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Generation & Wholesale Markets

ESB GWM Response:

Integrated Single Electricity Market

(I-SEM)

Offers in the I-SEM Balancing Market  
Consultation Paper (SEM-16-059)

18<sup>th</sup> November 2016



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## EXECUTIVE SUMMARY

Transmission System Operators (TSOs) need to balance the supply and demand of electricity instantaneously and simultaneously. This is a vitally important part of all electricity markets. Efficient balancing markets are able to maintain security of supply at least cost to customers and the environment. The incremental offers and decremental bids that market participants submit to TSOs are a key element to perform this function.

The key themes from the Market Power Decision Paper (SEM-16-024) in May 2016 were that the SEM Committee was confident that with a Forward Contracting Obligation (FCO) in place, that the I-SEM will be competitive. In that Market Power Decision, the SEM Committee set out that **no bidding controls** would apply to energy actions in the I-SEM Balancing Market (BM) but non-energy actions would be subject to bidding controls. This Consultation follows that decision and proposes to introduce ex-ante cost based bidding controls in the form of 'offer principles' or 'offer limits'. ESB GWM is concerned with the proposed level of prescription. We do not believe micromanagement is necessary and it may inadvertently lead to numerous unintended consequences. ESB GWM urges the SEM Committee to thoroughly examine its proposals before consulting on licence modifications.

ESB GWM has a number of overarching observations.

The definition of the problem that the proposed bidding controls seek to solve is not sufficiently clear. The key issue, given ESB GWM's interpretation, appears to be situations where a plant is out of merit in the Day Ahead Market (DAM) and Intraday Market (IDM) but is needed by the TSOs in the BM for constraint purposes and the TSOs have no choice but to accept an offer to resolve the transmission constraint. ESB GWM believes that the design of I-SEM itself with unit level bidding, combined with applicable controls under EU regulations and competition laws, appear sufficient to cover all other scenarios. ESB GWM is concerned that in the absence of a clearly defined problem, the proposed bidding controls may affect more than just the targeted problem.

We have identified a number of potential unintended consequences of the proposed bidding controls may cause and that could adversely affect the effective functioning of I-SEM.

- The new all island wholesale electricity trading arrangements involve separate but interdependent markets for energy, capacity and ancillary services (DS3) where a decision made in one market could adversely impact another market. The bidding controls may depress the imbalance prices thereby dampening incentives for market participants to be in balance, force participants to offer the TSOs power below market value and/or offer the GB TSO discounted products distorting cross-border balancing markets. Any of these outcomes driven by perverse incentives constitute a major risk of a non targetted ex-ante intervention. Extending the proposed bidding controls to energy actions would only magnify the impact of these consequences.
- There appears to be an inconsistency in philosophies between the Capacity Remuneration Mechanism (CRM) and energy market proposals. The CRM assumes a competitive energy market while the SEM Committee is proposing to regulate the BM. This inconsistency in philosophy appears to give rise to a new missing money problem for generators.
- The Consultation does not consider the impact of the proposed bidding controls on any generator that does not hold a Reliability Option (RO) and how it might recover its costs.
- The system imbalance, Net Imbalance Volume (NIV), will evolve over the course of each half-hourly settlement period and the direction of NIV may plausibly change from one five minute pricing period to another. According to the draft Trading and Settlement Code (TSC), in this scenario every Bid Offer Acceptance (BOA) will be NIV tagged for at least one pricing period, implying that all BOAs on

all generator units will be treated as non-energy actions in that settlement period and are therefore subject to bidding controls. This could significantly undermine the incentive to invest in the flexible resources the system requires to accommodate further intermittent generators.

## **Regulatory Framework**

The Consultation proposes to make substantive changes to the existing regulatory framework, specifically by way of amendment to the generation licence.

The proposal to transfer the key principles underpinning the generator's ability to recover its costs out of the generation licence and into a subsidiary document of uncertain legal standing (with no governance framework), is of particular concern and is not acceptable. Whilst framed as an obligation on the generator, the licence makes clear that a generator, when needed, is entitled to recover its total costs of operation. We believe it remains appropriate that this fundamental issue should be enshrined in the licence, such that any amendment is subject to a clear framework for modification (and any challenge to same). Any alternative approach undermines the licensing regime and more particularly, the statutory governance framework for licence modifications.

Further, it would appear that the proposals significantly limit the allowable items for generators to bid, thus posing a real threat to generators' ability to recover their costs, as highlighted further below. The SEM Committee has a statutory obligation to have regard to "the need to secure that authorised persons are able to finance the activities which are the subject of conditions or obligations imposed by or under this Act.". Given the proposed limitation on recoverability of costs by imposing limits on all generators' ability to bid certain costs, it is not clear how the proposals comply with this statutory requirement.

The prospect of the SEM Committee extending the proposed bidding controls to apply to energy actions if 'behaviour is deemed unacceptable' is a further concern. Not only does this introduce considerable uncertainty, the SEM Committee has given no indication of what is and is not acceptable behaviour or how it would make such a determination. Moreover, as drafted, the proposed framework for simple incs and decs is not transparent or easily understood. The SEM Committee should present the market with more detail on this issue before proceeding to consult on changes to generation licences.

## **Allowable Costs**

Through changes to numerous defined terms, the SEM Committee is proposing significant changes to the allowable costs compared to those permitted under the current BCOP. The proposed modifications lack detailed analysis and evidence to support them and for that reason ESB GWM does not believe they are appropriate to implement in the new market. We have provided a detailed assessment of each allowable cost component in section 4 of our submission. ESB GWM asks that the SEM Committee performs a thorough analysis of their proposed changes including an impact assessment and a review against the SEM Committee's design principles. This should be conducted and published before any consultation on licence conditions so as to allow generators to fully understand the obligations being placed upon them.

