Amendments to the Bidding Code of Practice (BCOP)

Consultation Paper

SEM-26-49

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1 PROPOSED AMENDMENTS TO THE BCOP

1.1 INTRODUCTION

The Single Electricity Market Committee (SEMC) invites stakeholder views on proposed amendments to the Bidding Code of Practice (BCOP). The RAs published the original BCOP in 2007 (AIP-SEM-07-430). The BCOP was subsequently updated, with the latest version published in 2014 as SEM-14-019[1].

The BCOP is published under the relevant Cost-Reflective Bidding licence conditions applicable in Northern Ireland and Ireland. It forms an integral part of the Single Electricity Market's market power mitigation strategy by requiring, *inter alia,* that items of Schedule Production Cost included in Commercial Offer Data (COD) submitted to the Balancing Market should reflect the Short Run Marginal Cost (SRMC) of such cost-items.

Licensees are required to ensure that all components of COD reflect the SRMC of their generation set or unit, and that start-up and no-load costs generally reflect the actual costs of the generation set or unit. Licensees must retain and provide supporting evidence upon request to the Regulatory Authorities (RAs).

The obligation to bid on an SRMC basis serves multiple objectives within the SEM. In addition to mitigating the exercise of market power, it supports efficient market outcomes, prevents the gaming of constraint payments and reflects the principle that appropriate compensation for participation in the SEM is derived not only from the energy market, but also the Capacity Market. As established in previous SEMC decisions, adherence to SRMC ensures that cost recovery occurs through appropriate channels and avoids the potential for over-recovery.

[1] https://www.semcommittee.com/files/semcommittee/media-files/SEM-14-019%20Bidding%20Code%20of%20Practice%20-%20Amended%2013%20March%202014.pdf

The BCOP also contains provisions in relation to Opportunity Cost, the valuation of cost-items, stand-alone assessment and good market behaviour, all of which are relevant to the proposed amendments set out below.

The relevant licence conditions, and the BCOP itself, provide that the Regulatory Authorities (RAs) may, following consultation, direct amendments to the BCOP. This paper sets out the proposed amendments and the rationale for their introduction.

1.2 PROPOSED AMENDMENTS

The fundamental requirement to bid on an SRMC basis is unchanged. The proposed amendments are intended to improve transparency, consistency and the evidential basis for the application of those principles, informed by the RAs' experience in monitoring compliance with the BCOP.

In considering whether a cost may be reflected in COD, the SEMC has previously distinguished between two analytical steps:

- First, whether the cost falls within the concept of SRMC as defined in the relevant licence conditions (the qualifying question); and
- Second, if so, the appropriate valuation of that cost through Opportunity Cost as defined in the BCOP (the valuation question).

The proposed amendments do not alter the scope of costs that may, in principle, qualify, nor the substantive standards applicable to their treatment. Rather, they provide a more structured framework for how specified costs are assessed, valued and evidenced.

A tracked change version of the BCOP illustrating the full extent of amendments proposed is provided alongside this consultation. Aside from minor amendments to reflect current market arrangements, the proposed amendments include:

(i) A requirement that any provision for increased risks to plant and equipment, under paragraph 8(iii) may only be included in COD in accordance with a methodology notified to the RAs under new paragraph 12E;

(ii) A requirement that any other variable operational and maintenance costs under new paragraph 8(iv) may only be included in COD in accordance with a methodology notified to the RAs under new paragraph 12E;

(iii) A requirement that bids reflecting Opportunity Costs under paragraph 11 in respect of energy, emissions or time-limited units may only be submitted in accordance with a methodology notified to the RAs under new paragraph 12E;

(iv) An avoidance of doubt provision making it clear that no account should be taken of any liability to pay, or any opportunity to avoid paying, a Difference Charge when calculating the Opportunity Cost of a cost-item under paragraph 8 of the BCOP, without prejudice to the generality of the benefit foregone test in paragraph 7; and

(v) A requirement that Licensees establish, maintain and, upon request by the RAs, demonstrate systems and controls sufficient to ensure that COD is formulated in compliance with the BCOP and relevant licence conditions, consistent with the standards expected of a Prudent Industry Operator acting in accordance with Prudent Electric Utility Practice (as referenced in Clause B.14.1.5(a) of the Trading and Settlement Code).

Experience has shown that certain cost components and methodologies would benefit from greater clarity and, where appropriate, prior regulatory engagement. In particular, the amendments to paragraphs 8(iii), 8(iv) and 11 relate to cost components and methodologies which may be complex, novel, material or otherwise difficult to assess on a purely ex-post basis. The RAs consider that, in such cases, prior engagement on the relevant methodology and supporting evidence may assist both Licensees and the RAs in ensuring that COD is formulated consistently with the BCOP and the relevant licence conditions.

The proposed amendment to paragraph 8(v) is intended to avoid any uncertainty by making it clear that, when calculating the Opportunity Cost of a cost-item under paragraph 8, no account should be taken of any liability to pay, or opportunity to avoid paying, a Difference Charge.

The proposed new paragraph 12F reflects the importance of Licensees maintaining robust systems, controls and governance arrangements for the formulation of COD, consistent with previous communications from the RAs on the standards expected of Licensees.

The rationale for these amendments is set out in more detail below.

