



Mr James McSharry,  
Commission for Energy Regulation,  
The Exchange,  
Belgard Square North,  
Tallaght,  
Dublin 24

12<sup>th</sup> November 2010

Dear James,

Find enclosed a copy of my submission to position paper (SEM-10-060) on the "Principles of Dispatch and the Design of the Market Schedule in the Trading & Settlement Code".

Kind regards,

A handwritten signature in black ink, appearing to read 'Richard Walshe', is written over a white background.

**Richard Walshe**

CC:

Mr Denis Cagney  
Ms Aoife Crowe  
Mr Andrew McCorrison

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## **(SEM-10-060) on the “Principles of Dispatch and the Design of the Market Schedule in the Trading & Settlement Code”**

### **Introduction and Summary:**

Art Generation Limited (“ART”) would like to take the opportunity to respond to the recent proposed position paper (SEM-10-060) on the “**Principles of Dispatch and the Design of the Market Schedule in the Trading & Settlement Code**”. This paper, as with its predecessors in this series of consultations, covers topics of key importance for generation investment in the Single Electricity Market (SEM).

Before we comment in detail on the issues raised in this paper, it is worth highlighting the level of concern within the wind industry due to the proposed changes. The additional workload that is being created with the number of consultations on this matter is significant due to the time and effort being required to explain to the SEM Committee the industry’s concerns around the impact the proposed changes. The complexity of these issues should not be underestimated.

The SEM is only three years old and some of the proposed changes in this paper introduce significant financial risk for constructed and planned windfarm developments. This is despite repeated highlighting of the issues at a clarification meeting in Belfast earlier this year. This paper shows a blatant disregard for committed contracts to-date and endeavours to retrospectively apply the proposed changes. Furthermore, it falls significantly short on quantitative detail. We are commenting in particular on the way Option 1 was proposed in the paper and the replies from SEM delegates at the recent Dundalk workshop. It was clear from the floor that the industry favours Option 3 as indeed the majority of comments submitted. Even SEMO favoured Option 3 as being the most fair and reasonable solution. But it was clear that the SEM representatives were not listening and it would appear that the purpose of the workshop was nothing short of an attempt to force the industry into the Option 1 cul de sac. The only valid disadvantage of Option 3 was the practical implementation which we believe has not been properly evaluated with the technology providers.

This consultation paper intends to mislead the reader by proposing Option 1 as being the favoured solution which is obviously not the case. This is highly unsatisfactory and indeed the gravity of the issues that it intends to address is very serious. Indeed the amount of issues constantly being generated with consultations means that generators can not get quiet enjoyment in the market. In fact resources are being diverted away from the day-to-day business to keep abreast of the evolving issues is becoming unsustainable and problematic. The amount of regulatory interference is now becoming an issue.

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There are some proposed positions provided within the paper, particularly around priority dispatch and the tidying up of second-order effect rules within the SEM Trading & Settlement Code, which are welcomed. Not all elements of the paper, however, are as conducive to reducing uncertainty or making any progress in achieving the SEM Committee's stated objectives. Comments on these specific areas form the bulk of our submission. They focus on Issues 1, 2 and 9 respectively.

- Issue 1: Whether to implement changes to the market schedule to match dispatch.
- Issue 2: How to reduce the difference between market schedule and dispatch?
- Issue 9: Consideration of tie-breaks between generators.

Other issues are dealt with commented on as appropriate.

### **Consultation Responses and Regulatory Priority given Current Financial Market Situation:**

These are extraordinarily difficult times for the Irish business environment and the State, in particular for the Irish banks. The SEM Committee must weigh up competitiveness, security of supply and the consumer in their consideration of market responses to this consultation. A narrow definition of consumer protection in terms of lower short-term energy prices should not be taken by the SEM Committee at this time. Furthermore, short-term benefit to the consumer should not be taken as a means to justify carte blanche action. It is worth noting that the Irish consumer is effectively the underwriter for the majority of the Irish Republic's banks and some of the UK banks only recently had to be assisted by the Bank of England. The simplistic interpretation of consumer protection – short-term cost savings – has been verbalised by the SEM Committee at a number of public events recently and it could be viewed as an excuse by the SEM Committee to impose their will without properly assessing the financial sensitivities of the proposed rule changes. Indeed all the arguments are subjective and seem to be transcribed from submissions without proper supporting financial evaluation and sensitivity analysis.