## **SEM Committee Proposed Options**

After analysing the two proposed options, ESB GWM does not believe that either is suitable to implement in their current form. Both options are overly prescriptive, pose genuine risk to generators' ability to recover their variable costs and introduce an unacceptably high risk of unintended consequences on other I-SEM markets. ESB GWM is not aware of any comparable precedents of interventions of this nature.

Option 1 'offer principles' is based on the current BCOP arrangements, which the SEM Committee has repeatedly said have worked well. It is surprising that Option 1 proposes so many substantial changes and adds greater prescription, which makes Option 1 more akin to rules than principles. Our analysis of the

proposed modifications to the allowable cost components suggests these are not supported by robust evidence or analysis.

Option 2 'offer limits' as proposed does not appear to address a specific identified problem. Balancing markets that apply cost based bidding controls often include adders to account for uncertainties and forecasting errors, only highlighting the exposure for the SEM Committee to ensure that **all** cost elements and their limits are identified and all evidence based and consulted upon. This is a noticeable absence in the Consultation and imposes a higher level of risk on market participants. It may also be onerous for market participants and the SEM Committee to review the offer limits on a quarterly basis, yet this would appear necessary to make sure they remain fit for purpose - this is at odds with the SEM Committee's wish to reduce the degree of administration and engagement that the current BCOP challenges raised. Further, it does not seem feasible, given there is no history from which to draw the possible outcomes given market participants' interpretation and engagement with the markets, to have this option in place ahead of the scheduled I-SEM Go Live date, which is another drawback.

A more detailed assessment of each of the proposed options is set out in section 5.

### **ESB GWM Proposed Way Forward**

Having considered the proposals in the Consultation, ESB GWM is of the view that the options proposed by the SEM Committee are not appropriate to implement in the new I-SEM environment in their current format. In particular, the redefinition of allowable cost items is unreasonable and would be a prohibitive imposition on the generator. ESB GWM is of the view that the consistency of the SEM Committee's proposals in the CRM and in the energy market needs further consideration. The approach being taken in the CRM is built around the proposition that there is a competitive unfettered energy market.

ESB GWM does support having a form of bidding principles for three part offers in I-SEM. However these bidding principles must be appropriate to the design of I-SEM and in particular the numerous markets that come together in the balancing market (energy, capacity and system services). The SEM Committee has stated a position that with an FCO in place, the unconstrained elements of the I-SEM markets will be competitive. Therefore the development of bidding principles must seek to address the specific plants it is wished to target.

The development of any bidding principles must be cognacent of neighbouring markets that I-SEM will be integrated with. Other regulators rely predominantly on ex-post monitoring and enforcement powers inherent under applicable laws and regulations including REMIT, the Transparency Regulation, the Market Abuse Regulation, EMIR and arising under competition law. In this regard, to avoid distortions, the bidding principles developed in I-SEM should be consistent insofar as possible with other European markets or the wider European Internal Energy Market (IEM) that the all island market will join under I-SEM.

To facilitate the development of appropriate bidding principles for I-SEM, we recommend that the SEM Committee should establish a working group with industry and with wider interested parties. Such an approach could draw upon the process used by the RAs for the development of the Energy Trading Arrangements (ETA) or the process SEMO has used for the development of the market rules. The group would have a purpose specific terms of reference and could draw upon international experts and industry participant presentations.

This inclusive framework development would be particularly useful for the licence modification process as generators will need a robust understanding of the licence conditions being imposed upon them before they could know whether these are acceptable or not.

## 1. INTRODUCTION

ESB Generation and Wholesale Markets (ESB GWM) welcomes the opportunity to respond to the SEM Committee's Offers in the I-SEM Balancing Market Consultation (SEM-16-059) (hereafter the Consultation). Our submission has the following structure:

- Section 2 explains our overarching comments in relation to this Consultation
- Section 3 outlines our concerns with changes proposed to the regulatory framework in this Consultation and includes some suggested amendments to make it more workable
- Section 4 evaluates the proposed allowable costs set out in the Consultation
- Section 5 provides our views on the two proposed options to amend the current bidding controls for I-SEM
- Section 6 sets out ESB GWM's proposed way forward for the BM market power framework

ESB GWM would be happy to discuss our views on both methodologies or indeed any part of this response further with the RAs.

## 2. OVERARCHING POINTS

ESB GWM has a number of overarching observations relating to the Consultation.

### 2.1 Problem Definition

The Consultation has not clearly set out the issue that the SEM Committee is seeking to address through the bidding controls in the balancing market. The key themes from the Market Power Decision Paper (SEM-16-024) in May 2016 were that the SEM Committee was confident that with a Forward Contracting Obligation (FCO) in place, that the I-SEM will be competitive. To this end, the SEM Committee decision was that no ex-ante controls would be placed on the ex-ante markets or on the simple bids and offers in the BM.

Taking the SEM Committee's position in the May 2016 decision as a starting point for this paper, ESB GWM believes that the issue that should be addressed in this consultation is where a plant is out of merit in the energy market, that is, it has zero level Physical Notifications (PN) but is needed by the TSOs. We would take this to exclusively mean plants that are constrained on by the TSOs where the TSO has no choice but to take them. We say exclusively because all other situations are covered by other instruments such as REMIT and other European financial regulation (referenced above), the inherent I-SEM market design and accompanying rules and through competition law.

It is important that the problem is clearly defined because the absence of a clear definition risks addressing much more than the actual problem through a less targeted solution. This is also an imperative to determine a proportionate solution. ESB GWM is of the view that the absence of a precise problem definition in this case leaves the solutions being put forward potentially being detrimental to the proper functioning of the electricity market.

### 2.2 Interdependent markets and the potential for unintended consequences

The new all island wholesale electricity trading arrangements involve separate markets for energy, capacity and ancillary services (DS3). The energy market consists of a financial forward market and three physical markets, covering the day-ahead, intraday and balancing timeframes.

