



Leslie Burns
SONI Ltd
12 Manse Road
Belfast
BT6 9RT

6 July 2009

Dear Leslie,

Harmonised Ancillary Services & Other System Charges

We welcome this opportunity to comment on the Harmonised Ancillary Services & Other System Charges – Rates Consultation paper, published on the 8th June 2009. This is a consolidated response, representing the views of a number of Generator Participants in Northern Ireland (NI), who have a series of shared concerns in relation to the proposed rates, charges and penalties detailed in the paper, and the proposed implementation of the harmonised AS arrangements.

The parties submitting this letter are all committed to complying with Licence and Grid Code obligations with regards to the provision of reserve, reactive power and black start. However the current proposals raise substantive concerns in relation to the commercial impact of the proposed arrangements and the new and significantly greater risks and uncertainties that the arrangements create.

We have tried to follow the structure of the consultation paper, however we are providing comments on some additional areas which are not covered in the recent paper.

In addition to this submission, please note that individual Participants may also be making separate responses to raise specific issues which impact upon them.

Allocation of monies raised from Charges or penalties.

The consultation paper AIP-SEM-08-128 stated under section 3.2.3 that '*any monies collected by the TSO's as charges will be used to contribute to the funding of the next years AS expenditure*'.

The June 2009 consultation paper (AIP-SEM-09-062) indicates that Other Charges (penalties) will now be allocated as a TUOS charge. We would seek clarity from the TSOs as we see no justification for this change in approach and we believe Grid Code related Charges or penalties should remain within the AS arrangements. The TSOs should provide the reasoning behind moving these penalties to the TUOS agreements as none is apparent and it is not clear how these penalties can be classified as 'Use of System charges'. Furthermore, we also have a concern that Condition 30 of the SONI Licence may need to be amended and we would seek confirmation from SONI that they have considered fully the legal impact of the proposed amendment to the TUOS agreement.

We would also seek clarity as to what services a Generator has to contract with the TSO as the Licence obligations require Generators to offer System Support Services pursuant to Grid Code. Given the current proposed penalty structure and lack of detail in the AS proposals we will have to very carefully consider the extent to which we offer services (particularly in relation to reserve) on a contractual basis whilst meeting all of our Grid Code requirements.

AS Allowances

It has only recently become apparent that there will be separate AS Allowances for NI and ROI, both capped at current levels and independent of each other. It was also only recently confirmed that there will be separate and distinct IT settlement systems in each jurisdiction. This fundamental separation does not seem to be consistent with the aim of delivering a harmonised AS market. We accept that it is a sound principle to un-bundle AS services and also adopt a consistent policy with respect to Generator Performance Incentives (GPI's), however we do not see that harmonised AS rates provide value or efficiency within the AS arrangements.

Furthermore, one significant impact of the separate independent AS allowances is that there could come a position whereby customers in one jurisdiction end up funding AS in another, without any means of reconciling such cross-subsidy between the AS allowances. For example, if ROI generators performed well, securing AS revenue in excess of the ROI AS allowance whilst NI generators performed poorly, then the AS pot in ROI would be short and such a deficit would have to be recovered from ROI customers, whilst NI customers who have benefited from ROI plant

performing well, would potentially receive a rebate relating to the over-recovery of AS.

Principles and Methodology for the determination of Rates and the application of the Exchange Rate

Whilst the TSO's summarised the key assumptions used in deriving the AS Rates, there is a substantial lack of detail and transparency with regards to how the new harmonised AS rates have been determined, particularly given the two separate jurisdictional AS Allowances. We believe that it is vital that such detail is made available to Participants not only to allow a proper examination of the impact of the current proposals, but also to provide a consistent and transparent means of modelling the rates going forward. Clarity on how the TSO's have derived the rates for each jurisdiction and how they applied exchange rates to each AS Allowance to derive the proposed rates should be provided.

Reserve and Reactive Power Rates

We note that many of the reserve rates have increased significantly from those provided within the 23 September 2008 consultation document. From a consistency perspective, such volatility is of itself concerning. It is also very difficult to model the impact of these revised rates, particularly in relation to analysing potential reserve penalties. To date the AS project has provided no detail on how generating unit response is going to be determined during the frequency transient nor how each individual governor response characteristic is going to be modelled within the TSO settlement IT solution. Further detail and clarity on how the TSO's intend to determine accurately the actual response capability during a frequency transient is required. This detail should be formally recorded within the AS agreement. We would also welcome confirmation that all Generators receiving reserve payments will have appropriate fast acting event recorder equipment to ensure that there is a consistent and equitable approach to determining actual generator response across the Island.

