



Regulatory Authorities
c/o SEM Committee

By email: mjoseph@cru.ie; donna.maye@uregni.gov.uk

4th November 2022

RE: SEM-22-054 CALL FOR COMMENTS ON THE EY REVIEW OF THE PERFORMANCE OF THE SEM CRM¹

Dear Sir/Madam,

In response to your request looking for feedback on above, we are writing to you to highlight our serious concerns regarding the practicality of delivering capacity under the CRM.

The SEM Committee (SEMC) is considering a subset of recommendations from the EY review. We set out below the recommendations and our response to same where applicable.

Recommendation	Greater transparency of target setting through a panel of technical experts (PTE) assessment of EirGrid recommendations, with findings published, and explanation of process by which TSO forecasts are translated to Target Volume to procure in capacity auctions.
<i>Response</i>	<p><i>ART Generation agree that the target setting has been wholly inadequate and needs a completely different approach informed by real commercial experience. It should be done by a panel of technical experts demonstrating expertise, knowledge and independence.</i></p> <p><i>The SEM Committee have consistently:</i></p> <ul style="list-style-type: none"><i>- under-procured at every T-4 auction to-date</i><i>- underestimated the volume requirement</i><i>- held back capacity for auctioning at shorter notice for T-1 delivery, which has not materialised</i><i>- ignored industry feedback and warnings.</i>

¹ <https://www.semcommittee.com/publications/sem-22-054-call-comments-ey-review-performance-sem-capacity-remuneration-mechanism>

ART Generation has consistently and since 2014 reiterated concerns regarding first, the design of a capacity remuneration mechanism and then its implementation as an insufficient and inadequate mechanism to achieve the required security of supply. It should be noted that a project that ART Generation developed in West Dublin known as Grange Backup Power Ltd. We raised our concerns on the challenges faced by new entrants on numerous occasions with CER (now CRU), SEMC, EirGrid, DECC and the EU Commission through submissions, written correspondence, face to face meetings, presentations and attendance at workshops but to no avail.

We add the following observations about the origins of the current energy crisis:

- 1) The current security of electricity supply crisis is entirely homemade; it must not be conflated with or explained away with the war in Ukraine.*
- 2) The CRU, EirGrid, SEMC and DECC have all failed to listen to experience and knowledge over the years, but rather displayed a corporate culture of infallibility and impunity; this was most recently evident in the Oireachtas Sub-Committee hearings where denial and blaming the security of electricity supply crisis on the war in Ukraine prevailed and the refusal to accept responsibility.*
- 3) There is a lack of expertise, experience and knowledge in those bodies with respect to development expertise, project financing and banking that is needed to deliver on generation projects, and this matter should be addressed at an early date.*
- 4) The CRU and SEMC continue to rollout bespoke assumptions that suit the incumbents only for the banking markets to reject because the assumptions don't pass the economic viability and bankability tests (e.g. an artificially low Best New Entrant (BNE) will not allow the market and the developer to earn a reasonable return and therefore the financial markets will reject). Markets need certainty on investments considering the sums of money involved. If certainty isn't sufficiently and adequately addressed in the terms or if there are any onerous terms that cause concern, the market and the banks will reject a project.*
- 5) The Regulatory Authorities seem to be out of touch with the market realities and have displayed very poor judgement in recent years despite being provided with extensive advice from experienced developers. All this planned generation that they believe is coming on line may actually fail to deliver because of increased commodity prices. We understand that circa 80% of RESS 1 will fail and we expect a high attrition rate in RESS 2 also. An old chestnut that has existed since AER 5 is indexation. The powers that be don't seem have to learned lessons from this failure twenty years.*
- 6) The enormity of the challenges and costs arising for electricity users, not to mention damage to Ireland's FDI reputation and difficulties meeting Ireland's emissions targets, over the coming years warrants a full-scale investigation on how this crisis has arisen.*