It is clear from the emerging detailed design of I-SEM that market participants will have more discretion and there is greater interdependency between these markets and energy market timeframes than under the current SEM arrangements. A number of high level interdependencies are set out in Table 1. These will influence a firm’s commercial strategy alongside numerous other factors. This is important as design decisions made in one market or energy market timeframe potentially impact other markets and timeframes. The choice of a hybrid reference price for the Reliability Option (RO) is one example. A thorough assessment of these interactions is vitally important to the overall success of I-SEM and has been a recurring theme in ESB GWM’s responses to the SEM Committee’s consultation papers.

**Table 1: Illustrative I-SEM market interdependencies**

Interaction	Commentary
CRM – Energy	<ul style="list-style-type: none"> <li>• Energy market prices will impact the CRM auction clearing price</li> <li>• The capacity requirement potentially impacts energy market tightness and prices</li> <li>• The choice of a hybrid RO reference price will impact energy market bidding strategies</li> <li>• How energy market prices will interact with a lower / higher CRM strike price</li> <li>• Interaction of locational signals between the CRM auction and the balancing market</li> <li>• RO structure creates complexity in forward market</li> </ul>
CRM – DS3	<ul style="list-style-type: none"> <li>• DS3 tariffs set in advance of CRM auctions may influence CRM bidding strategy</li> <li>• Interaction between DS3 and CRM auction timings and potentially auction results</li> <li>• Interaction between DS3 provision and exposure to CRM difference payments</li> </ul>
Energy – DS3	<ul style="list-style-type: none"> <li>• Interaction between energy market prices and DS3 auction prices</li> <li>• How will participants modify their energy trading to self-position for DS3 delivery</li> </ul>
Energy – Forward	<ul style="list-style-type: none"> <li>• Any adverse distortion of the spot market will feed into the forward curve and may ultimately reduce liquidity</li> <li>• Adverse regulatory intervention will minimise organic liquidity which will make the emergence of a forward market unlikely</li> </ul>
CRM – Forward	<ul style="list-style-type: none"> <li>• The RO impacts the design of I-SEM CfDs</li> <li>• The potential fragmentation of forward market liquidity due to the potential for generators to offer truncated CfDs or standard CfDs</li> </ul>

The proposed bidding controls for non-energy actions in the I-SEM balancing market may have numerous unintended consequences.

The intraday market at I-SEM go live will be an interim solution.<sup>1</sup> The interim solution will potentially have as many as three or as few as one cross-border intraday auction with GB. While a continuous market will operate in parallel within I-SEM, it may be difficult to foster liquidity due to the lumpiness of units in I-SEM and the absence of any cross border bids and offers in it.

The emerging pricing rules in the draft T&SC state that all units bound by TSO operational constraints will be deemed non-energy and will therefore be settled using their three part offers. This will invariably see many units tagged as non-energy given the number of constraints.

The combination of the effective long gate closure for cross-border intraday and the tagging rules means that any bidding controls applied to three part offers will inevitably impact the price formation in the balancing market. This in turn could lead to distortions in the day-ahead and intraday markets and potentially the

<sup>1</sup> Prior to the cross-border intraday project (XBID) as set out under the Capacity Allocation and Congestion Management Guideline (1222/2015) is in place.



capacity and DS3 markets. Suppliers, renewable and thermal generators will be less inclined to balance their positions if imbalance prices are dampened by the bidding controls, potentially undermining liquidity in the ex-ante markets.<sup>2</sup> Moreover, if generators required by the TSO, are unable to recover legitimate costs when providing non-energy actions, they would be forced to seek to recover these, what would be, variable costs through other markets such as the CRM or DS3. Clearly this is an unintended outcome and could be deemed a regulatory failure.<sup>3</sup>

Early actions taken by the TSOs may effectively lock market participants out of the intraday market, despite the earlier SEM Committee decision to the contrary.<sup>4</sup> The introduction of bidding controls may force participants to offer power to TSOs below market value while excluding them from realising additional value in intraday markets once accepted by the TSOs. Again, this is an unintended outcome.

Bidding controls for non-energy actions may lead to wider unintended consequences. The *raison d'être* for I-SEM is integration with the wider European Internal Energy Markets (IEM). In this wider market regulatory interventions applied only to I-SEM participants may disadvantage them relative to other participants who are not subject to the same requirements.<sup>5</sup> This could manifest itself through distortions to cross-border balancing under SO-SO trades, Project TERRE, or the requirements of the Network Code on Electricity Balancing.<sup>6</sup> These European rules require TSOs to offer neighbouring TSOs standardised balancing products. The proposed bidding controls may undervalue these products and offer discounted balancing actions to the GB TSO. This hinders the efficient operation of these markets and could also be viewed as a regulatory failure.

ESB GWM is concerned about the real potential for unintended consequences and is worried that the Consultation has not sufficiently considered this. As described in our response to the market power consultation, ex-ante regulatory interventions, such as the proposed bidding controls, face a higher risk of regulatory failure due to the significant informational and analytical requirements and impose a considerable regulatory burden on participants and the SEM Committee.<sup>7</sup>

ESB GWM believes it is important the I-SEM balancing market is allowed to function without any unnecessary level of interference. The design of I-SEM mitigates any firm's perceived ability to exercise market power and ex-post regulatory instruments such as financial regulations and competition law provide the RAs with sufficient tools to monitor, investigate and if necessary enforce against any unlawful conduct. If prescriptive bidding controls are deemed necessary, ESB GWM asks the SEM Committee to thoroughly assess the potential for adverse consequences between different I-SEM markets, different energy market timeframes and interactions with cross-border balancing markets so that any intervention should be targeted and proportionate.

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<sup>2</sup> We note that the RA decision that long notice adjustment factors will be used to limit early actions. While we understand the logic for their introduction, we would caution an over reliance on such a regulatory instrument as it may have unintended consequences in terms of efficient market outcomes and efficient dispatch.

<sup>3</sup> A regulatory failure is a consequence of an intervention results in a loss of efficiency for market participants or customers or leads to unintended outcomes.

