

## **SEM Committee Meeting**

### **Minutes Meeting No. 24**

**Location:** Belfast  
**Date:** 26<sup>th</sup> Jan 2010  
**Time:** 10.00 – 3.00 pm

**Attendees:** Iain Osborne (NIAUR, Chairman), Michael Tutty (CER), Dermot Nolan (CER), Dermot MacCann (NIAUR), Alan Rainey (NIAUR), Ignacio Perez-Arriaga, Jose Sierra.

**In attendance:**

For all items Eugene Coughlan (CER), Shane Lynch (NIAUR), Cathy Mannion (CER)  
For Agenda Item 4a. Laura Steerman (CER), JP Irvine (NIAUR)  
For Agenda item 4b. Laura Steerman (CER), JP Irvine (NIAUR)  
For Agenda item 4c, 4d, 6 Sheenagh Rooney (CER), Philip Newsome (CER)  
For Agenda item 5. Paul Bell (NIAUR)

**Minute Taker:** Laura Steerman (CER)  
**Apologies;** Paul O Neill

**1. Adoption of agenda**

Agenda adopted.

**2. Approval of Minutes.**

Minutes of the meeting of 24<sup>th</sup> Nov. 2009 were approved.

**3. Review of Action List.**

Item 102, 103, 104, 105, 106 closed.

**4.a SEM Matter LS/JPI**

JPI and LS took the meeting through the main contents of the Second Legal Advice Paper. The SEM Committee had some discussion on the legal analysis of the relevant legislation as to what is a SEM Matter, the SEM at law and the public law duty of sufficient enquiry in relation to information on electricity matters which may be of interest to the SEM Committee and/or have some relevance to the SEM. The SEM Committee considered the proposals in the paper to ensure questions of jurisdiction are addressed efficiently in future, and requested that JPI and LS audit the two organisations' rules of procedures to identify existing processes, and to propose drafting changes as necessary to plug any gaps.

**Action:** JPI/LS to prepare audit and drafting proposals – by March meeting.

#### **4.b ESB Integration LS/JPI**

The SEM Committee noted the legal opinion provided to it by Shepherd & Wedderburn and the Market Impacts papers provided by the RAs. The Committee noted its appreciation for the work that was done by the authors, and reiterated its preference to receive papers that provide at least an agreed set of facts as a basis for discussion..

The SEM Committee discussed five issues in relation to potential ESB Integration: i) the ring-fence between ESB Power Generation (ESB PG) and ESB Customer Supply (ESBCS); ii) the ring-fence between ESB PG and ESB Independent Generation (ESB IG); iii) the ring-fence between of ESB CS and ESB Independent Energy (ESBIE); iv) the Economic Purchase Order (the EPO); and v) retail tariff regulation.

Having considered all three papers the SEM Committee discussed at length the question of the SEM Committee's jurisdiction with regard to the potential for ESB Integration. The SEM Committee agreed that this was a complex matter and that to some extent all five issues affect each other. It decided that for the purposes of the SEM Committee exercising its jurisdiction that:

- The ring-fence between ESB PG and ESB CS (issue (i) above) is a SEM Matter; and
- The ring-fence between ESB PG and ESB IG (issue (ii) above) is a SEM Matter;

This was on the basis that the exercise of relevant functions of the CER in relation to these matters (i)-(ii) would be likely to have a material affect on the SEM.

In consideration of CER's clarification that it does not intend to exercise functions relating to items (iii) and (iv) before the next SEM Committee meeting (except for further consultation on a preferred option), a determination was deferred in respect of the matters of:

- The ring-fence between ESB CS and ESBIE;
- The EPO.

The SEM Committee noted the ongoing work of the CER and NIAUR in relation to the assessment of the EPO and the removal of the EPO in both jurisdictions and requested an update for the next meeting.

The SEM Committee noted the CER Consultation on the Retail Tariff De-Regulation of ESBCS. It was decided that the de-regulation of Retail Tariffs was not a SEM Matter because this matter concerned the retail electricity market and effects on the wholesale market were not material. The SEM Committee noted that CER would soon publish a proposed decision on the Consultation on Retail tariff deregulation. CM and EC briefed the SEM Committee on the contracting timetable for 2010 and the proposed timeline for conclusion of the Consultation on Retail Tariff De-Regulation.

The SEM Committee noted the ongoing work of the CER in relation to ESB's compliance with the current ring-fencing arrangements required under each of the ESB licenses. The SEM Committee requested that NIAUR make contact with ESB in NI. The OC was requested to provide a compliance report to the SEM Committee for the next meeting.

The SEM Committee noted that the next step on the integration issues might be for ESB to submit a proposal to the SEM Committee. If this were received in time for the

Oversight Committee meeting on 16<sup>th</sup> Feb then a first discussion should be possible at the next Committee meeting.

#### **Actions-**

The SEM Committee asked that the following papers be developed for the February meeting:

1. A preliminary report from the CER on the responses to the retail roadmap consultation (CM);
2. Any ESB proposal as to ESB Integration should be submitted to the Committee, along with preliminary OC views;
3. A compliance report from the CER and NIAUR on ESB's current compliance with licence ring-fencing arrangements. (EC/SL);
4. Proposals from the CER and the NIAUR on the EPO and horizontal supply integration, including impacts on the wholesale market (CM/KS); and
5. A further update on prospects for the 2010 contracting round.

#### **4.c Dual Fuel Rating Modification. SR**

SR briefed the SEM Committee on the proposed Dual Rated Generator modification to the Trading and Settlement Code raised by SEMO. The SEM Committee approved for issue the draft letter accepting the modification.

#### **4.d Strategy Day note for Industry. SL/EC**

The SEM Committee thanked SR for the draft paper submitted, but considered that the paper for circulation to industry should be shorter (around 3-5 pages) and focused on a) the projects adopted for the coming year, including some sense of timetables, and b) the process adopted for ensuring coherence of policy. The market review material in the draft should not be included.

#### **Action:**

New draft paper to be provided for the next meeting. (SR)

#### **5. MMU Update. PB/CB**

PB provided an overview of the main points of the SEM Monitoring Report which was prepared in January 2010 by the Market Monitoring Unit. The matter of local market power and the initiation of a formal process in relation to the behaviour of a commercial generator by the MMU was noted.

It was noted that the market had recently seen a price-cap event, and that investigations were continuing as to the reason for this.

**6. Update on TSC Modifications**

SR highlighted key points from the SEM Trading and Settlement Code Update paper for the Period 19 November 2009 – 20 January 2010 which was noted.

**7. Reporting of the decisions of the Oversight Committee. PON.**

Decisions were noted by the Committee.

**8. Updates CER/NIAUR/Independent members**

The appointment of Garrett Blaney as Commissioner at CER was noted. The SEM Committee looked forward to welcoming Garrett Blaney at the next SEM Committee meeting

**9. AOB**

**Date of next meeting: SEM Committee 25<sup>th</sup> February 10.30 – 3.00 CER Offices**