Users set out in the CRU paper.

AmCham believes that the CRU proposals, if implemented, could erode Ireland's attractiveness as a location of choice for large-scale inward investment and that the proposals appear to be at odds with Ireland's long-standing strategy of welcoming such investment. The timing of the consultation (in August) and its duration (two weeks) is both unprecedented and unhelpful – particularly when combined with a stated intention to implement the proposals from 1 October next.

The unusual speed of this process is underlined by the consultation paper's recognition that it may be necessary for energy supply companies to calculate and issue bills to large users "*manually*" and that the suppliers may need to fall back on "*work-arounds*".

It would appear that the Proposals are intended to meet two objectives:

1. Reduce energy consumption over the coming winter period through "*incentives*"
2. Raise emergency revenues to enhance the grid network in anticipation of increased demand up to 2030

However, the paper recognises that for many large users it will be impossible for them to realise the "*incentives*" set out in the paper to reduce energy demand and that they will have no choice but to pay the penalty tariffs – this would appear to be a discriminatory approach and not in keeping with Ireland's pro-enterprise policies.

In light of these concerns, which are expanded on below, AmCham recommends that the proposal be revised to only apply to those energy users who have the choice and ability to modify their energy usage/consumption over the coming winter months and that a more comprehensive and orderly consultation process is carried out with those who do not have this flexibility to discuss how best deliver competitively priced energy security.

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## US multinational investment in Ireland – key facts

There are almost 900 US companies in Ireland who directly employ over 190,000 people and indirectly support a further 152,000 jobs in the Irish economy. US MNCs have a combined payroll/goods/services/capital investment annual spend in the domestic economy of over €35bn.

A policy approach focused on attracting inward investment into Ireland has delivered FDI which supports over 80% of Ireland’s current corporation tax receipts and over one-third of Ireland’s current income tax receipts.

The presence of multinationals in Ireland also significantly benefits our indigenous business environment, our local communities, and supports balanced regional development. As reported by the OECD in 2021, one of every four multinational employees who moved job either went to work for an existing Irish company or set up a new one.

US companies in Ireland, each year, support over 7,300 community projects, contributing over 600,000 work supported volunteer hours. Additionally, as identified by the IDA last year, 53% of all FDI investment in Ireland went to regional locations.

The contribution of US companies to Ireland’s economy and local communities is recognised in a survey of public opinion on US multinationals in Ireland. This survey showed that:

- 81% believe US MNCs are critical to Ireland’s economic future
- 86% believe US MNCs were critically important during the pandemic
- 78% expressed pride in what US MNCs achieved during the pandemic
- 87% believe Ireland needs to continue to attract US investment (only 2% disagreed)<sup>1</sup>

## Why has Ireland been so successful at attracting US inward investment?

There are many factors but for the purpose of this Response, AmCham will focus on the following:

**Policy certainty:** Ireland has a well-deserved global reputation for its consistent policy approach on key business/enterprise areas from industrial relations to taxation to regulatory requirements.

**No surprises:** Flowing from this policy certainty is a reputation for avoiding “unwelcome surprises” for employers – to the extent the issues in question are within the national Government’s control – (pandemics, global recessions etc clearly are not, but the policy response often is). This ‘no surprises’ approach is characterised by extensive and timely

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<sup>1</sup> This survey was conducted nationwide by iReach between 13-19 May 2021 – 2.5% margin of error

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consultation and determination of ‘market realities’ before policy changes are announced/implemented.

**Inward investment is a national priority:** The multinational community – and decision makers at corporate headquarters – appreciate the consistent message from Ireland that it really welcomes inward investment – in particular large-scale capital and jobs-intensive investments. This priority is part of Ireland’s global business brand - its promise.

AmCham is concerned that the CRU proposals could erode some or all of the above factors.

### **Realities of the operation of large-scale manufacturers/ multinational operations/ large energy users in Ireland**

Ireland is fortunate to have, right across the country, some of the largest and most advanced manufacturing facilities in the world in sectors including medical technology, biopharmaceuticals, semi-conductors, automotive technology and food/beverage as well as significant data centre investments.

These facilities are supplying key global supply chains and markets – for example, four out of every five medical stents, saving lives around the world, are created in Ireland; even though Ireland only has 0.06% of the world’s population it was the fifth biggest responder to the demand for key products due to Covid.

These facilities have already committed to their production/output targets into 2023 and beyond – lives around the world literally depend on those targets being met.

Many of these facilities operate on a 24/7 basis and very carefully plan their shifts to ensure the people needed have sufficient notice.