<sup>4</sup> The ETA Markets Decision Paper (SEM-15-065) determined that substitutive PN functionality would be included in market design. However, the detailed implementation will be impractical due to the requirement for PNs to be feasible on a stand-alone basis. To submit a valid substitutive PN, generators would need to trade out their minimum output for their minimum on time, whereas intraday market liquidity may be focused on hourly or half-hourly products with small trade sizes (as seen in other European markets).

<sup>5</sup> It is surprising that the Consultation Paper envisages more, not less, prescriptive bidding controls than in the current arrangements as there are few precedents in other European electricity balancing markets.

<sup>6</sup> TERRE stands for "Trans European Replacement Reserves Exchanges". It has ENTSO-E's status of a cross-border balancing pilot project, dedicated to the exchange of balancing energy from replacement reserves. The project involves TSOs from Portugal (REN), Spain (REE), France (RTE), Italy (Terna), Switzerland (Swissgrid), and GB (National Grid) as members, as well as TSOs from Ireland (EirGrid and SONI) as observers.

<sup>7</sup> SEM-16-016g.

## 2.3 Consistency with CRM Design

The SEM Committee published a Consultation Paper on CRM parameters on 8th November 2016 (SEM-16-073). The purpose of that paper is to set how the SEM Committee will establish and set the parameters ahead of the CRM auction. The underlying commentary and rationale provided in that Consultation Paper appear to suggest a divergence in thinking and philosophies between the design development of the CRM and the energy trading arrangements.

The SEM Committee has proposed that in setting the Existing Capacity Price Cap, their definition of fixed operating cost does not include any element to cover sunk investment costs, that is, depreciation or return on capital. In addition, the calculation of Net Going Forward Costs assumes that the Best New Entrant plant (BNE) will earn infra-marginal rent between its fuel price and the Strike Price on its de-rated capacity and the capacity between de-rated level and nameplate. The CRM paper also appears to assume an unfettered competitive energy market.

The combination of the CRM proposals and the proposed bidding controls in specific circumstances appear to amount to full scale regulation of the energy, capacity and ancillary services markets, which cap costs below long run marginal cost. Taking the real world example of a relatively new peaker in Ireland or Northern Ireland which still has significant investment costs to recover as well as ongoing costs:

- The CRM proposals will mean that it can recover no investment costs in its RO payment. The RO payment, effectively capped by the Existing Capacity Price Cap will deduct an expectation of infra-marginal rent earned.
- In the energy market the peaker plant could have no expectation to earn anything above CRM revenues because of regulated below short run marginal cost offers being proposed through this paper. This is because of the operation of the BM pricing mechanism being developed by the TSOs (Discussed in Section 2.4)

The combination of the above will mean that at best the peaker can only recover the net going forward costs (and may well recover less if it is making a net negative margin every time it runs), and will have no opportunity to make a contribution to debt payments or equity return. A competitive energy market could expect that prices would rise when the system is tighter and the peaker could recover a contribution to sunk investment costs but the SEM Committee proposals prevent this from occurring.

ESB GWM believes this is a fundamental flaw and potentially amounts to the SEM Committee fully regulating the energy market below cost. We fail to see how this combination would be acceptable from the point of view of the SEM Committee's own statutory duties.

## 2.4 Uncontracted Plant

The Consultation makes no distinction between plants holding a Reliability Option and plants that are uncontracted following the RO auction. No bidding controls should apply to plants that do not hold an RO.

This leaves the plausible scenario of a plant that competes in the capacity auction, is unsuccessful, but remains on the system being unable to make an economic return. ESB GWM is concerned the Consultation implies such generators may be required to submit BM offers below their full variable costs, in which case constrained running will incur losses, let alone make any contribution towards fixed cost recovery and a return on capital. That plant must be given freedom in what it can bid in the BM and would only be subject to general provisions such as REMIT, competition law etc. To place bidding controls on such plants which would have no prospect of recovering revenues elsewhere would be an unacceptable prohibitive imposition on the generator and would appear to fail the most basic of reasonableness tests.

As currently drafted, there appears to be no provision in the bidding controls for the adequate remuneration of such plant. In taking forward licence conditions to enshrine the SEM Committee's ultimate decision on bidding controls there must be a distinction made for uncontracted plants.

## 2.5 I-SEM Balancing Market Pricing

The TSOs will be taking actions in the I-SEM BM for both energy and non-energy balancing purposes. The SEM-16-024 Decision Paper stated the SEM Committee's intention to apply bidding controls to all actions deemed to be non-energy, with the TSOs' 'tagging and flagging' imbalance pricing methodology being applied to determine which actions will be subject to market power mitigation. As set out in the draft TSC (Section F.3.3), there are three circumstances in which a balancing action is deemed to be non-energy for settlement purposes:

1. Actions instructed before Gate Closure 2 (one hour ahead of the settlement period)
2. Actions flagged by the System Operator ( $FSO < 1$ )
3. Actions that are NIV tagged ( $TNIV < 1$ )

The first two non-energy definitions are not particularly contentious. In the first case, previous detailed design decisions have confirmed that early (pre Gate Closure) TSO actions will be primarily concerned with resolving system constraints, leaving participants to focus on balancing their positions in the intra-day market timeframe. In the second case, the System Operator flagging process is key to the I-SEM imbalance price calculation, indicating when a generator unit's output is binding on operational constraints (subject to the requisite transparency on the nature of constraints modelled in the Indicative Operations Schedule). However, we are concerned that the third non-energy definition, NIV tagging, may have unintended consequences, with the result that many balancing actions are inadvertently treated as non-energy and subject to bidding controls.

According to the detailed flagging rules (TSC Appendix N), all BOA actions in the opposite direction to the NIV in a five minute imbalance pricing period are NIV tagged. Moreover, the imbalance settlement calculations (TSC F.3.3) state that if any BOA on a generator unit is NIV tagged in any five minute pricing period, all the BOAs for that unit in the half-hour settlement period will be settled as non-energy actions subject to bidding controls. The system imbalance, NIV, will evolve over the course of a settlement period, and it seems plausible to assume there will be half-hour settlement periods in which the direction of NIV changes from one five minute pricing period to another. In this scenario, every BOA will be NIV tagged for at least one pricing period, implying that all BOAs on all generator units will be treated as non-energy actions and subject to bidding controls. We question whether this was the intention of the SEM-16-024 decision.

