

# CRAYDEL

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SEM Committee,  
c/o Mr. Jamie Burke,  
Commission for Energy Regulation,  
The Exchange,  
Belgard Square North,  
Tallaght,  
Dublin 24.

25th May 2012

By email to: [jburke@cer.ie](mailto:jburke@cer.ie)

Re: Response to the:

**"Treatment of Curtailment in Tie-Break situations ", SEM-12-028**

Dear Mr. Burke,

Craydel Energy welcomes the re-opening of the treatment of curtailment in tie break situations decision paper (SEM-11-105) and is pleased to have the opportunity to make a submission on the matter following the premature decision reached by the SEM Committee in December 2011.

Craydel Energy is an independent Irish company which develops, constructs and operates wind energy projects in Ireland. Currently we have 4 projects comprising 140MW in operation, 85MW of Gate 2 & Gate 3 projects seeking bank funding this year and a further 240 MW of Gate 2 & Gate 3 projects we hope to fund and construct over the coming 3 years. Therefore we are experienced in all aspects of wind energy projects including raising both debt and equity and trust this will be taken into account when you are considering this submission. We have attached Appendix 1 to this letter in which we detail the impact of matter on our projects. This information is provided on the basis that it is confidential, is not to be disclosed by the SEMC and may be used only for the purposes of this consultation.

We are fully supportive of the IWEA proposed Option 3b – Pro Rata of Curtailment to Government Targets as we believe this is the correct balance in addressing this complex issue. We also fully support the IWEA submission on this matter and wish to highlight the following key issues:

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### **Regulatory Impact Assessment**

The SEMC decision in this matter is of critical importance to the entire industry and should be preceded by a rigorous Regulatory Impact Assessment (RIA). This RIA should establish the likely levels of curtailment on different categories of projects under the various options proposed so an informed decision can be taken. We believe a lot of misrepresentation on the likely levels of curtailment is taking place in the absence of such definitive analysis. Clearly the impact of curtailment is wholly dependent on the range of levels to be applied and as such the appropriate treatment of the matter can only be determined with such information to hand. This is an established principle of good regulation and we were surprised that the SEM Committee had changed their previous proposed methodology without publishing such information. IWEA has conducted extensive analysis that clearly shows the likely levels of curtailment which allows it take an informed position that Option 3b is most appropriate for the industry.

### **Preventing projects from proceeding**

We have a number of projects (which are detailed in Appendix 1) which are in the process of funding and may be realised in the next 2-3 years. Some of these projects have scheduled FAQs from 2015-2020 and cannot be funded if curtailment is grandfathered. This is because they will bear a disproportionate share of curtailment which we consider to be wholly unreasonable, unfair and discriminatory. All projects contribute towards curtailment and up to December 2011 it was SEMC's stated intention to share such curtailment on a pro rata basis. We consider it disappointing that SEMC should consider forcing one category of generator to carry the burden for what is a recognised as a system wide issue. The disproportionate impact on non firm projects (as demonstrated by the IWEA and Redpoint analysis) prevents these not firm projects from proceeding, despite them having been part of the regulated grid connection process since 2007. We have committed significant resources to developing these projects and consider ourselves to have legitimate expectation that curtailment will be shared on a pro rata basis as previously favoured by SEMC.

### **Retrospective Changes**

We note that the issue of tie-breaks has been the subject of consultation since 2008 (SEM/08/102) with pro rata treatment proposed since 2009 (SEM/09/073). It was not until December 2011 (SEM/11/063) that grandfathering or curtailment was introduced. We are aware of some commentary that applying curtailment on a pro rata approach to existing generators would be considered a retrospective change by project funders. This is clearly not the case and it is not appropriate for Regulators to be influenced by Parties which either were aware, or should have been aware, of the proposed treatment of curtailment, on the basis that it will constitute a retrospective change. Indeed the change to grandfathering can be considered a retrospective change with many participants in the wind industry having made decisions with legitimate expectation based on the stated SEMC position on the matter.

## **Competition**

We note Section 9 of the SEM Act and SEM Order which states that the principal objective of the SEM Committee is to 'protect the interests of consumers of electricity ... wherever appropriate by promoting effective competition'. The IWEA and Redpoint analysis clearly shows that the pro rata treatment of curtailment will lead to lower consumer costs in 2020. The grandfathering of curtailment can only be described as anti competitive against non firm projects.