Most already implement best-in-class energy efficiency as energy is one of the biggest costs they have to manage – Ireland is already cost uncompetitive for energy – some AmCham member companies are seeing their energy costs rise by up to 200% over the course of 2022.

Therefore, they have very little, if any, prospect of reducing energy usage at such short notice. Avoiding peak time demand between 17.00 and 19.00 is not possible in these facilities, particularly given the continuous nature of their production systems, which cannot simply be stopped and restarted. Therefore, it will be impossible for these facilities to avoid the Peak Network Tariff proposal, should it be implemented.

For the above reasons, seeking at short notice to penalise these operations for their energy use has the potential to damage Ireland’s reputation as a location of choice for inward investment. In this context, AmCham also notes the comments of EU Energy Commissioner, Kadri Simson in June who recognised that electricity transmission costs in Ireland are amongst the highest in Europe.

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## Additional observations on the proposals

The consultation document states that:

*“...the CRU considers it important to take necessary actions to ensure a fair allocation of costs and also to incentivise customers, **particularly the largest energy users**, to reduce their demand.”<sup>2</sup>*

For the reasons set out above many large energy users will have no possibility of availing of these “incentives” and will be penalised. This reality appears to be recognised in the consultation paper:

*“Although the application of this tariff will be to a clear and consistent time period, **Large energy users may not be able to shift demand as easily as domestic/small non-domestic consumers**. This will depend on the profile/activity of the individual consumer.”<sup>3</sup>*

The following extract is from the section of the CRU paper dealing with proposed block tariffs for large users:

*“Increasing block would provide a strong incentive for large customers to maintain their current demand profiles and **mitigate any ramp up** in the critical short term. The customers **may not be sufficiently price sensitive to respond to the incentive** and demand may continue to grow as forecast. Customers who continue to grow will contribute to the costs associated with ensuring a secure supply of electricity is maintained....  
Given the short timeframe for implementation of this tariff customers may not be able to respond immediately to the incentive.”<sup>4</sup>*

AmCham asks that the following be noted:

AmCham member companies are extremely price sensitive – in particular in relation to energy. If AmCham members “*ramp up*” activity – and energy consumption – it will be due to compelling reasons – this can range from provision of essential products in response to the Covid pandemic to “stepping in” when other sites in essential global supply chains are out of action (due to extreme weather events for example). These are ‘real-life’ examples and the ability of our member sites to do this is part of the reason their teams are so highly regarded globally – these scenarios should not result in penalty tariffs.

“*Ramp-up*” of activity could also be due to expansion of existing facilities and/or establishment of new ones. This will be done in the most energy-efficient manner possible. It

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<sup>2</sup> Consultation document, Pg. 2 (emphasis added)

<sup>3</sup> Consultation document, Pg. 29 (emphasis added)

<sup>4</sup> Consultation document, Pg. 32-33 (emphasis added)

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usually also means significant capital investment and job creation – meeting Government objectives – it should not attract tariffs.

The cost of energy is a significant factor in determining where investment is to be located. As previously outlined, Ireland is already cost uncompetitive for energy. Measures which result in Ireland becoming increasingly cost uncompetitive could result in future inward investment being diverted to competitor jurisdictions where energy costs are less.

The consultation paper is vague in respect of the notice period for imposition of the very high “system alert” tariff and the decarbonisation tariff:

*“Consumers will have **limited notice to respond** (to the system alert) and mitigate impact. The expansion of EirGrid’s alert communication system will be needed. This may provide XLEUs with the opportunity **to plan for the potential impact in summer 2023.**”<sup>5</sup>*

*“...the CRU is proposing the introduction of a tariff that will place an additional charge on large customers that consume electricity during periods when the system is in an Alert. The use of demand-side flexibility has the potential to offer a range of advantages to energy users, such as reduction of consumption costs, enhanced generation adequacy and additional flexibility to accommodate increasing volumes of intermittent renewable energy sources. Therefore, **large inflexible customers** will contribute more towards security of supply costs than large customer that are flexible and able to reduce their demand at these times.”<sup>6</sup>*

To the extent that any of the above comments apply to AmCham members, we would point out that, when it comes to how they operate – AmCham members are not inflexible. But the realities of what they can and cannot do at short notice when it comes to energy consumption have been set out above.

It can be argued, and the CRU paper implicitly acknowledges this, that these tariffs are designed in a manner that will be impossible for certain large manufacturing operations to avoid.

While not spelled out in the paper, it seems that very short notice will be given for system alert tariffs. In the case of decarbonisation tariffs, it would appear that the notice will be aligned with the weather forecast for wind.