The SEM Committee must take a clear and transparent approach to study each of the proposed rule changes and establish a detailed quantitative analysis of the impact of each substantive issue that will affect the financials of individual generator investment separately, followed by an overall cumulative assessment of the impacts to security of supply and cost to the consumer. Some of these issues are too important and deal with consequences so far reaching to be incorrectly applied without having full visibility of the financial implications to the individual investors which produce the power for the island's consumption.

The existing banking arrangements have loaned circa €1.8 billion to Gate 1 and Gate 2 projects to-date which have up to a range of 8-15 years left to run in their repayment terms. There are only a small number of financial institutions in the market with little foreign presence. Any decision to destabilise that banking investment could ultimately destabilise the project finance models in place and damage the debt service cover ratios. Projects could essentially be put into a default position by some of the proposed positions in this paper. There seems to be reluctance by the SEM Committee to comprehend the importance of this point and there is underlying dismissive attitude that is highly concerning. If a proper impact assessment is not undertaken the financial fallout will be solely the responsibility of the SEM Committee for not properly assessing the financial impact of any decision. We would strongly recommend that the SEM Committee retain the services of highly qualified financial experts in this area and assess the proposed rule changes. If this assessment is not undertaken and the necessary protections put in place, it will be the consumer who the SEM Committee claim to want to protect who will underwrite the loss as the majority stakeholder in the Irish Republic banks.

The consumer and banks' interests are now aligned in this regard and it equally important not to endeavour to justify the decision or explain away the issue for self-serving puritan reasons.

All factors of consideration within the SEM Committee's remit are not currently equal from a realpolitik perspective. The governing priority that must be applied must preserve the stability of existing financial investments and the reduction of regulatory risk which threatens to destabilise existing debt structures. This must take primacy in the SEM Committee's decision making.

### **Financial Certainty for New Investment under Proposals:**

Christopher Knowles of the European Investment Bank (EIB) recently stated to the IWEA conference in Galway that a key requirement for renewable investment was "*Policy – Certainty, Certainty, and Certainty*". The SEM Committee would do well take this advice on board from one of the leading investor financial institutions in the market.

The SEM Committee is seeking to alter the payments of inframarginal rent (IMR) to generators that cannot be dispatched, once a material threshold of "harm" is breached. Payments are minded to be altered by effectively removing the concept of firm access from generators (Option 1), while driving diluted volatile competition behind each constraint. While the short-term costs to consumers may be reduced, such change will greatly hinder further investment in the generation environment and thus may ultimately penalise the consumer through mandatory EU penalties for failure to meet renewable targets.

We urge the SEM Committee to work through the implications of their proposed decisions with the investment community. No quantitative evidence that this level of detailed consultation has been shown in the consultation paper so far to demonstrate these effects. To avoid serious financial fallout and resulting similar charges of mismanagement and incompetence that border on gross negligence that are currently being made publically against the Financial Regulator, the Governor of the Central Bank, our political representatives, and the Department of Finance, it would be prudent of the SEM Committee to consider the financial implications of those options presented in the paper. Some of the options presented in this paper could present a real risk of debt default by existing generator investors and damage the investment environment to the extent of Ireland not meeting renewable targets. We make these comments with no disrespect intended toward the SEM Committee, but to be considered in the current environment. It is also worth acknowledging the good work has achieved to-date by the SEM Committee and the smooth transition in the implementation of the SEM. The point is that all the good work done to-date should not be undone by mismanagement of the issues raised in this paper.

### **Access Rights for Projects:**

Gate 1 and Gate 2 have earlier connections which should imply physical access rights over subsequent Gate 3 connections. To ignore the link between physical transmission build and physical right to generate is non-sensical. The current market design of the Trading & Settlement Code and Grid Code assume that firm generators are dispatch indifferent, a view taken by the SEM Committee. A Trading & Settlement Code and Grid Code do not a market make. The market is the total combination of retail, connection policy, financial investment, consumer behaviour and government intervention. We disagree that the SEM Committee should take a view of the consistency of the elements of the market that it can control, flowing through legislation and licences. Physical access rights are more important

to renewable generators under State support than system marginal price in the market. Those State supports are a fundamental part of the market as the SEM Committee's regulation of the capacity payment mechanism (itself a payment to correct a failing of energy only markets). Just because the SEM Committee does not control it does not abdicate their responsibility to respect and protect the forces seen by all market participants.