Analysis undertaken to date indicates that reserve penalties are at least a factor of three higher than the current penalties in the SSSA agreements. The current SSSA arrangements in NI have ensured a high degree of compliance with contracted reserve characteristics, and we believe that the revised arrangements introduce penalties which are disproportionate and unjustifiable. Furthermore, there has been no evidence presented to date to demonstrate that these penalty rates bear any relationship to the costs incurred as a result of the failure to perform.

Many Generators in NI do not have SSSA contracted reserve characteristics which comply fully with the definitions of Operating Reserve in OC3.4.2.2 of the Go Live amended NI Grid Code. This issue pre-dates SEM Go Live and was discussed in detail with SONI prior to Go Live. SONI have continued to accept the SSSA reserve characteristics as being Grid Code compliant and we would welcome confirmation that this 'de-facto' derogation has been in

operation since Go Live. Given this discrepancy between SSSA reserve characteristics and Grid Code, there is significant confusion and concern as to what a Generator should offer in terms of reserve under the AS contract and how this would align with what SONI deem to be reserve characteristics under Grid Code. In addition the uncertainty associated with punitive reserve penalties all adds to additional risks when it comes to determining appropriate contractual AS reserve characteristics. Given that it is accepted by TSO's and RA's that NI generation plant provides a high level of AS performance, we believe that the new AS arrangements should, as a minimum leave Generators and PPB in a commercial position that is no worse than it is under the current SSSA arrangements.

In the RA's HLD paper in relation to the design of AS, it was established that it was important that *"service providers should be able to reasonably predict their annual income from providing AS.....They should also be able to predict the financial outcomes of failure to fulfil the contract"*. We are concerned that the arrangements as they stand do not allow service providers to reasonably predict income, given that payment is based fundamentally on dispatch/constraint decisions which are outside the control of the provider. The lack of transparency with respect to constraint decisions exacerbates this problem. Furthermore, as highlighted above, the lack of detail in terms of determining actual response capability means that it is currently difficult to meaningfully model and predict the level of reserve penalties.

Black Start Payments

System Support Services, as defined under the Generator Licence's, includes the provision of reserve, reactive power and black start capability and the new AS arrangements require these services to be unbundled and to have a harmonised approach to AS. In the ROI this unbundling of services has resulted in rates for reserve, reactive power and black start however black start rates for existing NI generators has been excluded. We do not understand what rationale the TSO's have adopted in determining this exclusion from the application of Black Start rates and would appreciate clarification in this regard.. The RA decision paper SEM-09-03 dated 30th January 2009, the RA's stated that *"The RA's consider that the proposed arrangements should apply to all plant in both NI and Ireland"*. We understood this to mean that plant, irrespective of jurisdiction, which had black start capability would be paid for such at the prescribed rates.

Under the current proposals in which NI black start capable plant will not be paid for, it is totally unreasonable for the costs associated with black start testing not to be fully recoverable, even in the event that a test is failed. Furthermore, given the new commercial exposure relating to black start testing, the TSO's will need to draw up, in consultation with Generators a well-defined procedure for facilitating such tests, including the various costs that are expected to be indemnified.

Short Notice Declaration (SNDs) and Trip Rebates

The SSSA's apply both SND's and Trip Rebates, however for any one event only one charge is applied. We note that it is the intention of the TSO to apply both penalties on a trip event and we would suggest that such double penalisation is overly punitive. Furthermore the proposed Trip and SND Trip Charge rates result in excessively high penalties (can be over ten times what is currently applied under the SSSA's on an annual basis) and these penalties have a substantial impact on our commercial position compared with the current SSS arrangements. To date, the TSO's have not provided any evidence or justification for these excessive penalties, and we believe that it is important for the TSO's to be able to justify the extent these charges.

We note also that there are three different rates for trip rebates, depending on whether the incident results in a Direct Trip, Fast Wind Down Trip or Slow Wind Down Trip. Whilst plant in ROI can offer such trip services, plant in NI has not been required to offer such a service and is not designed to do so. These services should be offered as a separate optional service under the AS and it is totally unreasonable to apply penalties to plants which are not required to offer such services under their relevant Grid Code.