If curtailment were to be grandfathered the IWEA and Redpoint analysis shows that the non firm projects will not be able to finance. This means only firm projects will be realised and the curtailment will be shared on a pro rata basis between these firm projects. If the curtailment were to be allocated on a pro rata basis then firm and non firm projects will be realised. In this case you also get the curtailment shared on a pro rata basis between the operational projects. The IWEA analysis shows the levels of curtailment in this case are not excessive (as even though curtailment edges upwards over time it is shared between an increasingly larger numbers of projects). Therefore the key difference between these approaches is not how much curtailment the existing projects will suffer (as it is a negligible variance when compared to how energy generation & SMP pricing vary naturally over time), rather it is how much renewable generation is delivered during the period. It is noted the SEMC requirement to facilitate the Ireland and Northern Ireland 2020 Renewable Targets and clearly pro rata is the most effective way of achieving this. We note the statement that "SEMC must look to facilitate and not frustrate the delivery of those targets on the island" which cannot be reconciled with a grandfathering approach to curtailment.

## **Equity and Fairness**

We note the purpose of the consultation is to "share the burden of curtailment in a fair manner, against a set of criteria". Grandfathering curtailment cannot be considered fair in any way as you are affording a level of protection on one group of generators to the direct cost of another group of generators. As above, this has the effect of preventing this non firm group of generators being constructed which is unfair, uncompetitive and contrary to the stated SEM duties.

## **Curtailment and Firm Access**

We believe it is wholly inappropriate to link curtailment to firm access. We note the SMEOM agrees they are unrelated concepts and it is inappropriate that the abstract concept of firmness is used to determine which projects are delivered. Indeed in the projects we have reviewed there is an arguable case that the lists of Deep Reinforcements with some projects is subjective and inappropriate. If such a mechanism is to be used to effectively determine which projects are viable and which are not, such criteria should be published and the assumption and methodology utilised subject to scrutiny.

## **Deliver of Firm Projects**

SEMC seem to have a view that projects will automatically materialise when they achieve firm access. This is not the case and projects may not be realised (or be delayed from being realised) for a number of reasons such as:

- lack of windfarm planning consent

- lack of planning consent for the grid connection shallow works
- inability to raise equity
- inability to secure debt
- outstanding land or access agreements
- outstanding felling licences
- insufficient wind resource to make project financially viable

This is demonstrated when evaluating the volume of Gate 1 and Gate 2 projects which have accepted connection offers but are not yet connected. It is noted some of these projects have firm access yet they have not been realised. Given that a lot of what can be considered 'low hanging fruit' (good wind sites proximate to grid connection infrastructure in environmentally acceptable locations) have been developed the likely timeframe for deliver of later projects is likely to increase rather than decrease. Indeed there are pre-gate projects with signed connection offers which have not yet been realised. Therefore one cannot assume that all firm projects will materialise eventually, and especially not as soon as they become firm.

It is also noted that projects have no certainty that they shall be firm, meaning that in a grandfather scenario they shall need to have this confirmed in writing in order secure project funding. This means the time taken to secure project funding and construct the project will need to be factored in when estimating the delivery dates of those firm projects which shall be realised. At a minimum this can be expected to take 18-24 months meaning projects which are currently *scheduled* to become firm from 2019 onwards will not be available for inclusion in the 2020 targets. Furthermore given the significant and persistent challenges in delivering infrastructure it is wholly unrealistic to expect all Grid 25 projects will be delivered on schedule. We understand circa 80% of Gate 3 projects require at least 1 of the 6 major Grid 25 reinforcement projects to be completed in order to become firm. Therefore it is quite likely that there shall not be sufficient firmness available in 2020 in order to meet Government targets, and certainly now when the delay to realise projects and the likely project attrition rates are taken in to account.

#### **Contrary to current regulations**

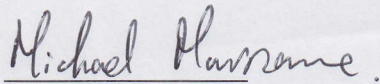
Non firm access has been a key instrument in delivering projects over the past 5 years. Temporary non firm access was granted in Gate 2 in order to encourage the efficient use of the network where projects were in a position to proceed. Grandfathering of curtailment effectively stops non firm access which is a completely retrograde step and is completely inconsistent with previous successful regulations. There is little sense in encouraging non firm projects to connect from a constraint perspective, and then allocate punitive levels of curtailment on these projects. In particular existing temporary non firm projects and partially firm projects will be significantly disadvantaged by moving to grandfathering of curtailment. This significant impact on existing projects has been overlooked by SEMC despite the numerous assertions in relation to promoting investment certainty.

**Conclusion**

In conclusion Craydel fully support the IWEA position and the IWEA proposal to resolve the matter. We believe the grandfathering of curtailment is unfair, anti-competitive, discriminates against a particular class of generator, will undermine national targets, is inconsistent with previous regulation and will result in increased costs to consumers.

We consider it wholly unreasonable and inappropriate that SEMC should have made such a decision without completing a full RIA. We urge SEMC to complete and publish a comprehensive RIA which we firmly believe will establish that the IWEA Options 3b is the correct way to progress in the circumstances.

Yours sincerely,



Michael Murnane

Director

Craydel

**Appendix I**

**Confidential Project Information**