Eirgrid has undertaken extensive work on firm access for all Gate 3 application for the period 2010-2023 and therefore the principle of firm access needs to be respected.

If the SEM intends to dismiss the concept of firm access from the market design, Gate 1 and Gate 2 projects with firm access need compensation up to their respective constraint levels as set out in the Eirgrid constraints reports, at the level of Government support which forms part of the market. Gate 3 will need to assess their constraint reports and make investment decisions based on these as indeed Gate 1 and Gate 2 had to do.

### **Overview: Issues 1, 2, and 9 and the Generator Investor:**

ART has interests in Gate 1, 2 and Gate 3 wind projects, whose sites were located in response to the signals from the market at the time (i.e. Generator Adequacy Report (GAR)). The whole purpose of such signals was to incentivise location of generation in certain areas. These projects compete for limited resources: physical dispatch (which is the trigger for all renewable subsidies) and IMR. From a macro-economic perspective, the allocation of these resources amongst projects may seem like a zero-sum game to the central market observer: some projects may gain, some projects may lose. The total amount of available subsidy and market revenue is fixed, and the most competitive, efficiently managed generation projects will survive. This central viewpoint, however, is overly simplistic as it takes no account of the level of risk factors involved in securing a longer-term share of those resources.

The proposed positions (subject in certain instances by arbitrary materiality thresholds being breached) contained within this paper add unmanageable uncertainty to the generation investor (be they Gate 2 or Gate 3). They do not improve the existing signals provided to generator investors.

### **Smaller Divided Markets add Risk to Access to IMR:**

The market is proposed to be diluted out into a set of localised competitions behind transmission constraints. All generation investment models must currently take a view on the level of new competitors which join the *entire* SEM. The SEM is already a small market, but nevertheless the either/or possibility of a single competitor projects' completion is unlikely to make investment untenable in all but the most marginal of investment decisions. Under the proposals in this paper, however, all projects in a region may be unbankable depending on successful completion of one project that causes a constraint to bind. Under such circumstances, no project can build unless the binding project is bought out and not built. Originally, the whole purpose of regulation of the capacity allowed in Gate 3 was established to what would feasibly support the renewable targets. Similarly the constraint reports were crucial as to what project will prove to be economically feasible behind each node. These signals were given loud, clear and well in advance. This proposed position in the event of an arbitrary threshold being reached, undermines all of this work.

## **Dispatched Volumes and Renewable Subsidies Now Impacted by Further Generation:**

For renewable generators, the proposed pro-rata tie-break rule adds risk to generated volumes generated across the lifetime of the project. As each new project comes on stream behind a constraint, it competes purely on price for physical dispatch (which is required for renewable subsidy). Generators are now being asked to predict the outcome of local generation connection applications and transmission build over the life of their investment cycle. Such estimates are far beyond the normal consideration of global macro-economic effects. Even leaving aside renewable subsidies, issues like the financial stability of local small competitors with plans over a few years to build a windfarm locally would become of greater importance in the investment decision than the global macro-economic position of the energy market.

These positions only serve to increase risk with no increase on the potential return in investment. We will now consider the rationale behind each of these positions.

### **Issue 1: Whether to Limit IMRs to Constrained Limits:**

It was decided that after a level material harm is reached, it was important to limit IMRs behind constraints in order to “...to address the over allocation of IMRs behind constraints” that are not of “value to the real-time operation of the system”.

#### **The existing market signals perform this function for new generation investment**

There is a supposition in this paper that investment decisions may be made by generators who have neither firm access (for example behind a transmission constraint) nor are of real-time use to the system. Such a generator under the current rules cannot be assigned any IMR. In terms of investment signals, Issue 1 solves a problem already adequately addressed by the existing rules.

The build of peaking plant is effectively controlled through the capacity payment mechanism, a separate issue.

#### **Are entire market changes appropriate to deal with legacy issues?**

It therefore appears that these changes are being made to address legacy issues with the existing generation stock, i.e. generators with effective firm access where the transmission system either never could or is now unable to take the generators’ full output within an all-island dispatch. The proposed position under Issue 1 – particularly given Option 1 under Issue 2 and no firm access tie-break in dispatch under Issue 9 – is to completely remove the concept of firm access from all generators, perhaps to avoid negotiation of the matter with individual companies.

If there are legacy issues – particularly understandable around the North-South requirements for further transmission build – and there are concerns that historic plant are sweating undue inframarginal rent in particular locations while never running, then resolve those legacy issues directly. The existing market rules send investment signals which give no IMRs to non-firm plant of no real-time use to the system. As such, the regulatory objectives are fulfilled.

