



Single Electricity Market

Consultation Paper

**Revisions to the Criteria for Approval of Intermediary
Applications under the Trading and Settlement Code**

18 October 2007

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1 Introduction

Version 2.0 of the Trading and Settlement Code (TSC)¹ published on May 31st 2007 provides for the registration of Intermediaries with the express approval of the Regulatory Authorities (RAs). The role of an Intermediary is to act for licensees in relation to specific generator units under the TSC, taking on, for example, their rights and responsibilities including bidding, settlement and provision of credit cover. The TSC provides that the RAs may specify the time period for which the Intermediary may participate in the SEM.

Accordingly the RAs consulted on proposals regarding the criteria to be applied by them in considering whether a Party to the TSC may be permitted to register an Intermediary to act on its behalf in relation to one or more generator units. The paper also considered the extent to which such registration should be subject to specific time limitations. A decision paper regarding the above was published in February of this year (AIP/SEM/07/029).²

In light of further representations to the RAs on this matter, this paper sets out proposals for revisions to the criteria for approval of Intermediary applications under the TSC. Comments are requested from interested parties on the proposed revisions as set out in this paper. Comments on this paper should be submitted by close of business (5 pm) on Friday, November 2nd, 2007 to pnewsome@cer.ie.

2 Background

The concept of Intermediaries provides for a straightforward and transparent means of dealing with specific types of legacy arrangements and contracts supported by Public Service Obligations (PSO) under the SEM. In deciding upon the criteria to apply for the approval of Intermediary applications under the TSC as set out in AIP/SEM/07/029 the RAs were mindful of the need to counterbalance a simplified transition to the new trading arrangements which would serve to avoid significant additional pressure on market participants in advance of go-live, whilst ensuring the retention of proper regulatory controls on the market. Given the above appointment of Intermediaries under the TSC is currently limited to generator units which are the subject of contracts that were entered into prior to the publication date of AIP/SEM/07/029, such an appointment being in turn limited to a twelve month period from Market Go-Live. Note that PSO contracts are exempted from the twelve month limitation.

¹ AIP/SEM/07/224

² Decision Paper on the Criteria for Approval of Intermediary Applications under the Trading and Settlement Code, 28 February 2007, AIP/SEM/07/029

Since the publication of the decision paper setting out the criteria regarding the appointment of intermediaries, representation has been made to the RAs regarding proposed revisions to these criteria. These are set out in Section 4 of this paper.

3 Current Criteria for Approval of Intermediary Applications

Section 6 of AIP/SEM/07/029 states that the appointment of Intermediaries under the TSC is limited to generator units which are subject to contracts entered into which meet the following criteria:

- I. Where the contract was entered into before the date of publication of this Decision Paper (AIP/SEM/07/029), that is on or before 27 February 2007

It shall be possible under the TSC to appoint an Intermediary in relation to any generator unit in respect of contracts entered into on or before 27 February 2007.

- II. Such arrangements (under I. above) shall be limited to 12 months from Market Go-Live. (PSO contracts are to be exempted from this condition.)
- III. Limited to the duration of the contact

The appointment of an Intermediary under the TSC by a PSO generator shall cease on termination or expiry of the underlying contract.

Where a generator appoints an Intermediary under the TSC, the generator shall ensure, in accordance with its generation licence that the Intermediary complies with the TSC in relation to the relevant generator units. The Intermediary so appointed must be a Party to the TSC and therefore will be contractually obliged to comply with obligations relating to the relevant generator unit/units under the TSC. Generators availing of an Intermediary will continue to be required to sign up to the Grid Code with the requisite connection agreement in place. Supplier units under the TSC will not be permitted to have an Intermediary act on their behalf. The above serves to ensure proper regulatory oversight of the Intermediary and the relevant generator units.

4 Proposed Revisions to Criteria for Approval of Intermediary

Applications

4.1 Arguments Presented

The RAs have received representations from participants regarding the criteria for approval of Intermediary applications. These representations centre around two main issues, namely the resulting impacts on Suppliers information technology (IT) and resource overheads, given the configuration of the SEM central systems and the

potential impacts on the success of the Renewable Energy Feed in Tariff (REFIT) programme in Ireland. The arguments presented are set out below.

At present, a Participant appointed as an Intermediary for a number of Generator Units can access the SEM central market systems under a single Participant identifier with one set of security requirements³. This allows the Participant to receive and send information, including market settlement information and Generator Unit Offer data associated with all relevant Generator Units utilising a single set of security requirements. This serves to minimise the administrative burden on the Participant in question in terms of both IT system design and maintenance of those security requirements⁴.

These security access arrangements will change in the future under the existing decision. Under the current criteria for approval of Intermediaries as set out in Section 3 above, where contracts are entered into post the publication of AIP/SEM/07/029 on February 27th 2007 the appointment of an Intermediary is not permitted. In addition, for contracts other than PSO support contracts entered into prior to/on that date a limitation of twelve months duration from Market Go-Live applies for the application of an Intermediary.

Therefore, where a Participant has been appointed Intermediary for a number of Generator Units as above and the twelve month period elapses, that Participant must deregister those Generator Units and the licence holder must accede to the T&SC and reregister those Units under its own Participant identifier with its own set of access Codes. The licence holder may then appoint the former Intermediary as a Data Processing Entity for the relevant Generator Units in accordance with the relevant provisions of the TSC (Section 3 of the TSC refers). Representations have been made to the RAs regarding the impacts of such an arrangement on an organisation acting as Data Processing Entity for a number of Generator Units. Here, separate security requirements are required to submit and receive information for each Generator Unit. It has been argued that this results in additional IT and resource costs for the organisation acting as a Data Processing Entity in question.