The scenario in which all balancing actions are subject to NIV tagging and hence bidding controls will not apply in all settlement periods. However, in other periods, NIV tagging may have the effect of removing genuine 'energy' balancing actions from imbalance price setting. For example, a flexible peaking unit may be brought on at short notice in the event of a plant trip: if this action is towards the top end of the BOA pricing stack, it may be NIV tagged, depending on the volume of actions that happen to have been taken in the reverse direction. Once NIV tagged, the action cannot influence the imbalance price and will be settled on the basis of its three part offers under the bidding controls. The combination of NIV tagging and bidding controls could significantly undermine the incentives to invest in the flexible resources the system requires to accommodate further intermittent renewables.

## 3. REGULATORY FRAMEWORK

In this section we have set out a number of areas of concern ESB GWM has with the regulatory framework being proposed by the SEM Committee in the Consultation. In addition we have set out suggested changes which would make the framework more workable.

### 3.1 SEM Committee Duties and Principles

In assessing any regulatory intervention, it is useful to set out the SEM Committee's statutory duties and functions.

#### Statutory Duties

The duties of the SEM Committee, the Commission for Energy Regulation and the Northern Ireland Authority for Utility Regulation are set out in Section 9BC of the Electricity Regulation Act (as amended) in Ireland and in the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 in Northern Ireland.

The relevant duties (which are repeated in both provisions) can be summarised as follows:

#### (i) Principal duty

The principal duty of the SEM Committee is to protect the interests of consumers of electricity wherever appropriate by promoting effective competition between persons engaged in, or in commercial activities connected with, the sale or purchase of electricity through the SEM.

#### (ii) Other duties

In carrying out its principal duty, the SEM Committee must have regard to various matters including (of particular relevance here):

- the need to secure that all reasonable demands for electricity are met;
- the need to secure that authorised persons are able to finance the activities which are the subject of obligations imposed by relevant law in Ireland and Northern Ireland;
- the need to ensure transparent pricing in the SEM;

Subject to the above, the SEM Committee must carry out its duties in the manner best calculated to:

- promote efficiency and economy on the part of authorised persons;
- secure a diverse, viable and environmentally sustainable, long-term energy supply in Northern Ireland and Ireland; and
- promote research into, and the development and use of new techniques by or on behalf of authorised persons; methods of increasing efficiency in the use and generation of electricity.

#### Principles of Good Regulation

The SEM Committee must also have regard to the common principles of good regulation set out by Governments in both Ireland and in the UK. These principles of proportionality, accountability, consistency, transparency and effectiveness (i.e. targeting) were adopted by the UK's Better Regulation Task Force, which was set up by the UK Government in September 1997 to advise the Government on action to ensure that regulation and its enforcement accord with those five principles. The same five principles were

established by the Irish Government in the White Paper “Regulating Better” in January 2004. After a number of reviews a new Government Policy Statement on Economic Regulation in July 2013 that set out four principles to provide sharper focus to economic regulation.<sup>8</sup> The SEM Committee, as a committee of the Northern Ireland Authority for Utility Regulation and of the Commission for Energy Regulation under the relevant legislation, is obliged to abide by those principles in exercising its functions.

### 3.1.1 Assessment against SEM Committee Duties and Principles

In coming to a decision on any bidding controls for I-SEM the SEM Committee must assess the framework against the duties and principles under which they operate. ESB GWM is concerned that the published Consultation falls far short of this. In many respects, the consultation does not fully explain the proposals being made, or assess the impacts of the proposals. It is respectfully submitted that before reaching a final decision and/or modifying licence conditions, the SEM Committee must carry out appropriate analysis and evidence-based impact assessment to allow generators to decide whether they can accept the licence changes being proposed. In this regard, we note that pursuant to Section 20 of the 1999 Act (for example), the CER is required to state the reasons for any proposed licence modification.

We offer below a number of points that the SEM Committee should take into account in carrying out this assessment.

- There are a number of areas in the Consultation where the SEM Committee seeks to disallow from bids and offers, cost items which are legitimate costs and recognised as such today. In effect, this would require the generator to run at a loss. As noted above, the SEM Committee has a statutory duty to have regard to the need to secure that authorised persons are able to finance the activities the subject of obligations or conditions imposed pursuant to the relevant legislation. It is not apparent from the consultation that the SEM Committee has had any regard to this matter in the proposed approach. We fail to see how the proposals could be compliant with this statutory requirement. We would further suggest that imposing a requirement which requires generators to operate at a loss raises serious questions in the context of infringement property rights, including under the Irish Constitution and the European Charter of Fundamental Rights.
- This level of risk to generators does not provide any protection to consumers (being the SEM Committee’s principal duty) as it introduces an unacceptable level of uncertainty in the market which is likely to ultimately result in a loss of competition.
- There are a number of areas in the Consultation where the SEM Committee cites administrative workload on the RAs as a reason to change the framework and in effect disallow what ESB GWM believes to be legitimate costs. We do not believe that this is a proportionate or reasonable response to the issue identified, i.e. to impose the risk of running at a loss on generators in order to lessen an administrative burden, and we are unaware of any precedent in other jurisdictions for such an approach. The SEM Committee will be aware that the electricity market is necessarily complex and the wholesale market alone is worth over €2bn per annum. One cannot “assume” away complexity and associated costs in order to reduce administrative burden. ESB GWM fully supports minimising administrative burden where appropriate but this cannot come at the cost of a generator’s ability to finance its operation and compete effectively in the market.
- The proposals in the Consultation appear to be inconsistent with the SEM Committee’s duty to promote competition. The outcome of the SEM Committee’s proposal would be to force generators to offer their output to the market below cost. This will at a minimum reduce any incentive for new plant to invest in the market and further may lead to exits. This will also have significant adverse

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[http://www.taoiseach.gov.ie/eng/Publications/Publications\\_2013/Policy\\_Statement\\_on\\_Economic\\_Regulation\\_2013.pdf](http://www.taoiseach.gov.ie/eng/Publications/Publications_2013/Policy_Statement_on_Economic_Regulation_2013.pdf).

effects on competition across the various market timeframes. We would further query how this, over the longer term, complies with the SEM Committee's duty to have regard to the need to secure that demands for electricity are met, and the requirement to secure a diverse long-term energy supply.