### **Is material divergence between dispatch and the market schedule driven by transmission constraints or other issues?**

We await the following consultations that will describe both the level of material harm and incentives placed on the System Operators to manage constraints. One would imagine that with the existing market rules incentivising generator investment and an appropriate system operator incentivisation to manage legacy issues that material harm should never be reached with a reasonable level of prudent utility operator practice.

The cons of any addition of transmission constraint to the market schedule are as follows:

- Adding constraints within the market schedule will increase single market price (SMP).
- Dilutes the market into areas of localised competition e.g. a reasonably efficient mid-merit generator in Northern Ireland caught behind a constraint with other more efficient plant, will not be able to compete within the all-island market against other inefficient generators elsewhere
- The dilution of the market into localised competition makes it more difficult to predict market schedule quantity over the duration of a generator's investment – project financing now needs to emphasise local competition over the macro system-wide requirements for generation
- Removes a financial signal from the market with which to incentivise the System Operator to build network for legacy generation and existing connections.
- Difficult to implement: What is a constraint? It has yet to be defined properly, and the SEM Committee are arguing on this basis without once defining and demonstrating what they mean by it.

### **Issue 2: How to Allocate of IMRs behind Constraints?:**

*“The SEM Committee considers that Option 1 incentivises the timing of new generation entry such that it is coincident with or follows delivery of network.”*

Please bear in mind that we disagree with the concept of allocating transmission constrained IMR in the market schedule. Furthermore, we strongly disagree with the “pre-decision” made favouring Option 1.

A signal exists **right now** for generators not to build before the network can take their output. All generators will increase their investment costs considerably if the network cannot take their power (they generate less physically, and receive less renewable subsidy as appropriate), or they will not have firm access, earning less inframarginal rent (conventional generators, excluding peaking plant).

Neither the existing rules nor Option 1 prevents an in-merit cheap generator building on a non-firm basis, and gaining access to the market schedule. Under the current rules, it would be dispatched on the basis of price and made firm and scheduled in the market. Under Option 1 it would be scheduled in the market behind the constraint on the basis of price. Option 1, however, combined with the concept of a transmission-constrained market schedule, may further displace cheap plant that are currently in the existing all-island merit order and consequentially raise all-island prices.

The impact of Option 1 is to make competition to the market schedule thinner and squeezes the life-cycle of anything but the most efficient machines. It appears to split the market, effectively reducing competition between plants from one side of the country to the other. It also favours typically inflexible machines as they are the most efficient ones, which may not be an optimal signal from the operation of a wind-heavy system perspective.

### **Option 1 (Cons):**

- This option departs from the SEM principle of an unconstrained schedule and represents a major change to the circumstances of existing generation with firm access.
- It increases the uncertainty and cost of capital to new entrants, which may result in delays to investment decisions. It completely dispels the value of having secured firm grid access and actively encourages investment in areas that are unsuitable. An environment where generators with firm and non-firm access compete equally would only serve to erode investor confidence.
- By introducing transmission constraints into the schedule Option 1 will tend to increase the SMP, leading to an increase in the overall electricity cost to consumers. Exclusion of a low marginal cost constrained generator from the MSQ and replaced in the MSQ by a high marginal cost generator will result in a higher SMP – which is paid to all plants in the MSQ. This is likely to be considerably more costly than including the low marginal cost constrained generator in the MSQ and paying the high marginal cost generator its constrained on price.
- Because it effectively removes the concept of firm access rights there may be legal considerations to this since firm access is embedded within most existing generators' connection agreements; we believe the degree of regulatory risk introduced by this option is unwarranted.
- There are serious implementation issues in that the proposal does not go into any detail on how the export constraints will be calculated, how frequently they will be updated and at what level of discrimination they will occur (e.g. half hourly, daily, monthly). Depending on these the resourcing levels to produce this information could be considerable. Also, it would appear that significant changes are required to the SEM market systems to account for generator group constraints.

In the event that the splitting of the market schedule comes to pass; we would still prefer Option 3. This is the favoured option by the majority generators by at least eight submissions. It protects the access rights of generators to the schedule, enables efficient generation entry and investment surety from “local build issues” discussed above once firm. The so called practical implication of not applying Option 3 is not an acceptable reason for not doing the right thing especially in the interest of the greater good - just because Option 1 is simpler to implement does not make it necessarily right.

