



10 May 2007

Our Ref: FOI/42/2007
Your Ref: TJW/MG/2007146T

Mr. Thomas J. Walsh
Solicitor
1. Mill lane
Main Street
Castlebar
Co. Mayo

FREEDOM OF INFORMATION REQUEST – IC2 PIPELINE

Dear Mr. Walsh

I refer to your request under the Freedom of Information Acts 1997 and 2003, dated 23 April 2007 and received on 25 April, for records held by this Department pertaining to the second natural gas interconnector from Scotland to Ireland (“IC2”). As you are aware, I have been designated as decision officer with regard to this request.

I wish to advise you that it is my decision that this request be refused on the following grounds:

1. Section 10(1)(c) of the 1997 Act states that a head [the Minister in this instance] may refuse a request for information where:

“in the opinion of the head, granting the request would, by reason of the number or nature of the records concerned or the nature of the information concerned, require the retrieval and examination of such number of records or an examination of such kind of the records concerned as to cause a substantial and unreasonable interference with or disruption of the other work of the public body concerned.”;
2. The request, which specifies that you wish to be provided with access to any and all records relating to a total of 9 categories / types of records concerning the IC2 pipeline is such that it covers a wide-range of material stretching from the 1990s, or earlier, to the present date;
3. Indeed, a conservative estimate of the number of files / reports / other documentation held by (or held in storage on behalf of) this Department which would need to be examined in detail by me (as decision officer), my staff, and the staff of other Divisions in order to process this request is in the region of 300 or more in number;

4. Also, this estimate does not take account of the number of volumes associated with individual named files or reports (which would likely add significantly to the number of records to be examined) – this would, however, add significantly to the quantity involved;
5. The number of records relevant to your request (incl. memos, factual information, letters, reports, etc.) requiring to be examined/ assessed is, therefore, not possible to quantify in full;
6. The nature of the records requested are such as to be, in many instances, of a highly complex nature, which would necessitate careful scrutiny prior to any decision being made as to their release;
7. This would include (but would not be limited to):
 - engineering and other consultancy studies and reports;
 - charts and maps;
 - correspondence with, and technical / financial information supplied by other Government Departments, the Commission for Energy Regulation and Bord Gáis Éireann;
 - correspondence with official counterparts in the UK, and UK Embassy;
 - financial and statistical information;
 - safety reports, wayleaves, licences and leases; and
 - objections / submissions from members of the public.

As you are no doubt aware, the Department would, of course, also be obliged to contact third parties with whom this Department corresponded prior to a decision being taken by me on the granting of access to third party records;

8. It would not be possible, therefore, given the volume of information requested, to process your request within the standard 4 weeks (or 8 weeks, were we to request an extension) normally taken to process FOI requests;
9. Indeed, between search and retrieval of the considerable volume of relevant documentation / files (including documents kept in storage), assessment of same, recording the nature of each document, checks with third parties as to whether particular documents can / should be released, photocopying and arranging for transport, the time it would take to process this request (not allowing for other work) is impossible to calculate;
10. The proposal that such a voluminous task be undertaken must, necessarily, be balanced against the other work carried out by the Divisions concerned;
11. The nature of the request, as submitted, is such that it would impose a substantial and unreasonable administrative interference and disruption on the work of the relevant Divisions (and, by extension, the Department) were I to agree to the processing of this request;
12. Indeed, not accounting for the review of the relevant documentation, the task of search and retrieval of all relevant documentation alone would be significant, necessitating the assignment of 4 to 6 staff members from several

Divisions to the task for a period of time that would have a manifestly detrimental effect upon their ability to carry out their other duties;

13. In conjunction with the full review of all documentation associated with the request, as well as all other associated administrative tasks (e.g. phone calls and letters to third parties seeking their permission to release certain documents and the photocopying of same), there would be a manifestly disproportionate negative impact on the day-to-day work of the Department;
14. It is also the case that an opportunity has been afforded to you to amend the nature of your request such that it does not fall into the category outlined in 1. Specifically, I refer to my fax messages of 1 and 4 May, my telephone conversation of 27 April with you and follow up telephone calls of 2, 4 and 8 May. To date, no response has been forthcoming with regard to this offer;
15. Given the opportunity provided to you to discuss the details of your request further, the Department has made all reasonable steps to facilitate your requirements with regard to this request;
16. The Department has, therefore, met its obligations under section 10(2) of the Act with regard to the provision of assistance to amend your request.

However, you may wish to note that, were the Department to pursue your request, the associated costs (€20.95 per hour devoted to the task of search and retrieval, €0.04 per sheet of photocopying) to be recouped from you / your client would be significant.

You may appeal this decision by writing to the Freedom of Information Unit, Elm House, Earlsvale, Cavan, seeking internal review of the matter. Please note that a fee applies for such an appeal. The level of this has been set at €75. Payment should be made by way of bank draft, money order, postal order or personal cheque, and made payable to the Department of Communications, Marine and Natural Resources. Please refer to this decision in your letter. You should make your appeal within 4 weeks from the date of this notification, however, the making of a late appeal may be permitted in appropriate circumstances. *A week is defined in the Act to mean 5 consecutive weekdays, excluding Saturdays and public holidays (Sundays are also excluded, as they are not weekdays).* Any appeal lodged will involve a complete reconsideration of the matter by a more senior member of the staff of this Department, and the decision will be communicated to you within 3 weeks.