Furthermore, once the Intermediary arrangements fall away after the 12 month period, generator licence holders previously represented by Intermediaries under the T&SC, will have to pay accession and registration fees for the previously registered Generator Units. In addition, the licence holder will be bound by the overall requirements of the Code and will have to manage the banking arrangements previously handled by the Intermediary.

Regarding REFIT, representations have been made to the Commission for Energy Regulation (CER) regarding the potential impacts of the criteria for the approval of Intermediary applications on this programme. The view has been expressed that not

³ These security requirements take the form of the signing of market communications using a digital certificate downloaded from third-party service provider

⁴ The digital certificate requires renewal on a yearly basis. While the process for downloading this certificate is robust, it does add a non-negligible administration overhead where many different Participant identifier digital certificates are required.

allowing generators who enter into REFIT covered contracts post the stated cut off date of February 27th, 2007 to appoint intermediaries may serve to impact negatively on the success of the scheme and, ultimately, on the achievement of Ireland's renewable target under Directive 2001/77/EC. The alternative arrangements available for such generators would result in them incurring additional costs arising from increased administration and financial requirements as set out previously in this Section. In addition, it has been argued that the necessity to move from bilateral contracts to financial hedges would result in reluctance on behalf of suppliers to enter into agreements under REFIT due to their inability to quantify the costs and risks associated with such contracts at this juncture, given the nature of the support mechanism in the context of the SEM.

4.2 RAs' Proposals

The concept of Intermediary was originally conceived as a method of providing a straightforward and transparent means of dealing with specific types of legacy arrangements under the SEM, serving to minimise disruption caused to existing arrangements that would otherwise be impractical. The criteria for approval of Intermediary applications under the TSC are designed to facilitate the above whilst ensuring that the potential to create additional concentrations of market power is curtailed and that proper regulatory oversight of generators is facilitated.

The RAs have reviewed the arguments presented in light of the above, of their respective duties in relation to competition and renewables and of government policy regarding the latter. The RAs note that the administrative burden for relatively small market participants should be minimised such that it does not act as a barrier to participation in the market. This must be balanced with the requirement to ensure that the necessary SEM processes and procedures are not compromised. As above it is important that the RAs concerns regarding further concentration of market power and facilitation of appropriate regulatory oversight.

The RAs consider that the key concern regarding the additional concentration of market power that could arise where the Intermediary arrangement is used as an enduring solution is mitigated with respect to Price Taker Generator Units (both Predictable and Variable) and Autonomous Generator Units given their limited ability to influence the market price at this point in time. Therefore, there is merit in revising the criteria for the approval of Intermediary applications to provide that where a generator opts to act as a Price Taker Generator Unit or Autonomous Generator Unit under the TSC then, regardless of the date of commencement of the contract between the generator and supplier, the appointment of an Intermediary should be facilitated under the TSC. This arrangement would continue for so long as the generator continues to opt to act as a Price Taker Generator Unit and the relevant contract with the Supplier Unit remains in place.

The RAS consider that the above arrangement would serve to reasonably extend the application of Intermediaries in a manner which would not result in additional

concentrations of market power which could result in material impacts in the market price at this juncture. The proposed revision to the criteria would serve to reduce the administrative burden for relatively small market participants. Notable here is the potential reduction in market costs for relatively small renewable generators.

The REFIT successful bidders list as published by the Department of Communications, Energy and Natural Resources (DCENR) shows that the majority of bidders that have been deemed successful are wind generators. The remaining projects are all less than 5 MW in size. The RAs note that in the run up to SEM Go-Live all wind generators who have registered with the SO have opted to be treated as either Autonomous Generator Units or Price Taker Generator Units. In addition, the majority of generators under 5 MW have opted to trade outside the pool. Therefore, it is reasonable to assume that a revision to the criteria to allow for Generators that opt to act as Price Taker Generator Units or Autonomous Generator Units under the TSC to avail of Intermediaries as proposed above will serve to mitigate concerns regarding REFIT, and ultimately achievement of renewables targets, as expressed to the CER.

Given the above, the RAs propose the following additional criteria be included in those contained in AIP/SEM/029 regarding the appointment of Intermediaries under the TSC.

- IV. An Intermediary may be appointed where a Generator Unit has registered as a Price Taker Generator Unit in accordance with the TSC and where said Generator Unit is contracted to a Supplier Unit that is a Party to the TSC. For the avoidance of doubt the Intermediary will cease to be appointed when either or both of the following occur:
 - a. on termination or expiry of the underlying contract, and or
 - b. on the Generator Unit ceasing to be registered as a Price Taker Generator Unit or Autonomous Generator Unit under the TSC.

Furthermore, a revision will be required to the T&SC to reflect the above, revised criterion, ensuring the Participants acting as Intermediaries are contractually required to register their Generator Units as Price Taker Generator Units. This has the consequential impact that licence holders who avail of this proposed enduring Intermediary arrangement must either own non-dispatchable generation (and register as Autonomous), or qualify for Priority Dispatch under the appropriate governing legislation applied by the Grid Code.

5 Request for Comment

Comments are invited from interested parties on the proposals set out in this paper, specifically the Regulatory Authorities proposed revisions to the criteria for the approval of Intermediary applications under the TSC. Comments on this paper should be submitted by close of business (5 pm) on Friday, November 2nd, 2007 to pnewsome@cer.ie.