We are confident that the technology designers and owners will be able implement software solutions regarding Option 3 .These software providers should be invited to tender and propose technical solutions. The solutions should be published and presented to the wind industry- in the interest of transparency and fairness.

### **Option 3 (Pros):**

- Maintains degree of investment stability (notwithstanding the introduction of constraints into the market schedule, which undermines the full value of firm access as before).
- Still allows un-utilised capacity to be accessed by cheaper non-firm generation into the merit order.
- Strikes an appropriate balance between generator certainty and investment opportunity, unlike Option 1 which is weighted solely towards predatory generator investment practices, increasing uncertainty.
- This option is a variant of a financially firm access rights model, and seeks to preserve the principles of granting financially firm access rights.



- The principles enshrined in Option 3 provide the best balance between the short and long term and will lead to the most appropriate development consistent with both Government's policy objectives. However, as it has not been studied in any detail, significant further analysis is required.
- Option 3 will reward firm access by allowing it to be allocated IMR preferentially. It also does not exclude completely non-firm generators. It provides an efficient use of the network to generator investors.
- It allows greater efficiency in investment and operational timescales. Whether or not a power plant is included in the market schedule is important for efficient investment decision making (i.e. efficiency in investment timescales), and potentially also for incentivising power plants to be available when they may be required to generate (i.e. efficiency in operational timescales).

### **Issue 9: Dispatch Tie-Breaks:**

This issue is by far the most important to the wind industry relying on green energy support mechanisms. A pure pro-rata tie-break model was proposed, as it "*can be implemented*", "*fairest where all generators contribute to this issue (curtailment)*", and "*would [not] result in relatively more turning down of generation that applied to connect later*",

We are at a loss to see the justification of this Option 9 as the arguments put forward are more damaging to the long term investment community in the energy sector. **This particular proposed position in SEM -10-060 creates massive policy uncertainty that is unacceptable.**

Investments and financing decisions are made on a certain set of regulatory rules and retrospectively changes of the rules means investors and banks will not trust the market. Essentially investment will stop and targets will not be achieved.

Furthermore Gate 1 and Gate 2 have invested based on constraints reports and AER and REFIT assumes that generators have access to support mechanism for all available power. This is in the context that REFIT which is already marginal for financing.

Firstly, on the area of implementation, we note that issue 9 relates solely to tie-breaks, not the implementation of full firmness within the dispatch schedule. Consequentially the feedback issues between market schedule and dispatch alluded to in this section as an argument against firmness in tie-breaks simply does not occur and its inclusion in this section is disingenuous if intentional. Broadly speaking any linear-algebraic tie-break methodology can be implemented and automated without recourse to the market schedule. All that is required is the definition of any global and local constraints, the order in which they are applied, and agreement on whether non-firm energy is constrained on a pro-rata or MW basis. Given the amount of time spent to date discussing curtailment versus constraints, and the application of local constraints within the market schedule, it is presumed as fact that that global and local constraints can be quantified.

As we stated in previous submissions, the intention with any tie-break rule is not to have lawyers and financiers in the control centre second guessing operators' decisions. The intention is to get a robust set of rules which make a good effort – which may be imperfect – to stabilise the physical access rights of a generator which relies on physical access across its lifecycle. The SEM Committee have asked the System Operators to impact assess divorcing dispatch from a flattened loss factor within the market ("splitting"). If the System Operator can add a degree of quasi-technical tie-breaking between

generators based on their own static loss factors, then a similar capability concept should be applied using connection order or the firmness of connection of wind generation

Secondly, there is an entire debate opened and concluded within one sentence of this paper that curtailment issues should be socialised across all wind generators. The alternative – that it is a signal seen by the marginal generator investor – is not discussed. There is no argument presented as to why this “seems” fairest. It very well may be the correct answer, but at its level of development and consultation within this paper, it is no more than an opinion. We request a stronger debate on this issue.

Thirdly, an argument is often made that new generation wind investment will be greatly disadvantaged if constraints (local transmission and global curtailment both) are not socialised across all wind generators. Applying a marginal wind constraint signal to new entrants is considered within the paper to make investment untenable. Therefore, the logic appears to be that socialisation of constraints between existing and later wind generators will maximise wind investment. We disagree with this analysis.