	<i>In summary, how many auction failures does it take for the CRU and SEM Committee to listen to experienced developers and financiers?</i>
Recommendation	<p>More explicit accounting of non-delivery in setting target volume, with two options for implementation:</p> <ul style="list-style-type: none"> • Introduce process to monitor progress reports for early indication of non-delivery; OR • Apply a standardised adjustment to the capacity requirement to account for the likelihood of non-delivery and review inputs to adjustment % periodically.
<i>Response</i>	<p><i>We don't see why this is an either or option. Both should be implemented. We note already more pro-active monitoring of capacity delivery post-auction.</i></p> <p><i>The more important point is to ensure sufficient headroom in capacity procurement to cater for non-delivery.</i></p> <p><i>The learnings from previous CRM auctions and indeed RESS auctions is that the award of a contract in and of itself does not remove the material risk of non-delivery.</i></p> <p><i>The SEM Committee and associated stakeholders need to develop and cultivate a deeper understanding of the very real commercial and development risks faced by developers and their funders who finance large scale power generation projects.</i></p>
Recommendation	Increase lead time to at least 4 years from the announcement of auction results to start of the relevant capacity delivery year.
<i>Response</i>	<i>The auction procurement does not commence early enough. It is self-evident within the published auction timetable that there is a 6-month lag between qualification and auction run and further delays before finalising results, meaning that a T-4 auction becomes a "T-3" in practice. The SEM Committee has also delayed auctions and revised timetables mid-process, exacerbating this problem.</i>
Recommendation	Requirement of new prospective capacity to have all necessary consents to prequalify for auction. This remedy is potentially of less importance if auction lead times are extended.
<i>Response</i>	<i>This has been a fundamental reason for non-delivery of capacity. Within the known constraints and delays of the Irish planning framework, planning consent should be a pre-condition of auction. Allowing a more permissive approach to this simply leads to non-delivery or late delivery.</i>

Recommendation	Increase performance securities following the auction.
<i>Response</i>	<i>The performance security levels are adequate and appropriate. We suggest a bid-bond and/or unit qualification fee (currently provided for but set to €0) on a per MW basis would also provide an earlier commercial sense check of the more speculative applications.</i>
Recommendation	A permissive approach to requests for extensions from new build projects.
<i>Response</i>	<i>If sufficient time given upfront and planning consent required pre-auction, then the delivery long stops should be easier to enforce and adhere to.</i>
Recommendation	Recalibrating the administrative scarcity pricing function so BM pricing better reflects market scarcity and causes a higher frequency of periods with prices above the RO strike price.
<i>Response</i>	<i>This will provide an improved investment signal for new capacity</i>
Recommendation	Applying administrative penalties for non-delivery to plants in specific locations where an amber alert has been raised and a plant is unavailable.
<i>Response</i>	<i>The derating factor applied to units already takes account of typical availability. This should therefore be the TSO responsibility to ensure sufficient derated capacity is procured. A generator is already investing in redundant capacity through derating and should not be penalised for non-availability at the same time. Furthermore, generators are already exposed to difference payments in the event of non-availability.</i>
Recommendation	Determine energy-only stack within balancing market and compensate generators if instructed not to run for system reasons.
<i>Response</i>	<i>This is appropriate. We also recommend that generators be compensated adequately where “constrained-on”, which is an increasing commercial risk in areas where capacity is most needed.</i>
Recommendation	Greater focus on delivery of infrastructure to enable more competitive all-island market and to reduce pressure for new builds to be situated in particular locations.
<i>Response</i>	<i>Lack of transmission infrastructure is a fundamental barrier to new generation investment, and the timeline for the TSO to deliver same is far too long.</i>

	<i>We feel the EY report is somewhat opaque in analysing the reason why many units failed to qualify. In our experience, the most common reason was not actually listed, namely that the TSO did not have confidence in their own capacity to deliver required transmission upgrades within the T-4 timeframe.</i>
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Conclusion

It is with no great satisfaction that I have to raise all these issues. I am speaking from 30 years experience in the power generation market and have successfully developed a large portfolio of projects (mainly onshore wind).

While the EY review is welcomed as a constructive approach to attempting to address the structural failings of the CRM, this review does not address the fact that this review has been commissioned after the repeated auction failures. This is not visionary or proactive but reactive. It is too little too late and should be misrepresented to absolve the mismanagement and incompetence of the CRU, SEMC, EirGrid and DCCE to understand the market requirements. Each organisation had been advised by Grange's shareholders on numerous occasions since 2014 to the failings of their assumptions but they all failed to listen and accept solid developer advice.

To reiterate an earlier point, the current security of electricity supply crisis is entirely homemade. Even if we had 'free' gas supply, Ireland could not generate the required MW to meet demand as there is insufficient commissioned power plant(s) in situ, hence the panic purchase of emergency generator sets (24 units) at premium prices for the peak demand winter period.

The cost of all the auction failures in particularly the 2019 T-4 auction should not be ignored and swept under the carpet. The cost of the emergency gen sets is circa €700M-€800M (estimated) which will be borne by the consumer.

All the poor judgement calls by the CRU, SEMC, EirGrid and DCCE have damaged the integrity and lowered the level of confidence in the organisations. It is vitally important that CRU and SEMC in particular take on board good banking and project development advice, **accept the advice** and act properly to ensure that the market does not reject future auction offerings. Not to do so will promote protectionism, market distortion and foreclosure and anti-competitiveness which will further negatively impact on the already overburdened consumer. It is important to move forward on a proper solid market basis.

I am happy to meet with EY to share my experience in the market if requested.

Yours faithfully,



Richard Walshe

CEO ART Generation Limited