*“It is possible to identify with some days’ notice when wind levels are likely to be low relative to demand.”<sup>7</sup>*

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<sup>5</sup> Consultation document, Pg. 35 (emphasis added)

<sup>6</sup> Consultation document, Pg. 34 (emphasis added)

<sup>7</sup> Consultation document, Pg. 37 (emphasis added)

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The uncertain and unpredictable nature of these tariffs are deeply unhelpful – the paper envisages the need, in some cases, to calculate and bill them “*manually*” with “*work-arounds*”.

The proposals seek to respond to a ‘network crisis’ which has been foretold for many years. AmCham, and others, have been calling for future proofing of the energy network, energy capacity and security of supply for many years.

### Principles for energy tariffs

AmCham notes that Article 18 of the EU Electricity Regulation 2019/943 outlines that charges applied by network operators for access to networks shall meet criteria including being cost-reflective, transparent, applied in a non-discriminatory manner, and be reflective of actual costs incurred.

Article 18 states:

*“Charges applied by network operators for access to networks, including charges for connection to the networks, charges for use of networks, and, where applicable, charges for related network reinforcements, shall be cost-reflective, transparent, take into account the need for network security and flexibility and reflect actual costs incurred insofar as they correspond to those of an efficient and structurally comparable network operator and are applied in a non-discriminatory manner.”<sup>8</sup>*

Given that the proposed block tariff, system alert response tariff, and the decarbonisation tariff are only being levied on Extra-Large Energy Users and given that such users are more likely to have stable and predictably energy needs, it is unclear as to how this would be cost-reflective. Additionally, on this basis, such tariffs do not appear to be non-discriminatory.

In terms of transparency, further information should be provided on the aim of the tariffs to generate €100 million, including how this target was set, and how this revenue will be utilised. Should the tariffs generate additional revenue, information should be provided on how this would be used, in line with the principle that tariffs should be reflective of costs incurred.

The February 2021 ‘*Report on Distribution Tariff Methodologies in Europe*’<sup>9</sup> from the European Union Agency for the Cooperation of Energy Regulators additionally include simplicity, stability, predictability, and sustainability as tariff setting principles.

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<sup>8</sup> EU Electricity Regulation 2019/943, Article 18, paragraph 1: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019R0943&from=EN>

<sup>9</sup> Report on Distribution Tariff Methodologies in Europe: [https://acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Publication/ACER%20Report%20on%20D-Tariff%20Methodologies.pdf](https://acer.europa.eu/Official_documents/Acts_of_the_Agency/Publication/ACER%20Report%20on%20D-Tariff%20Methodologies.pdf)



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Given the short timeframe (two-week consultation period, and six-week period from the start of the consultation process to the proposed implementation date), these tariffs have not allowed for predictability, restricting the ability of companies who will be subject to them to plan for their implementation. Further, the apparent linkage between the decarbonisation tariff and the weather forecast for wind, as outlined above, removes predictability for businesses, given the likely short notice period.

In terms of the sustainability of tariffs, the proposals do not represent a solution which could be permanent. However, as outlined above, they do have the potential to damage Ireland's reputation as a destination of choice for inward investment.

### **International comparisons/precedents**

AmCham notes the CRU references to water tariffs in Spain/domestic electricity tariffs in Italy<sup>10</sup> and TNUS charges in the UK<sup>11</sup>. However, AmCham is not aware of a tariff system such as the one being proposed by the CRU being implemented in any other country that seeks to attract inward investment, as Ireland does.

AmCham is not aware of similar tariff structures being proposed in other jurisdictions, however AmCham notes that other countries are taking steps to support large energy users through the reduction of the cost of energy for business.

### **Conclusion**

One of the four criteria the CRU has considered in designing the tariffs is:

*"The need to send a meaningful signal through the tariff"<sup>12</sup>*

AmCham is concerned that the signal being sent to large-scale multinational investors from these proposals is a lack of understanding of how they operate and the commitments they must meet to critical global supply chains.

AmCham recommends that the proposal be revised to only apply to those energy users who have the choice and ability to modify their energy usage/consumption over the coming winter months and that a more comprehensive and orderly consultation process is carried out with those who do not have this flexibility to discuss how best deliver competitively priced energy security.

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<sup>10</sup> Consultation document, Pg. 31

<sup>11</sup> Consultation document, Pg. 34

<sup>12</sup> Consultation document, Pg. 25 (emphasis added)

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AmCham recommends that this consultation addresses the short; medium and long-term energy agenda – including moving to a self-sufficiency of supply of renewable energy for Ireland.