



20th of March 2020

RE: CRM 2024/25 T-4 Capacity Auction Parameters and compliance with the Clean Energy Package (SEM-20-006)

By Email to Kenny Dane (Kenny.dane@uregni.gov.uk)

Dear Mr Dane,

The Electricity Association of Ireland (EAI) welcomes the opportunity to respond to the SEMC consultation on the parameters in relation to the T-4 auction that is currently scheduled to take place in January 2021, for delivery over the course of the Capacity Year October 2024 to September 2025.

Our members acknowledge the challenges presented by the new CO₂ emission limits, introduced by EU Regulation 2019/943 in July 2019, which take effect immediately for new plant and by July 2025 for existing plant who fail to meet certain criteria. Both options proposed by the RAs implicitly acknowledge the challenges posed by this legislation for an all-island market already anticipated to face significant capacity issues in the mid-2020s but differ in terms of the extent that existing capacity will be relied on to meet the reliability standard on the island in the capacity year 2024/25. The detailed application of the emissions limits in the Regulation and its precise impact on relevant generation resources is not fully clear at this stage and EAI does not have consensus on either of the options presented in the consultation paper on the treatment of existing plants with emissions exceeding 550g CO₂/kWh.

More generally however the current approach to EU compliance on the island is a concern for EAI and its members. At the outset, we would welcome multilateral engagement for interested stakeholders, in the form of a permanent forum alongside ad-hoc workshops on specific issues, in order to understand the implications of EU legislation for the island and to agree a common approach to compliance. In many instances it may not be appropriate to transpose text directly or to rely exclusively on relevant ACER Guidance for implementation, and to do so creates the potential for unintended consequences on the island. For example, the potential omission of low carbon gas fired CHP facilities on the island has been highlighted as one potential consequence of a strict interpretation and application of the ACER Opinion. This Opinion is inconsistent with the Energy Efficiency Directive, and its carbon intensity methodology contradicts the ETS, the European Investment Bank, the Best Available Technologies decision and the ISO standards. It was not the intention of the Clean Energy Package, specifically the revised Energy Efficiency Directive, to discriminate against CHP in this way, and any failure of the legal text or relevant implementing guidelines to do so, is an omission on the part of the legislators and administrators that needs to be allowed for in the implementation. The unintended consequence of this interpretation would deliver an exit signal to CHP plant in Ireland which delivers 7% of Ireland's power while reducing our annual CO₂ emissions by ~ 400,000 tonnes. We would recommend that the SEMC be conscious of these increased emissions and avoid any market

A decarbonised future powered by electricity

Electricity Association of Ireland

Registered Office: 127 Baggot St Lower, Dublin 2, Ireland D02 F634

Registered No. 443598 | VAT No. IE9682114C

T +353 1 524 1046 | E info@eaireland.com | [@ElectricityAI](https://twitter.com/ElectricityAI)

www.eaireland.com



distortion among participants. We ask the Regulatory Authorities to consider our Forum ask and are open to discussing same at your earliest convenience.

Existing Capacity Price Cap (ECPC)

We note the Regulatory Authorities' proposal that they may consider reducing the ECPC depending on the outturn clearing price and bidding strategies employed in the forthcoming T-4 auction. The EAI's view remains that a reduced ECPC is not appropriate, the reasons for which we outlined in some detail in our response to the 2020/21 T-1; 2021/22 T-2 auction parameters consultation (SEM-19-010). Given the potentially far-reaching consequences a reduced ECPC could have for EAI members we reiterate some key assertions as well as additional information the Regulatory Authorities should take into account before considering their proposal any further.

In general, the Regulatory Authorities have not provided any convincing rationale to justify such an arbitrary review of the ECPC parameter at a time when significant investment in new and existing assets is required in order to meet our decarbonisation targets and mitigate against the risk of the Generation Capacity Statement 2019-2028 (GCS) forecast capacity shortfalls for 2025/ 26,¹ materialising.

Fundamentally, a reduction of the ECPC would significantly heighten the perception of regulatory risk in this market (raising the cost of capital) and would needlessly interfere with proper market functioning, contrary to the principles in Articles 3 and 10 of Regulation 2019/943.

A competitive market is at the core of the existing State aid approvals (SA44464 & SA44465), and interference with the ECPC with the clear aim of influencing market price outcomes, is contrary to the spirit of those approvals and Regulation 2019/943 and the objectives of market liberalisation. While the original rationale for the ECPC was to limit the market power of existing generators, the suggestion that reducing the ECPC would simply mean the regulators would have to review more USPC applications undermines what one could reasonably view as a properly functioning market. Failing to ensure that price outcomes are driven by competitive pressures as opposed to regulatory approved bids, is not conducive to competitive market outcomes.