Paragraph 8(iv)

Paragraph 8(iv) clarifies that paragraph 8(iii) is limited to reasonable provision for increased risks to plant and equipment. Any additional variable operational and maintenance costs may only be included in accordance with a methodology notified to the RAs under paragraph 12E. This clarifies the boundary between these provisions while maintaining flexibility for novel or complex cost components.

Paragraph 8(v)

In the context of recent monitoring experience and related engagement it has been suggested to the RAs that certain costs arising from participation in the SEM Capacity Market, notably Difference Charges, should be recoverable via Complex COD. On a proper construction of the relevant licence conditions and BCOP such an approach is not permissible.

It is the view of the RAs that the existing provisions of the BCOP (notably the valuation provisions of paragraph 7 which attribute Opportunity Cost only to the benefit foregone in operating to generate electricity on a given Trading Day) do not permit such costs to be recovered via Complex COD.

The RAs therefore propose to make express provision reflecting this position in a new paragraph 8(v) in order to avoid any doubt on this matter.

Paragraph 12E: Proposed Default Operation

As a default position, the RAs propose that paragraph 12E would (except with prior consent) require 30 Working Day advance notification by Licensees of the relevant methodology before it is first reflected in COD. This default period reflects the expectation that paragraph 12E will principally apply to novel, complex or material methodologies which are not expected to arise routinely. It is not intended to require prior approval of the methodology.

Notification should ordinarily be accompanied by the supporting information reasonably necessary for the RAs to assess the methodology. This would provide the RAs with an opportunity to review the proposed approach and, where appropriate, request further details or take further action if that is judged appropriate in particular circumstances.

Under this default position the RAs do not envisage that paragraph 12E would require routine notification each time an already notified methodology is applied in COD. In addition, the RAs will have regard to administrative proportionality, including in relation to cost components that may vary frequently or as a result of unforeseen circumstances, when considering whether to consent to derogations from the 30 Working Day prior notification requirement.

For the avoidance of doubt, the absence of any request for information or the taking of any further action in relation to a notified methodology would not constitute a determination that the relevant COD, cost component or methodology is compliant with the BCOP or the relevant licence conditions. Responsibility for compliance remains with the Licensee at all times. The operation of paragraph 12E is without prejudice to the RAs' ongoing monitoring and enforcement functions in respect of any COD submitted.

Paragraph 12E: Further development

The RAs are also considering the development of a proportionate framework to support the operation of paragraph 12E, under which:

- certain categories of cost or methodology would be removed from the requirement for prior notification (e.g. de-minimis or established cases, or those unlikely to have a material impact on market outcomes);

- certain categories would continue to be subject to prior notification of a proposed methodology and supporting evidence, subject to the RAs' ability to request further information or intervene where concerns arise; and

- certain categories would additionally require an express approval before the relevant cost component or methodology is reflected in COD, having regard to factors such as materiality, complexity, novelty or potential market impact.

At the point of implementation of the revised BCOP, the default position discussed above (subject to any appropriate transitional provisions) would apply. Following implementation, the RAs would intend to engage further with stakeholders on the development of the framework as discussed above. Nothing in such subsequent engagement would affect the continuing obligation of Licensees to comply with the BCOP or the RAs' ability to exercise their relevant powers.

Paragraph 12F

Paragraph 12F introduces a new principle of good market behaviour requiring Licensees to maintain an adequate compliance approach to the formulation of COD. This is intended to make clear that maintaining appropriate compliance systems, controls and governance arrangements is a self-standing requirement, without prejudice to other applicable obligations, including paragraph 9 of the relevant licence conditions. Accordingly, a failure to maintain such arrangements may itself constitute a breach, irrespective of whether non-compliant COD is submitted.

The proposed amendments (except for the clarifications proposed in paragraphs 8(iv) and 8(v)) would, if made, apply prospectively and would be without prejudice to the RAs' entitlement to pursue instances of non-compliance with the BCOP as it stood prior to amendment.

2 CONSULTATION QUESTIONS

Stakeholders are invited to respond to the following questions:

1. Do you consider that the proposed amendments to the BCOP will enhance cost-reflective bidding and transparency in the Single Electricity Market?
2. Do you have any views on the proposed operation of paragraph 12E, including:
    a) the proposed default pre-notification process for relevant methodologies (and any transitional provisions which might be appropriate), including whether the proposed default advance notification period is appropriate and, if not, what alternative period would be preferable and why;
    b) any categories of case that should not require pre-notification, for example on de-minimis or materiality grounds; and
    c) any categories of case where an express approval or enhanced ex-ante scrutiny should apply?
3. Do you foresee any unintended consequences from the proposed amendments?
4. Do you have any alternative proposals, or suggested wording changes, that would better achieve the same objectives?

3 NEXT STEPS

Stakeholders are invited to provide feedback no later than 21st September 2026.

The RAs request comments from interested parties in relation to the proposed amendments of the BCOP.

The RAs intend and prefer to publish all comments received but are prepared to facilitate those respondents who wish certain sections of their submission to remain confidential. Accordingly, respondents that so wish should submit these sections in a separate annex that is clearly marked “Confidential”.

Following this consultation process, the SEMC will review submissions and will publish a decision paper setting out the final form of the amendments. Subject to the publication of that decision, the revised BCOP will take effect immediately.