Yours sincerely



Daniel Shine
Higher Executive Officer
Electricity / Gas Regulation Division
Tel: 01 678 3135
Fax: 01 678 3139
e-mail: daniel.shine@dcmnr.ie



30th April, 2007

Mr. Thomas J. Walsh Solicitors,
1 Mill Lane,
Main St.,
Castlebar,
Co Mayo.

Dear Mr. Walsh,

I refer to the Freedom of Information request received in this office on 25th April, 2007 along with the associated fee.

The officer handling your request will be Mr. Daniel Shine, Electricity & Gas Regulation Division, Department of Communications, Marine & Natural Resources, 29 – 31 Adelaide Rd., Dublin 2. He can be contacted at 01 6783135.

A final decision on your request will normally be sent to you within 4 weeks of receipt of your request. This means that you can expect to receive your decision by the 24th May, 2007.

If you have not heard from us when the time allocated has expired, you are automatically entitled to appeal to the Department for a review of the matter. This review proceeds on the legal basis that the initial request is considered to be refused once the specified time for responding to it has expired.

You should also be aware that you are entitled to a review of the decision if your request is refused, or if you are for any reason dissatisfied with the outcome of your request. The review is a full and new examination of the matter carried out by a more senior member of staff of this Department. In the event that you need to make an appeal, you can do so by writing to Mr. Frank O'Brien, FOI Unit, Department of Communications, Marine & Natural Resources, Elm House, Earlsvale Rd., Cavan. Please note that there is a charge for all appeals of FOI requests. This charge is currently €75.00. A reduced fee of €25.00 applies if you are the holder of a Medical Card.

Please note that the Department of Communications, Marine & Natural Resources has a policy of posting a summary of your request, your name and address and the subsequent reply on the Department's website for reference purposes.

Yours sincerely,

Mary Rabbitte
FOI Unit
PH: 01 6782903

THOMAS J. WALSH

S O L I C I T O R

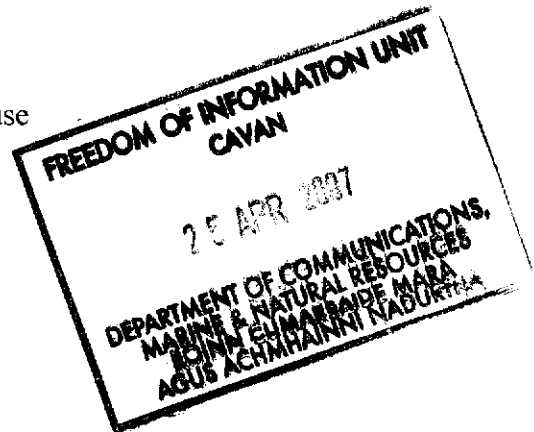
Handwritten signature

1, Mill Lane, Main Street, Castlebar, County Mayo.
Telephone: +353-94-9021736 / 9023460 Fax: +353-94-9023806. D.E.33005

23rd April, 2007

Our Ref; TJW/MG/2007146T

Freedom of Information Officer
FOI Unit
Department of Communications, Marine and Natural Resources Elm House
Earlsvale
Cavan



FREEDOM OF INFORMATION ACT REQUEST

Dear Sir,

In accordance with Section 7 of the Freedom of Information Acts 1997 as amended, I wish to request access to the following records which I believe to be held by you:

1. Any and all records and factual information which provide an analysis of, or relate to, the Department of Communications, Marine and Natural Resources (the "Department") and its Minister's deliberations, approval and ultimate decisions concerning the building of the second natural gas Interconnector from Scotland to Ireland ("IC2").
2. All records and factual information regarding the basis upon which approval was given by the Minister for the building of IC2;
3. A copy of the written ministerial approval regarding the building of IC2;
4. All records and factual information relating to the conditions imposed on Bord Gais Eireann as part of the approval for the building of IC2;
5. All records and factual information regarding compliance by Bord Gais Eireann with the conditions for IC2;
6. All records, factual information and correspondence submitted by or on behalf of Bord Gais Eireann to the Department (then known as the Department of Public Enterprise) regarding IC2, including but not limited to records, factual information and correspondence relating to the proposals made by Bord Gais Eireann in respect of private sector investment in IC2 and subsequent progress made on those proposals;

7. All records, factual information and correspondence concerning Bord Gais Eireann's €1.4 billion infrastructural development programme for the period 2001-2004;
8. All records, factual information and correspondence regarding the tariff directives issued by the Minister for State, Joe Jacob T.D., in November 2001 to Bord Gais Eireann implementing a new policy of Irish Entry/Postalised Exit gas transmission tariffs.
9. All correspondence with the Commission for Energy Regulation regarding IC2.

The above mentioned documents should include all records and factual information which are internal to the Department and also as between the Department and any consultant or advisor employed on its behalf.

Please arrange for copies of the above documents *to* be sent to our offices.

I enclose payment in the sum of €15 in respect of the application fees. Please let me know if any further fees need to be discharged in respect of copying.

Should you have any queries, please do not hesitate to contact me at the address provided or telephone 094/9021736.

Yours faithfully



THOMAS J. WALSH

Encls