- As set out previously, the key plants which we understand the SEM Committee intends to target, (based on the Market Power Decision in May 2016), are plants behind a constraint and required by the TSO. If the proposals in this Consultation are implemented there is a significant risk that the plants that are needed the most are unable to finance their operations. It may be that the SEM Committee believes that the issue of plant required for locational constraints can be addressed entirely through the CRM. However, it is ESB GWM's view that this complex issue cannot be solved only through the CRM and that the energy market must be considered by the SEM Committee too.

### 3.2 Licence and Bidding Document Relationship

A key issue in the Consultation is the proposal to significantly amend the generation licence. The current Licence to Generate sets out key principles with regard to cost recovery which in effect provide generators with the right and ability to recover costs in the market. The licence condition places the obligation on the generator as to how it can bid and manage its own exposures in the market, with the generator taking on any consequences of error. Under both proposed options in the Consultation, the SEM Committee proposes to remove all reference to the principles underpinning a generators' ability to recover costs from the licence, and to place these into a subsidiary document. ESB GWM is of the view that this is an unacceptable change. Where explicit bidding controls are required, we believe that this key principle regarding cost recovery must be enshrined in the licence, in order to secure that generators are capable of financing their activities. If the principle itself is relegated to a subsidiary document of uncertain legal standing, this introduces an unacceptable level of uncertainty into the market. The reasons for this are set out below.

- The primary issue for the generator is that it must have the right and ability to appropriately finance its operations through the market and to earn an appropriate rate of return. Where explicitly required, the key principles which give effect to this must be established in the generator licence which sets out the conditions on which the generator is permitted to engage in the licensed activity of generation. As it stands in the current generation licence, whilst framed as an obligation, it is clear from the licence that the generator is entitled to recover its total costs of owning, operating and maintaining plant in generating electricity on a given day. This overarching principle determines how the BCOP should be interpreted.
- If all principles governing the bidding controls are relegated to a subsidiary document, generators are placed at a significant disadvantage compared to today. This is because the licence to generate is subject to a robust governance structure as provided for under statute. If all obligations are set out in the subsidiary document with no overarching principles set out in the licence, decisions could be made by the SEM Committee which materially affect a generator's ability to continue its operations by changing this subsidiary document without recourse to the licence modification procedure. This places an unacceptable level of risk on generators. The removal of this fundamental principle from the licence condition would, in our view, undermine the purpose and intent of the legislative licence modification procedure.
- Relegating the fundamentals of how a generator can recover costs to a subsidiary document exposes the generator to significant regulatory risk. To take this Consultation as a case in point; if the licence did not already contain the core bidding principles, then the SEM Committee could make very significant changes to the regime, which would have a material detrimental effect on generators, without recourse to the more robust procedures (and opportunity for challenge) applicable to licence modifications.
- The intention of the legislation is that there is a specific procedure to implement and to challenge licence modifications which affect a generator. Any imposition of bidding controls is in effect a



condition applicable to generators. Accordingly, it is not appropriate to bring the key principles of such control outside of that legal framework. Whilst it may be the case that generators would continue to have judicial review available to them, that is a more limited, constrained legal forum which should be a last resort. In addition, judicial review is an expensive option, which is a particular issue for smaller players.

- We are unaware of any precedent within the current regulatory regime for this type of framework being put in place by the SEM Committee, i.e. where a fundamental cost recovery principle underpinning a licence condition is relegated to a subsidiary document with no governance framework. There is no Condition in the current licence analogous to the BMOP and BMOL Conditions being now proposed by the SEM Committee.

The licence condition relating to generator bidding is of paramount importance to the generator and goes to the heart of their ability to operate in the market. For prospective investors, the condition is central to their business case. It is in many ways the most important condition in the licence for the generator. The open ended nature of the condition proposed and the lack of any certainty for the generator is unacceptable for ESB GWM, and we believe for the market.

### 3.3 Bidding Control Governance

In the Market Power Decision Paper in May 2016 (SEM-16-024), the SEM Committee stated that there would be bidding controls for three part offers but that there would be no explicit controls on simple bids and offers at Go-Live. However, on this point the following was stated (emphasis added):<sup>9</sup>

*“The SEM Committee have decided that for simple incremental and decremental bids and offers submitted into the balancing market at Gate Closure, there will be no explicit ex-ante bidding controls. However the SEM Committee will implement ex-ante bidding controls either on individual participants or across the wider market if observed behaviour is deemed to warrant this. The SEM Committee will develop a framework that will allow for the implementation of bidding controls in an expedited manner should the need arise. For example, there could be a condition placed in licences but not activated.”*

It is not clear from the proposals in the Consultation how the specific decision on BM simple bids and offers in the market power decision is being effected. In Section 3.3 of the Consultation the SEM Committee suggest that bidding controls could potentially apply to incs and decs for energy actions in the Balancing Market, if observed behaviour is deemed to warrant this but the drafting of the licence condition and bidding control document does not further reference this point.

As written, it would appear that the SEM Committee intends to refer to all balancing market commercial offer data in the licence but to reference only complex three parts offers in the draft bidding document. Therefore no clarity is provided on how any decision would be effected to require a generator to submit incs and decs according to a regulated methodology. This creates uncertainty for existing generators and also for new investors. If all licencees are required to comply with a single bidding document then it would appear that all licensees would be required to move to regulated bidding.