We believe that Gate 3 projects will actually not be encouraged if socialisation of physical constraining across windfarms is implemented. Firstly, it is the same lending institutions involved in Gate 2 projects as will be involved in Gate 3 projects. Any rational financier will immediately see that:

- the existing structure of the Gate 2 project will need renegotiation as less power is being produced from that project if they finance a Gate 3 project in the area, and
- there is nothing to prevent Gate 3 projects requiring financial renegotiation once further wind connects under later gates in the area.

A financier’s rational decision will be to cease investment in Gate 3 wind development in Ireland, unless the debt-equity mix in all the projects changes considerably.

On the above basis we believe that it is better for a Gate 3 project to have certainty, even if it faces greater constraint, than the greater uncertainty and lesser constraint faced under a socialisation model. This was the basis of many of the investment decisions in Gate 2 and why some were delayed until some of the deep reinforcements had been constructed.

#### **Cons to No Firm Access in Tie-Breaks:**

- Undermines financed projects under Gate 2 by requiring them to share constraints with later projects. There is a real possibility of default of existing projects. While constraint reports were legally caveated, they were the best available source of information to the projects to estimate the percentage of their energy that they would allow to be exported. Given that some Gate 2 connection offers were offered as late as 2007 these reports were inconsistent with reasonable assumptions of a thriving wind industry and while maintaining a pure pro-rata constraint in dispatch tie-break.
- The amount of uncertainty for Gate 3 project volumes dependent on further connections in the region will effectively be too risky for the investment community.
- Raises the clear spectre of project default.
- Changes required to the status quo have not even been formally impact assessed in terms of difficulty.

### **Summary Remarks:**

To conclude, and in light of the SEM Committee's own explicit request for feedback on Issue 9, we wish to make the following statement.

ART believes that renewable generator's volumes in dispatch must have a greater degree of certainty than that offered by the proposed tie-break rules here. We urge the SEM Committee to seek advice from the investment community regarding the changes they are proposing, both to Gate 2 and Gate 3 projects. The SEM Committee appear to reject the possibility of firmness in tie-breaks in a dismissive manner, with an apparently recklessly and irresponsibly light attempt to understand the investment market. Furthermore, the glib acceptance of the System Operators' position that implementation of tie-breaks is not practical – including the puzzling inclusion of “feedback loops” in this section – and appears wilfully negligent and dismissive of consultees' responses into the regulatory processes. It is particularly perplexing that a formal impact assessment of change to system dispatch was requested around losses, but not for this issue that impacts the entire wind industry. It is fundamental to protect committed projects for falling into a default position and that prior rights are protected and allocated to Gate 1 & Gate 2 projects and not a deloading as proposed by the SEM Committee on a pro rata basis.

On the issue of allocation of IMRs behind constraints, we believe that the proposed position (subject to material harm being met) and the minded-towards Option 1 only match the existing investment signals to the market at best. At worst they, by splitting and thinning the accessible merit order for IMRs, provide a greatly increased unpalatable investment scenario. Legacy issues should be visited by examining how generators were deemed firm at the start of the SEM given the constraints on the new all-island transmission system. Proper incentivisation of the system operator, and a review of granted firmness at the start of the SEM should suffice in managing the material differences between dispatch and market schedules.

### **Cons to No Firm Access in Tie-Breaks:**

- Undermines financed projects under Gate 2 by requiring them to share constraints with later projects. There is a real possibility of default of existing projects. While constraint reports were legally caveated, they were the best available source of information to the projects to estimate the percentage of their energy that they would allow to be exported. Given that some Gate 2 connection offers were offered as late as 2007 these reports were inconsistent with reasonable assumptions of a thriving wind industry and while maintaining a pure pro-rata constraint in dispatch tie-break.
- The amount of uncertainty for Gate 3 project volumes dependent on further connections in the region will effectively be too risky for the investment community.
- Raises the clear spectre of project default.
- Changes required to the status quo have not even been formally impact assessed in terms of difficulty.

## Other Comments:

### Issue 3: Least Cost Dispatch

Agree, noting our statement on Issue 9.

### Issue 4: Priority Dispatch

Agree, noting our previous submission whereby accommodating renewable energy should be limited only where it ceases to contribute to increased renewable percentages, i.e. where demand would prefer to turn off than to consume the renewable power.

