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

On behalf of our Organisation I wish to thank the SEM Committee for inviting us to present our views on this crucial matter in Belfast on February 23rd, and welcome the re-opening of the consultation on this matter.

The Irish Windfarmers Cooperative Society Ltd, was established in 2000 to assist smaller independent windfarm project developers in Ireland. Meitheal na Gaoithe is now established as the Irish Windfarmers Association, and represents the interests of approx 200 members, most of whom are in the process of developing wind projects from the smallest to the largest, and many of whom own operating projects.

Context

Meitheal na Gaoithe has been raising significant concerns about curtailment since the CER's moratorium of 2003. We have consistently argued that the grid obligations in the Renewables Directives oblige the authorities to take steps to facilitate the dispatch and transmission of electricity from renewable generators connected to the system. The 2009 Renewables Directive adds obligations as regards access, development of the grid and mitigation of curtailment.

Reading the current consultation suggests to us that the SEM Committee does not have regard to the fact that these obligations are superior to the national law of either the UK or Ireland. Along with the Electricity Directives, they set the overall legal framework in which national law on electricity must operate. We therefore do not agree with the simple idea put forward by the SEMC that its role is first and foremost to minimize cost, before any targets and rules for renewables are considered. The SEMC must operate within the overall legal framework, and minimize cost 'within that framework'. That legal framework is largely non-optional, and not amenable to trade-offs, while the cost aspects of its function are. In conclusion on this point, it is our understanding that the SEMC must minimize cost within the constraints imposed firstly by the EU legal framework and secondly the national legal framework.

Indeed, it is evident that the SEMC previously accepted this point, by virtue of its change of heart on the respect for priority of dispatch, leading to the removal of economic considerations from its implementation.

The transmission guarantee arises from exactly the same part of the same Directive, and has equal legal force. When challenged, the authorities usually mistakenly argue that these rules are non-enforceable because of the qualification that they are subject to the safety and reliability of the grid. Such an interpretation is patently incorrect, it makes a mockery of these clauses, and would render them effectively redundant. A more correct interpretation is that the authorities are obliged to take measures to ensure priority of dispatch and transmission, but need not take measures that could compromise the safety and reliability of the grid. Needless to say, it would not be in the interests of the renewables sector to ask the authorities to take measures to facilitate them, which would destabilize the grid.

The current scenario being presented to the renewables sector is that projects will be allowed to connect to enable the achievement of the binding EU renewables targets, but once connected, their priority of dispatch will not necessarily be respected and their transmission will not be guaranteed. Indeed, it appears that the authorities are withholding, or at least delaying, connection in order to gain acceptance by the sector for such an approach. It is our advice that such an approach cannot and will not be sustained, and Meitheal na Gaoithe will not accept it on behalf of its members.

This approach and attitude is incorrect for several reasons:

- wind in particular reduces the price of electricity in the wholesale market, and therefore gives considerable benefit to consumers, so that compromising the financing of projects via curtailment reduces the deployment of wind, and therefore the benefits to consumers; it is clear that any additional cost required to secure the financing of such projects would be far less than the economic benefit;
- curtailment reduces the ability of projects to contribute to targets so that more projects are required, requiring more curtailment, and so on; 10% curtailment will cause a requirement for 10% more renewable capacity, which will lead to more curtailment and incur more costs in grid, supports, etc.

On the other hand, to enable all renewable projects generate their full output all of the time would admittedly require an enormous and costly investment in the grid system in its widest sense (including operational measures, storage interconnection, etc). It would not be rational of either the authorities or the renewables sector to pursue such an approach. Instead, it would be more sensible for the authorities to make trade-offs, as required by their mandate, to balance the cost of such mitigation against some form of mechanism to keep renewable projects economically whole (in their supports). That could be achieved by either the market or the support mechanism. Since it is the market that is currently failing these obligations, it may well be correct that the market is asked to keep projects whole rather than the support scheme(s).

As regards renewable energy targets, while they are binding on the UK and Ireland for primary energy, they are only binding indirectly on the SEMC as regards electricity. Furthermore, the Northern Ireland target is but a share of the overall UK target, reducing further the degree of obligation on the Utility Regulator in Northern Ireland. This seems to be an inherent flaw in the SEM, that appears to be causing difficulties between the regulators from the two jurisdictions, worsening what is we believe an already unacceptable situation.

The National Renewable Energy Action Plans do allocate the binding primary target between transport heat and electricity, and since these NREAPs are in compliance with the Directive, they effectively impose the electricity targets. It is worth noting that member states, including the Republic, are struggling to achieve their transport and heat targets, so that as we approach 2020, it is quite

likely that more effort will be required from the electricity sector, leading to higher targets for electricity generated from renewable energy.

We also note that the European Parliament, which was the source of the original Renewables Directive, has now called for binding 2030 renewable targets, as part of the pathway to a very low carbon energy system in 2050. We also expect to see 2030 GHG emission targets by 2015. Clearly such 2030 targets will be adopted well ahead of 2020, to ensure that Member States implement policies that look well beyond 2020, and don't treat 2020 as an end in itself.