As written now, the framework for simple incs and decs being proposed by the SEM Committee is not transparent or easily understood. The SEM Committee should bring forward more detail on this issue before proceeding to consultations on licence conditions.

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<sup>9</sup> SEM-16-024, p. 6.

## 4. REVIEW OF ALLOWABLE COSTS

Within the description of Option 1, the SEM Committee proposes significant changes to what they believe represents allowable costs in I-SEM through changes to numerous defined terms. ESB GWM has addressed this in a dedicated section given the importance of the proposed changes to both options in the Consultation. In this section we explain our views on the following issues:

- Carbon levy and gas capacity costs in SEM
- The definition of trading day
- Variable operational and maintenance (O&M) costs
- Reasonable provision for risk
- The treatment of foregone revenues
- Gas transmission capacity costs for I-SEM

The proposed modifications lack detailed analysis and evidence to support them and for that reason ESB GWM does not believe it is appropriate to implement them. ESB GWM asks that the SEM Committee perform a thorough analysis of their proposed changes including an impact assessment and a review against the SEM Committee's principles. This should be conducted and published before any consultation on licence conditions to allow generators to understand the obligations being placed upon them.

As mentioned above, we do not think the proposed level of prescription is necessary and are worried it may inadvertently lead to a number of unintended consequences.

### 4.1 Review of SEM Bidding Controls

The SEM Committee has on numerous occasions, including in this Consultation, stated that the SEM has been successful and that market power has been effectively mitigated. ESB GWM notes that the form of the markets and the payments that are available are a holistic and internally consistent model.

These rules and their interpretation has evolved over time and this is to the SEM market's governance and design credit. It reflects that the market design was robust and sustainable. To date we have real concerns this is not been fully considered in the development of I-SEM, and we have often made observations to this end in our consultation responses.

This section contains our view on each of the proposed changes to defined terms in the new market.

#### 4.1.1 Bidding Inquiry

The first public issue that arose with SEM bidding came in late 2007 and early 2008 when the SEM Committee opened an inquiry into bidding practices due to complaints from some market participants. The SEM Committee spent a significant amount of time reviewing the evidence presented by generators at that time and published a comprehensive inquiry report which provided guidance to generators bidding in SEM. As part of that process the RAs held a series of bilateral meetings with participants and requested submissions from particular parties. In the final report, the SEM Committee accepted as legitimate a number of costs associated with participation in the market and gave explicit guidance on how they must be bid.

The SEM Committee has never publicly raised any further issues with regard to how these costs have been bid since the 2008 inquiry final report. The Consultation does not put forward any issues from the 2008



inquiry as negative aspects of the current regime. Therefore the level of change from the current regime proposed in the Consultation comes as a surprise. This is discussed further later in this response.

#### 4.1.2 Carbon Levy and Gas Capacity Costs

The SEM Committee cites the carbon levy and gas capacity costs as issues with the current bidding regime. It is clear that they have been an issue for the SEM Committee but history has now shown that the only issue at play here was that the SEM Committee was unwilling to allow generators to recover what were ultimately deemed to be legitimate costs from the market.

The move to SEM from I-SEM does not of itself require any changes to the underlying costs feeding into the preparation of three part offers by generators. There are new arrangements in place in the day ahead, intraday and balancing timeframes but none of these necessitate changes to the definitions of costs. For example, an out of merit plant in I-SEM will have all the same issues as an out of merit plant in SEM. The ex-ante markets are largely irrelevant to these plants. In that sense, ESB GWM does not agree that a whole new approach is necessitated for I-SEM.

ESB GWM is of the view, however, that the current bidding framework does have shortcomings in some areas. In particular, plants that are continually constrained on by the TSO and required to bid at cost find themselves in a position of not earning any infra-marginal rents but are still run continually by the TSO. This appears to be at odds with equitable treatment and also at odds with rewarding services given the additional value that generator provides the TSOs. This issue should be addressed to ensure the integrity of the new market.

### 4.2 Redefinition of Terms and Allowable Costs for I-SEM

The SEM Committee has proposed two options for bidding controls in I-SEM but the two options are in many ways second order to the new principles on allowable costs that are being proposed. In particular, much of the established precedent is being removed and replaced with a new set of positions which will again only add to uncertainty. In this section we evaluate each of the changes being proposed by the SEM Committee.

#### 4.2.1 Definition of Trading Day

The SEM Committee has suggested revising the time granularity of the SRMC definition for I-SEM, in order to correspond to the half-hourly imbalance settlement period (as opposed to the current Trading Day).

ESB GWM agrees there is merit in considering how SRMC may vary within-day between settlement periods when looking for counterfactuals to measure against real time events. For example, the opportunity cost of selling power outside the balancing market would reflect the prevailing market value for hourly or half-hourly products traded on the intraday market.

However, we question whether the revised SRMC definition would be consistent with the proposed format for complex three-part offers, given that incremental / decremental Price Quantity pairs will be submitted on a Trading Day basis, rather than for individual half-hours. The planned I-SEM complex three-part offer format is based on the current SEM format. If the SEM Committee plans to change the SRMC definition from a Trading Day to settlement period basis, it would seem logical that the format of complex orders be revised to support half-hourly Price Quantity pairs, such that generators can comply with their bidding control obligations. The Consultation does not state whether the SEM Committee has explored the possibility of changing the complex order format with SEMO and the TSOs, and how this would impact their I-SEM system implementation.

It is perhaps also relevant to consider how the TSOs will be using the complex offers from market participants. Our understanding is that the TSOs' scheduling tools will be populated with the complex orders

and then run over an extended optimisation horizon (i.e. solving for the day-ahead or balance-of-day rather than the next settlement period). The TSOs' real time dispatch tools will provide short-term decision support, but these will be populated with simple offers rather than complex ones. The Trading Day definition of SRMC would therefore continue to be the most appropriate for guiding the formulation of complex offers under I-SEM bidding controls. Participants will be free to revise their simple offers in each settlement period, outside the bidding controls.