### Issue 5: Hybrid Plant

If the SEM Committee is unwilling to make a decision regarding hybrid plant without transposed legislation in place, then they prevent dispatchable hybrid plant greater than 10MW MEC from accessing the REFIT scheme. The REFIT scheme requires a PPA to be in place with a supplier. The generator can only sell to a supplier via a PPA if the supplier is designated as its Intermediary. Intermediary may only register generators as Price Takers, which is a decision controlled by the SEM Committee. This SEM Committee decision thwarts the intent of the departmental REFIT scheme for dispatchable hybrid generators while awaiting legislation on the priority dispatch of same. If market power is the issue regarding Intermediaries, the Intermediaries should be allowed to register generators as price makers if:

- The supplier has no corporate links and shares no IT market related services with less than 5% (for example) of market generation capacity; and/or
- The supplier is a fully owned subsidiary of a generation company.

Under both scenarios, no market power issues could reasonably be stated to exist.

### Issue 6: Deemed Firm

In light of the SEM Committee's insistence that the transmission build programme is a suitable and important signal for million euro generation investment, we see no issue in the SEM Committee further supporting that position by **reintroducing deemed firm access for generation at the transmission scheduled completion dates**. There would be no incentive to build plant ahead of the delivery dates at which the generator becomes firm under existing market rules. The consumer will clearly face negligible risk with deemed firm access given the SEM Committee's faith in transmission infrastructure build as suitable driver to commence a two-year generation build project.

### Issue 7: Deemed Firm

Agree.

### Issue 8: Technical Issues

Agree.

### Issue 10: PFLOOR

We prefer to see some greater rationale behind the setting of market caps and floors than regulatory decision making on a year-by-year basis. Given our anticipation of the materiality of this issue, and the fact that the SEM Committee has kept a simple method of changing the PFLOOR available in the event that it does become material, we accept this approach.

### Issue 11: Demand Target and EGEs

Agree.

### **Additional Issues:**

We would also take this opportunity to request that proper accurate **constraint reports** be provided with connection offers or shortly thereafter, and not this new version called the Possible Generator Output Report. Without such information, it is unreasonable for a generator investor to bear the cost of accepting the offer. This process must conclude in reasonable time to allow constraint reports to issue with Gate 3 connection offers.

The current proposed SEM rules changes decouple and damage the REFIT support scheme by the lack of firm-access in tie-breaks for the Gate 2 project for which it was designed. It appears that the SEM Committee has effectively invalidated the assumptions of the DCENR's submissions to Europe when seeking approval for the REFIT scheme – i.e. that the windfarm can anticipate close on full potential output. We would be interested to know if the SEM Committee will inform the DCENR of its regulatory decisions that are undermine the assumptions behind the notification to Europe of the REFIT scheme, and that the DCENR will need to revisit Europe for further state subsidy.

The wind industry has experienced many problems in recent years as falls:

- unwarranted moratorium
- failure of many AER schemes
- increased curtailment (6% being proposed)
- increased constraints (2%)
- high connection charges
- contestability
- new charges for TUOS, DUOS
- grid planning with easement costs now included
- grid deliverability
- increased cost of financing.

All these tangible costs and intangible barriers are putting significant downward pressure on the economic viability of windfarm developments. The last thing the industry needs now is another set of negative issues that further damage development of the renewables sector.

### **Summary of Key Requirements:**

1. Industry needs complete clarity instead of a piecemeal approach to all issues.
2. Respect Gate 1 & Gate 2 firm access quantities in connection offers and constraints reports.
3. Undertake a detailed **quantitative** analysis of the proposed changes and their impacts.
4. Respect prior access rights (firm and non-firm)
5. SEM to request that the System Operate carry out a formal impact assessment around Option 3 (last in first down).
6. Request technology providers to provide solutions to support Option 3.
7. Regard for national plans (REFIT) and European renewable policies.
8. Decrease the amount of regulatory interference.

**Overall Conclusion:**

It is important to strike the right balance between historical contractual commitments ('grandfather rights') and future changes in the SEM. It is equally important to build upon the good work done to-date and any changes should not materially damage commitments with the financial institutions. Considering there are only a few financial institutions involved and the amount of turmoil in the market presently, it may be prudent to take consider postponing any decision around this paper until financial certainty comes back into the market. In the meantime, a detailed evaluation on items 3 & 6 listed in key requirements above should commence and a revised draft of this paper issued and a further workshop arranged to discuss with the industry.

Signed:

A handwritten signature in black ink, appearing to read "Robert Walsh". The signature is written in a cursive style with a large initial 'R' and 'W'.

**12<sup>th</sup> November 2010**