On the way to 2020, our electricity market will become part of the EU Single Electricity Market, through implementation of the EU target model by 2016, a process that is now well underway. This introduces a new set of uncertainties for renewable generators and therefore for achievement of targets. If renewable projects were to be properly insulated from market uncertainties, in line with the design of the REFIT, then this transition wouldn't pose a major problem. However, the current discussion suggests the opposite. In the absence of being kept whole in supports, any allocation of curtailment under tie-breaks means that renewable projects are directly exposed to market and grid uncertainties over which they have no control. That uncertainty will be multiplied by the transition to a new market, as happened with the launch of the SEM, which led to the last 4 years of uncertainty over the treatment of wind.

A further matter needs consideration in order to form a more complete context for the current discussion. The island of Ireland is hugely endowed with renewable resources that are competitive, even when transmitted over long distances, while at the same time, many countries in the EU will be in need of renewable energy to meet their targets and longer-term energy needs. This island is uniquely placed to deliver enormous quantities of green electricity to the EU, and the first steps are being taken currently to enable that prospect. It is worth noting that the physical infrastructure required for such exports will enable the isolated network on the island to deal with curtailment. Suffice to say that whatever decision is taken by the SEMC on the 'Tie-breaks' should not compromise this development, and should assist it insofar as possible.

Tie-breaks consultation

The process begun in February 2008 has led to the current narrowly focussed consultation and has so far failed to address the issues arising from the context set out above. The result is that we are now faced with an almost futile discussion on a choice between a set of different options, each of which in its own way is completely inappropriate, as we will discuss below. This process is an attempt to implement the misallocation of risk, whereby projects have grid risk imposed on them, while those responsible for that risk, the grid authorities and regulators (not the consumer), are relieved of that risk. It is not the case that projects seek to be relieved of all risk, since they have significant risks to contend with in planning, leases and finance, which are definitely within their commercial purview

Meitheal na Gaoithe is using this opportunity to raise these wider issues because of the absence of any other platform to bring these critical matters to political regulatory and public attention. We believe it is incumbent upon the SEMC to consider a proposal to solve these problems, not deal merely with the symptoms. Since no such proposal is being put forward, we are forced to raise these issues here, rather than waiting for the possibility of such a proposal being put after this decision is made and it becomes futile.

We would like to make the following simple point to the SEMC. You have a duty to comply with the law, most particularly EU law. We believe you are not doing

so and are avoiding properly implementing the grid obligations under the Renewables Directives and are instead compromising the projects that have a right to be protected by those obligations. This will lead to project failures, and it is quite likely to lead to legal action by aggrieved parties. We are advising you now of this possibility so that you are in no doubt.

Tie-break options

Our consideration of the options presented assumes the continuation of the existing policy, whereby loss of support due to constraint and curtailment is not made good (an approach we do not agree with).

Option 1 – Grandfathering

While this option seeks to protect existing projects from curtailment that arises from the addition of new projects, it makes those new projects completely unviable.

Where the grandfathering principle was linked to firm access, very few projects would build until firm access was available. Current trends suggest further delay in firm access, leading to an inability to meet targets. What is more, that link would give rise to a distorted grandfathering principle, where existing projects with non-firm access would be badly affected, while forthcoming projects with firm access would not. In any case, firm access has to do with constraints; it has nothing to do with curtailment. So it is clear that this proposed link is merely to try to reduce cost to the consumer. As the Irish Wind Energy Association (IWEA) has shown, this is unlikely to be the case anyway, as the vast majority of projects would wait for firm access to build. Furthermore, there is not likely to be sufficient firm access to reach 2020 targets and this Option would effectively eliminate non-firm access, which is supposed to be one of the guiding principles of SEM.

We have made these points previously in person to the SEMC. While there may be some small support for grandfathering, Meitheal na Gaoithe sees it as being very problematic. We have made it clear that we completely reject any proposal to link grandfathering to firm access. From our inquiries, there is an absolute industry consensus on that specific point.

Option 2 – Pro-rata

While this option might appear to make forthcoming projects more viable, it has two fatal flaws. Firstly, it would impose curtailment on existing projects, thus undermining their banking, and bringing into question the whole financing model for renewable projects. It would suggest a tendency towards retrospective behaviour by the Regulatory Authorities, showing a willingness on their part to undermine existing contractual arrangements, and in the minds of the financing institutions, increase regulatory uncertainty. Secondly, even if the financial institutions were in a position to overcome or overlook the first point, they would be trying to finance new projects with an unknown level of curtailment. The whole basis of the support schemes is a well-defined level of output (which is further de-risked by being reduced for financing purposes). Unknown curtailment literally destroys that model. It is possible that some projects might be built on balance sheet, by semi-states and utilities, though these would only represent a part of the total portfolio required for 2020.