Generator Performance Incentives (GPI's)

The current rate under the SSSA's of £0.50/Mhr for the availability of services was established when competition in the generation market was established in NI. This rate reflected the NI system at the time in terms of capacity, availability of AS and the requirements for reserve and reactive power. The TSO's have confirmed that they wish to replicate this £0.50/Mhr figure in the application of GPI's. We do not accept that this is an appropriate figure in an all-Island harmonised context and we would expect more robust and rigorous analysis from the TSO's in determining an appropriate rate which is justifiable in terms of the cost impact of non-compliance with Grid Code on other Generators in the market.

We note also that Grid Code Derogations have been provided to many ROI generator participants in respect of technical capability and compliance with Grid Code. We believe that, within any proposed harmonised arrangements, it is vital that there is transparency on what derogations have been granted, to whom and for what period of duration.

Implementation Issues

Both the TSO's and RA's have indicated that the new AS arrangements are to be operational on the 1 October 2009 and as part of this timetable, current SSSA counter parties recently received three months written notice that the SSSA's will terminate on midnight of 30th September 2009. It is disappointing to have received this termination notice, without any sight of the proposed draft AS agreement as was outlined in 7.1 of the June 2009 consultation paper. We understand that it will be a number of weeks before the TSO's are

in a position to issue draft AS agreements and it is a concern that this would suggest that slippage has already occurred in the programme.

We also understand that the TSO's are currently working on developing AS settlement systems, although the logic, functionality and detailed specification will not be shared with Generator Participants. TSO's have also not provided any detail of how the settlement systems are going to be tested and validated. In parallel AS providers will need to develop, test and implement their own shadow settlement systems in order to validate, query and dispute (where necessary) billing statements provided by TSO's. AS providers require substantially more detail, particularly in terms of the determination of reserve response, reactive power capability and the application of GPI's, in order to develop appropriate shadow settlement systems. Without such shadow settlement systems, the risk of dispute between TSO and AS provider is high, and the ability of AS providers to satisfy governance and audit procedures is unacceptably diminished.

It is apparent that the proposed arrangements may also require changes to Grid Code, EDIL systems, TUOS agreements, various Licences and potentially SONI's price control. We accept that some of the changes may be superficial and reasonably straight forward, however others may require consultation and we are not clear that this has been considered within the current implementation timetable.

There are other legacy issues in NI that have also not been considered within the implementation timetable, as the impact on various interface agreements between parties has not yet been assessed. In order to efficiently implement the target go-live date for the AS arrangements, parties may need to re-negotiate a number of interface agreements to ensure that contractual and operational obligations can be delivered to and by the relevant parties.

Normally, with such a significant change to contractual and operational relationships, a detailed 'Run-Off' procedure is established to ensure that payment obligations, disputes etc can be appropriately managed in transitioning from one regime to another. Without such 'Run-Off' arrangements it is not clear how the SSSA arrangements for the period prior to 1 October 2009, can be efficiently and effectively settled.

For all of the above reasons, we believe that the target go-live date of 1 October 2009 is overly ambitious, does not adequately address the range of issues that still need to be resolved over the next three months and will create substantial uncertainty and risks in terms of system security and the provision and settlement of AS agreements. Furthermore, we believe that, given the fact that the AS allowances are separate in each jurisdiction, there is merit in keeping the current NI AS arrangements in place, until all plant can be treated equally in terms of assessing the provision of AS and compliance with harmonised Grid Code obligations.

We would welcome an opportunity to discuss in detail a more appropriate implementation timetable, which takes in account fully, the points we have raised.

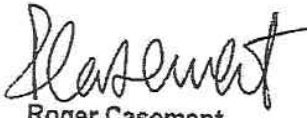
We are more than willing to meet with TSO's and RA's to discuss the points we have raised in more detail and look forward to hearing from you.

We are copying this letter to NIAUR and DETI for their information.

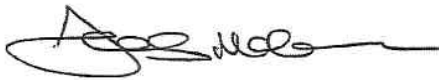
Yours sincerely,

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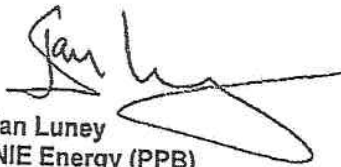
Ramon Cidon
CESB

A handwritten signature in black ink, appearing to be 'Roger Casement', written in a cursive style.

Roger Casement
AES Kilroot

A handwritten signature in black ink, appearing to be 'Denis McBride', with a long horizontal flourish.

Denis McBride
Premier Power Ltd

A handwritten signature in black ink, appearing to be 'Ian Luney', with a large, stylized flourish.

Ian Luney
NIE Energy (PPB)