

KBM Wind Farm

Mullins South,
Tianhely,
Co. Wicklow.
25th. May 2012-05-25

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

25th May 2012

Attention: Jamie Burke

By email to: jburke@cer.ie

Re: "Treatment of Curtailment in Tie-Break situations ", SEM-12-028, 26 April 2012

We write to you in response to the above consultation.

We are involved in wind project development. Our project has grid reference number DG209. The project is (tick as appropriate):

an existing wind farm project with firm access which could nevertheless be severely compromised and possibly terminated by the retrospective allocation of unforeseen curtailment as a result of Options 2, 3 or 4 in your consultation;

an existing wind farm project with non-firm access which could be severely compromised and possibly terminated by the retrospective allocation of unforeseen curtailment as a result of any of the Options in your consultation, in particular Option 1 if curtailment was linked to firmness;

a project still to be constructed which will be compromised, delayed or cancelled as result of any of the Options in your consultation; The best option would be to pay for curtailment

a currently firm project below 5MW where a Gate 3 extension will bring the project into the partially firm category, which would be compromised, delayed or cancelled by the allocation of unforeseen curtailment as a result of your forthcoming decision;

a below 5MW Gate 3 project in a sub-group involving larger non-firm projects that are likely to be delayed or cancelled, so that the smaller project is likely to be severely compromised, hugely delayed or cancelled by the allocation of unforeseen curtailment as a result of your forthcoming

decision.

Given the critical significance of this decision to the entire wind energy sector, we are of the view that a thorough and detailed impact analysis is required before the decision is made. The consequences are so serious that we believe the SEM Committee should have produced a Regulatory Impact Analysis before now, to assist its decision-making and the consultation process.

In its submissions to you on this matter, Meitheal na Gaoithe has highlighted the serious consequences of either pro-rata or grandfathering of curtailment, and concluded that the only way to avoid a halt to the sector was some form of compensation to the support price. Compensation should be coming from the market since the curtailment is arising from the failure to properly regulate the grid and the market. This is within the remit of the SEMC.

May we remind you that Option 1 is particularly problematic. If this option was selected and curtailment was linked to firm access (where there is otherwise no real connection), the decision would effectively terminate non-firm access, thus delaying most Gate 3 projects to their actual firm date (and not their scheduled one).

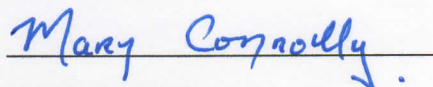
Pro-rata of curtailment under Option 2 raises questions over existing financing, and would lead to unquantified curtailment for new projects, making their financing impossible (unless like the semi-states and utilities, they can make it work off balance sheet). Option 4 takes this approach to a new low by even proposing the removal of market payments for lost output, and must be resoundingly rejected.

While Option 3 seeks a middle road, with a view to achieving targets, it will compromise existing projects, and even with the changes proposed by the IWEA, it will not be acceptable unless that point is addressed.

So, we must conclude that the limited Options presented to us are all very problematic. This has arisen because the SEMC has not addressed the core issues of mitigation of curtailment and compensation. Any of these Options is likely to lead to serious issues in both jurisdictions and would probably prevent Ireland reaching its legally binding EU RES targets by 2020. And we find it completely unacceptable that the approach of the SEMC over the last 4 years has effectively been to coerce the renewables sector into accepting the unacceptable and what is in fact against the law.

You should be aware, regardless of what position any of the wind associations may adopt or present to you, that we reserve our legal position on this matter.

Yours sincerely,



Mary Connolly
KBM Wind Farm Ltd.