

**Single Electricity Market  
Committee**

**Special Exemption from the Criteria for the Approval of  
Intermediary Applications**

**Decision Paper**

**31<sup>st</sup> October 2008  
SEM/08/170**

## 1. Introduction

This Decision paper sets out the reasons for granting a time-limited exemption to ESB Power Generation, in relation to the SEM Committee's Decisions on the criteria for granting Intermediary status in the Single Electricity Market (SEM). The relevant Decisions are: *“Revisions to the Criteria for Approval of Intermediary Applications under the Trading and Settlement Code SEM/07/11”* which replaces *“Criteria for Approval of Intermediary Applications under the Trading and Settlement Code” AIP/SEM/07/029*

On 31<sup>st</sup> July 2008, ESB and Endesa entered into a conditional agreement for the sale of generation sites and generating units under the CER-ESB Asset Strategy Agreement dated 27<sup>th</sup> April 2007. The sale process agreed between Endesa and ESB requires the transfer of assets and accompanying deregistration/registration of 11 units, twice in a two-week period by the Single Electricity Market Operator (SEMO). Under this procedure the units would be deregistered and registered to a SubCo and a second deregister-register process would assign these units to NewCo/Endesa. The deadline for completion of the transfer of assets to NewCo/Endesa is the 30<sup>th</sup> November. All registrations are required to be completed prior to this date.

Following various discussions with the Single Electricity Market Operator (SEMO), which highlighted the genuine difficulty of conducting the registration and deregistration of the units for SubCo, ESB requested approval to act as an Intermediary in respect of the Units that will be transferred to the SubCo, for an anticipated period of two weeks. This request was made in order to facilitate the transfer of assets to the timelines underpinning this sale process.

On receipt and consideration of ESB's explanation regarding the reasons the Intermediary relationship was required, ESB's request was submitted for the approval of the SEM Committee. The Commission proposed a grant of exemption from SEM 07/11 to ESB, for a time limited period to enable ESB to act as an Intermediary for Subco. Full consideration was given to the ESB's assurance that this temporary Intermediary status will not prejudice other market participants or ESB's obligations under the Trading and Settlement Code or the Generation licence.

On 28<sup>th</sup> October 2008, the SEM Committee granted ESB a temporary exemption from SEM 07/11.

This decision paper sets out the reasons for grant of exemption in the context of the previous decision: SEM 07/11.

The structure is as follows:

1. **Introduction** - sets out a brief abstract of the topic of the paper and the supporting information necessitating this decision paper.
2. **Previous Decisions** - details the background decisions published prior to this exemption.
3. **Foundation of request** - sets out the grounds upon which ESB seeks this exemption

4. **Final Decision** - outlines the decision of the SEM Committee and the reasons for its decision

## 2. Previous Decisions

The role of an Intermediary is provided for in the Trading and Settlement Code (TSC), whereby the RA's may specify the time period for which the Intermediary may participate in the SEM with the express approval of the Regulatory Authorities. The codes states:

*“Intermediary shall for the purposes of the Code, be the Participant for any Generator Units registered to the Intermediary”.*

The SEM Committee has published two relevant papers in relation to criteria for Intermediaries. AIP/SEM/07/29 titled, *“Criteria for Approval of Intermediary Applications under the Trading and Settlement Code”* and SEM/07/11 titled, *“Revisions to the Criteria for Approval of Intermediary Applications under the Trading and Settlement Code”*.

Taken together, the criteria as published in the above Decision papers suggest that at present only a purchaser of energy under a legacy (pre-SEM) arrangement with a generator or a purchaser of energy generated by a price-taking unit may act as an Intermediary under the TSC in respect of the relevant Generator Unit. Neither applies in this instance, as the generation assets would not be price-takers.

## 3. Foundation of Request

ESB's request was made on the following grounds:

- The sale process agreed between Endesa and ESB requires the transfer of assets and accompanying deregistration/registration of 11 units, twice in a two-week period by SEMO. Under this procedure the units would initially be deregistered and registered to SubCo and a second process would transfer these units to NewCo-which is anticipated to become a subsidiary of Endesa- within a tight timeline.
- The target for completion of the transfer of assets to NewCo and the subsequent purchase by Endesa is the 30<sup>th</sup> November. All registrations are required to be completed prior to this date.
- SEMO expressed genuine concerns regarding the feasibility of conducting such parallel, complex deregistration and registrations within the specified tight timeline. SEMO advised ESB that such a process would have to be conducted in tandem and could lead to significant errors and systems complications.
- SEMO highlighted the significant technical and systems challenges they faced during deregistration-registration of a peaking plant to transfer it from a site at Aghada to Tawnaghmore earlier in the year.

- The trading and settlement code allows up to 60 days for SEMO to complete a registration process.
- The exemption proposed is entirely upon the basis of pragmatism. This is particularly in view of the tight timelines for the sale process.

#### **4. Final Decision**

The SEM Committee meeting of the 28<sup>th</sup> October 2008 approved this proposal on the following grounds:

- The exemption is proposed on the basis of pragmatism
- The exemption is time-limited for a temporary period until such time as the assets are transferred to the final holder NewCo/Endesa
- Following the transfer of assets the Intermediary status afforded to ESB will expire. SEMO and the Regulatory Authorities shall be notified as soon as this occurs
- The Market Monitor will continue to monitor the units during the period
- ESB will continue to have the same obligations under the TSC and generation supply licence in relation to the SubCo-assets as it did prior to its registration as Intermediary
- The registration of ESB as Intermediary will facilitate a successful transfer of assets in accordance with the Asset Strategy Agreement.

The SEM Committee confirms that the criteria and Decision as specified in SEM 07/11 continue to hold in the SEM during the exemption period granted to ESB, for the reasons outlined above and for the successful outcome of the CER-ESB asset strategy. However, the RA's will consider the case for grant of specific exemption on a case-by-case basis, should extenuating circumstances of this type occur in the future.