Electric Ireland's Response to the SEM Committee's consultation on Imperfections Charges October 2025 – September 2026 (SEM-25-028)

25 July 2025

Electric Ireland welcomes the opportunity to respond to the Regulatory Authorities (UR & CRU as the RAs) consultation on the Imperfections Charge for Tariff Year 2025/2026. We acknowledge that Imperfections are a feature of Single Electricity Market and arise where the transmission system cannot deliver the efficient outcomes from the electricity market nor meet the operational requirements of the electricity system.

However, we do have a concern with the proposed 56% increase in required Imperfections revenues from the current tariff year (i.e. 2024/2025) to next one 1 October 2025 to 30 September 2026. As the RAs highlight themselves "*the proposed charge (of c.€883m) would equate to 2.23 c/kWh, translating as €93.56 on an Estimated Annual Bill (EAB) in Ireland and £61.45 in Northern Ireland*". Given expected increases in both network charges for 2025/2026 (in ROI) and the all-island Capacity Remuneration Mechanism over the coming years, we believe the RAs need to examine all options to keep this increase to a minimum as possible and get the best value for all-island customers.

We welcome the RAs proposals to help mitigate/control these costs, including TSO incentivisation and the 'Action Plan on dispatch down', which could both help reduce the proposed 56% increase. However, it is clear that a number of these actions are long-term in nature (i.e. building out the transmission network) and may not impact on Imperfection costs for a number of years. In addition to these actions outlined by the RAs, we believe that the below points should be taken into consideration by the RAs and the TSOs (EirGrid and SONI).

An alternative approach to Article 13.7 cost recovery

Our understanding is that the 2024/2025 tariff period recovered all of the monies EirGrid and SONI estimated for Article 13.7 compliance for the period 1 January 2020 to end September 2025. These costs are both jurisdictional, i.e. through TUoS with EirGrid and SONI in their roles as TSO, and all-island through Imperfections. As per Code Mod_06_24 of September 2024 "*to ensure that the requisite monies are collected for this purpose, the TSOs have calculated the cost of paying such compensation. The amount calculated includes €158 million from 1 January 2020 to 30 September 2025, to be paid as compensation up to market price level, based on various assumptions*".[1]

Code Mod_06_24 further outlined that this €158m (and future funds associated with Article 13.7 compliance) would be ring-fenced in a holding bank account created jointly by EirGrid and SONI. Our further understanding is that funds will sit in this account until the Irish Supreme Court makes its decision on SEM-22-009. No payments can be made until the legal process is finally concluded and there is a regulatory approved calculation methodology and payment mechanism in place.

This RA consultation (SEM-25-028) proposes the additional collection of *"€54m for an under-estimation of the potential payments for 1st January 2020 – 30th September 2025 and €37 million forecast costs attributable to Tariff Year 2025/26"*, or €91m in total through Imperfections. We suggest an alternative approach should be considered by the RAs to collection of the Article 13.7 compliance costs from 2025/2026.

We understand that the Court of Justice for the European Union (CJEU) decided in April 2025 that it would reject the Irish Supreme Court's request for preliminary ruling on this case to be

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[1] Please see following link here.

considered pursuant to its expedited procedure.[2] Therefore, we understand that this case will remain in the CJEU's regular list and will be listed and heard in line within the typical timelines, which can extend to 18 months. On that basis, as we understand it, this matter would not return to be heard in the Irish Supreme Court for some time.

Furthermore, we note that Code Mod_06_24 highlights that Article 13.7 compliance costs were based on "*compensation up to market price level, based on various assumptions*". We understand that the courts could take various interpretations of compliance with Article 13.7 when examining compensation 'up to market price level', e.g. a maximalist, minimalist, middle-ground interpretation. We expect that the TSOs forecast of the single Imperfections figure of €249m (i.e. €158m + €54m + €37m) assumes such an interpretation. If the RAs continue with the collection of Article 13.7 compliance costs in upcoming tariff period, then these interpretations (i.e. the TSO scenario analysis) and reasons why a certain interpretation has been adopted, should be set out in the RAs decision paper.

In addition, the TSOs collecting a further €54m for an "under-estimation" of the potential payments for 1 January 2020 to 30 September 2025 implies that the original collection amount of €158m was essentially wrong/under-recovered. This cannot be the case as we do not know the outcome of the legal proceedings, or what approach the Irish Supreme Court will take to interpretation, which in turn impacts the level of compliance costs.

If it's the case that the TSOs are recovering the full/maximalist interpretation/worst-case scenario for the court judgement on an ex-ante basis, then we ask that the RAs adopt an alternative (i.e. less pessimistic) collection approach for Imperfections (and jurisdictional TUoS). This approach should continue until the case is decided upon by the Irish Supreme Court, or at least until a more definite timeline on judgement is available.

Northern Ireland (NI) Security of Supply dynamic stability requirements

The consultation paper states that *"another key cost driver of the proposed 2025/26 Imperfections Charge is the TSOs' K-Factor adjustment (€183.43 million). The estimated costs associated with the within year (2024-25) K-Factor (€167.06 million) is the main influence. The TSOs state the challenges encountered in satisfying the Northern Ireland (NI) Security of Supply dynamic stability requirements is the primary contributory cost driver of the under-recovery of costs incurred within Tariff Year 2024/25".*

This is highly significant in that the within year cost is not €167.06 million, its €167.06 million more than was forecast 12 months ago. We believe the prospect for addressing the documented issues in Northern Ireland, in the short term, are not promising and will largely rely on the installation of new infrastructure, such as the second North-South interconnector or new system service offerings.

Given this, the RAs, with the TSOs, should carry out a significant review of the situation in Northern Ireland to establish whether the current approach being adopted is providing the best value to customers and whether a different approach is needed.

[2] Please see following link here.

Review of Market and Bidding Rules

We note that the Imperfections consultation further states that the *"SEM Committee (SEMC) published a note (in March 2024) reminding market participants of the requirement to meet the BCOP bidding rules. The SEM RAs are actively considering enhancements to the bidding rules in the SEM".*

Electric Ireland welcomes this statement and looks forward to participating in that process and reviewing the proposed enhancements. We believe that this process could be expanded to consider whether current market rules are supportive of solving underlying issues associated with high levels of renewables and not enough demand to absorb them.

The structure of the Imperfection charge to Suppliers is a case in point. From 1 October, the charge will be €22.28/MWh in every hour regardless of system conditions. Sculpting of this charge (and other system charges) to Time of Use (e.g. day/night/peak) could help incentivise the increased use of renewables, when their output is high and demand is low. This could also act to move demand away from peak hours, thereby relieving stress on the electricity system.