EAI is of the view that contrary to the suggested potential revision of the ECPC, there is in fact reason to review the ECPC upwards and at the very minimum retain it at 0.5 BNE. The stark figures in EirGrid's GCS support this assertion. Given the expected capacity shortfalls by 2025/ 26, there is not only need for investment in new capacity in the market but there is a continued need for considerable existing generation to support the low carbon transition. Introducing the regulatory risk, a review downwards of the ECPC would result in, is not only unnecessary and unjustified but could potentially increase security of supply concerns and consumer costs in the process.

Lastly, EAI would reiterate its view that the fact that the RAs are better equipped administratively to assess a growth in USPC applications, also does not bode well for regulatory certainty in the future

¹ <http://www.eirgridgroup.com/site-files/library/EirGrid/EirGrid-Group-All-Island-Generation-Capacity-Statement-2019-2028.pdf>

governance of the capacity market and ignores the resource and costs that would unnecessarily be added to a market participant's bidding process. Furthermore, as explained in EAI's response to SEM-19-010, the USPC process is not a valid substitute for setting the ECPC too low. Apart from its other flaws, this is because the USPC process expressly rules out recovery of so-called sunk costs that would neither be denied from or discounted by rational actors in a competitive market. Thus, it is not simply a matter of balancing the administrative burden of going through the USPC process and mitigating market power, as suggested by the RAs in previous consultations. Consistent with regulatory duties, an appropriate balance must also be struck between mitigating market power and allowing the proper functioning of markets, and by providing a substitute for markets (through regulatory intervention, where justified) that is proportionate, consistent and provides for recovery of costs that a competitive market would allow.

Treatment of units with CO₂ emissions limitations – Options 1 and 2

As outlined in our opening comments, the detailed application of the emissions limits in the Regulation and its precise impact on relevant generation resources is not fully clear at this stage and EAI does not have consensus on either of the options presented in the consultation paper.

However, EAI does have a consensus in relation to the treatment of CHP facilities, where a strict interpretation and application of the ACER guidance could be detrimental to such facilities where it was clearly not the intention of the Clean Energy Package, specifically the revised Energy Efficiency Directive, to discriminate against CHP in this way.

Auction Format

Based on the limited information available to industry and the complexity involved and allowing for time to be reserved for industry consultation, system testing and trialling, auction format D does not look to be implementable in the limited 9 months available. It is not possible to give support to a solution on which no insightful detail has been given. EAI, therefore, retains a preference for auction format C.

Long stop date

EAI disagrees with reducing the long stop date for new entry below 18 months. No unit intends on going into time overruns and if the RAs are concerned about timely delivery of new volumes consideration could be given to procuring extra volumes in earlier or additional auctions.

Conclusion

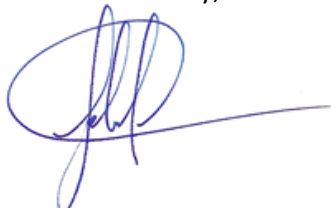
The detailed application of the emissions limits in the Regulation and its precise impact on relevant generation resources is not fully clear at this stage and EAI does not have consensus on either of the options presented in the consultation paper on the treatment of existing plants with emissions exceeding 550g CO₂/kWh.

In summary, EAI:

- Has a general concern in relation to the approach to EU compliance and specific concerns in relation to the potential unintended omission of the CHP plant on the Aughinish Alumina site. We ask the Regulatory Authorities to consider our ask for multilateral engagement on this in order to understand the implications of EU legislation for the island and to agree a common approach to compliance;
- Remains strongly opposed to any reduction of the ECPC, not least due to the regulatory risk a review would raise but due to the undermining of proper market functioning that price outcomes driven by regulatory approved prices as opposed to competitive pressures would introduce. We ask that further consideration of the issue should not occur without considerably more engagement with industry;
- Restates our position that auction format C is the preferred approach given there is little insight on format D and 9 months is insufficient to consult, design, test and implement it in our view;
- Believes that the current long stop date of 18 months should be retained.

As always, we are available to meet and discuss the consultation and this response at your earliest convenience.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'J MacNamara', with a long horizontal flourish extending to the right.

Dr John MacNamara

Chair EAI Markets Committee