However, this option is the easiest for the RAs and the TSOs to implement. It is seen by the SEMC and ESRI as self-regulating, in that it would prevent overbuilding by the wind sector. However, it is Government's job to decide how much is built for future targets and exports, not for the RAs or the TSOs to pull apart the Government policy.

Option 3 – Temporary pro-rata

It appears that the SEMC has recognized some of the issues with the two previous options, and has tried to address them with this approach, which is a compromise between Options 1 & 2. Limiting in some way the curtailment of the projects that would go towards meeting the target would we imagine make those projects more viable than under Options 1 & 2. However, there are a number of issues with this approach:

- this option still links curtailment to firmness, which it has nothing to do with;
- to remain viable, projects required for the target would have to continue to experience the reduced level of curtailment after the target was met whether they are firm or non-firm thereafter;
- any attempt to favour firm over non-firm projects pre-target would be unwise, since it is difficult to predict which firm or non-firm projects are likely to contribute to targets;
- the impact on the existing projects would (as in Option 2) be very damaging, so that some further mitigation for these projects would be required;
- it would have to be restricted to Gate 3 projects, and exclude future Gates;
- the target focus would have the effect of limiting the industry to 2020 and compromising the serious potential Ireland has for exports.

The IWEA is proposing several adjustments to this Option, with a view to at least minimizing the negative effects. The idea that the date would be reviewed is a good one, and that increased mitigation would allow more capacity to be in the first tranche has merit. But it remains the case that, without some special treatment, Option 3 will compromise the existing projects. Without resolving that issue, it is impossible for Meitheal na Gaoithe to prefer this approach.

Option 4 – Pro-rata with no market payment for curtailment

This takes the unviable Option 2 and makes it worse. It has to be totally rejected. It is not the fault of projects that the grid has not been developed to facilitate them. They can't manage that risk, while the RAs and TSOs can. To then penalize them further by denying any payment at all for curtailment would take the approach of the SEMC to new depths. Currently, those payments are lost in the REFIT top-up, which is a mistake. But, if and when market prices rose and REFIT was no longer required, then this option would deny any market compensation payments to projects for curtailment.

Given the legal rights of renewable generators, such compensation is the minimum that projects should expect for being curtailed, as a part payment of the support that should really be paid. The Government's REFIT model was based on an assumption that all available output from wind-farms was paid for at the REFIT price (which is bankable), not just the SMP. Such payments in the market would incentivize and accelerate a properly planned programme of

mitigation measures, whereas without those payments, the mitigation would continue to happen piecemeal and at a slow pace.

It is worth noting that the current arrangements for payment of REFIT seem to have a serious flaw, as already mentioned. We understand that such SMP payments on curtailment and presumably any ancillary service payments from the market would be deducted from the REFIT that is due before the difference is paid from the PSO. This means that such market payments do not get to either projects or their suppliers, rather they go towards reducing the PSO. This is perverse, and would nullify the effect of any ancillary service payments to supported projects.

Conclusions

We must once again conclude that all of the Options presented by the SEMC will severely damage the renewables sector. The revisions presented by IWEA to Option 3 improve it, but do not address the core issue of the damage to existing projects. We very much doubt that any of these approaches will enable the two jurisdictions on this island to meet their respective targets.

Indeed, what seems to have been generally overlooked is the fact that losses of output due to constraint and curtailment will have to be made up by additional projects in order to meet targets, with all of the implications. And in any case, the economic effect of wind is such as to far outweigh the costs of either mitigation or compensation, so that it is somewhat hard to fathom the SEMC's approach if it really is in the business of protecting the consumer.

By narrowing its remit to cost, and overlooking the overriding duty to respect the grid obligations in the Renewables Directive, the SEMC is indirectly causing the curtailment in the first place. It is then, by virtue of its forthcoming decision, allocating it where it doesn't belong and can't be dealt with. Indeed the SEMC seems to be using delay as a means of getting acceptance to this approach from the renewables sector, as happened with non-firm access. Overall, this approach will not be sustained.

The correct approach is to respect the Renewables Directive and rapidly implement mitigation measures, so as to avoid the problem in the first place. Any small amount of curtailment that is simply too costly to mitigate can be compensated for by payment of the support price for lost output, whether from the market or the support scheme. To avoid excessive non-firm access periods, such compensation could be limited to three years before the scheduled firm date.

Overall, it is impossible to see the current approach as one intended to grow the renewables sector on this island. A narrow target-based approach may arise under some version of Option 3, but that will surely fail to deal with the inevitable growth in those targets, whether through failure to meet the transport and heat targets, rising demand, or higher targets for 2030 and thereafter. And that doesn't even start to take account of exports, and the fact that they would help finance the interconnection required to relieve curtailment, never mind redressing our energy trade imbalance or reviving the ailing economies on the island.

Yours etc,



Thomas Cooke, Chairman