#### 4.2.2 Variable Operational and Maintenance Costs

The two options in the Consultation propose that no O&M costs should be included as part of generators offers. This is a significant change from the current regime and is at odds with any other regime that we have seen. The Consultation does not include any rationale for this change or any analysis of what it means.

Moreover, the SEM Committee's own recent consultation on CRM parameters (SEM-16-073) makes specific reference in Paragraph 6.2.23 to these costs and appears to suggest that generators will recover a portion of variable maintenance costs in the energy market. This appears entirely at odds with the SEM Committee's position and understanding in the bidding controls Consultation.

Operational and Maintenance costs have fixed and variable components. This is established practice in power station O&M globally.

- Fixed costs would tend to include operational staff costs, routine maintenance staff costs, rates, insurance, remote monitoring and diagnostics, Original Equipment Manufacturer (OEM) remote support, head office support, monthly service level agreement fees, key account management and other costs that don't depend on run hours.
- Variable costs are run hour related and include items such as air filter replacements, inspections and overhauls, including labour, parts, and rentals, water treatment expenses catalyst replacements and major overhaul expenses on the gas turbine, the steam turbine and the boiler. If the plant doesn't run then it doesn't incur these costs.

The distinction between fixed and variable O&M costs has to date been understood and accepted in other markets and by the SEM Committee.<sup>10</sup> For example, the Best New Entrant (BNE) includes an allowance for fixed O&M. The BNE includes no allowance for variable O&M on the basis that they are run hour based. The SEM Committee explicitly referenced this issue in setting the 2009 BNE (SEM-08-109) where, responding to a specific comment they stated:

*The BNE calculation does not include avoidable costs such as maintenance caused by start-up, ramping and shut-down as these should be bid into the energy market. Only the fixed annual component of O&M is estimated, including contractor fees, inspections etc.*

ESB GWM does not understand what is driving the SEM Committee's change of position in relation to variable O&M costs and strongly contends that the proposal in the Consultation is unworkable and unacceptable.

- Power station O&M contracts are all based on fixed and variable elements. It would not be possible to require a set of arrangements in I-SEM which differs from every other competitive market in the

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<sup>10</sup> See, for example, "A Review of Generation Compensation and Cost Elements in the PJM Markets" and "Cost of New Entry Estimates for Combustion Turbine and Combined Cycle Plants in PJM (prepared by the Brattle Group)". These reports include descriptions of the treatment of fixed and variable O&M costs in the PJM market.

world. I-SEM is a small market and would not have a strong negotiating position with OEMs to make the changes the SEM Committee proposals would require.

- The SEM Committee's proposals will increase costs compared to current practice. Run hour O&M costs are best reflected in energy bids because they are avoidable. If a plant doesn't run it doesn't use an Equivalent Operating Hours (EOH) or if it doesn't start it doesn't use say 8 EOH. If all O&M costs were required to be recovered through the CRM then the generator would be required to forecast their likely running regime and a prudent operator would need to make an inclusion for the worst case scenario. If that worst case scenario didn't materialise then the electricity consumer would be paying more than they should have. If such a CRM bid (including the avoidable costs) failed to clear, then a capability of solving a constraint at lowest costs may be lost from the system in turn requiring side contracts. In either case, this is inefficient.

For the reasons set out above, ESB GWM is strongly of the view that the changes proposed to the recovery of variable O&M costs are unacceptable for the generator and for the consumer. If the SEM Committee is minded to proceed with this change it must put forward detailed analysis, an impact assessment and a review against the SEM Committee's principles. This analysis will need to be brought forward before any consultation on licence conditions to allow generators to understand the obligations being placed upon them.

#### 4.2.3 Reasonable Provision for Risk

In Section 4.2.3 of the Consultation the SEM Committee proposes removal of any reference to provisions in offers for increased risks to plants and equipment as a result of operation of the generator. Again, we do not understand the rationale behind this proposed change and no assessment or analysis is included in the paper.

##### **Initial BCOP Development**

When the RAs proposed the BCOP in 2007, they made specific reference to Operating and Maintenance and increased costs of operating in certain modes. AIP/SEM/07/198 stated:

*Only operating and maintenance costs which are truly variable with production should be included. Therefore the cost of annual servicing should not be included, nor should normal depreciation, which is not an economic cost.*

*The RAs also recognise that the capacity of a unit is not immutable. From an engineering perspective the heat rate is likely to be reduced and the possibility of increased wear-and-tear on a unit is a clear economic cost. In certain situations a generator might well offer emergency quantities to the system at higher prices, representing levels of power above his normal rated output. In principle, the calculation of the SRMC related to these quanta of energy is clear: the cost will reflect both the heat rate in this area of operation as well as the expected value of generator damage. Estimations of the expected generator damage should be made in such a way that they can be clearly justified, and should not normally include the routine risk of damage which is usually best considered as part of normal [fixed?] Operating and Maintenance costs.*

In making their decision on the BCOP in 2007 the SEM Committee decided that the provision in the BCOP should be kept to a high level and that to seek to prescribe all eventualities for valuing increased risk could move the framework from bidding principles to bidding rules. The same arguments stand today and if anything they are amplified by the I-SEM design with its interdependent markets.

##### **SEM Committee Bidding Inquiry**

Since SEM Go-Live in 2007, the SEM Committee has once been required to publicly opine on this increased risk aspect under the BCOP. This was in late 2007 to mid-2008 where a number of complaints were made to the SEM Committee about the bidding behaviour of the Coolkeeragh CCGT.

Coolkeeragh maintained in their submissions that two-shifting imposed real costs on the plant. These costs included those resulting from an increased risk to the plant from the decision to start the plant. Coolkeeragh were of the opinion that this cost was expressly allowed for in the BCOP. At the start of SEM, Coolkeeragh reflected these costs by the discounting of their first PQ. A number of other generators in the market complained to the SEM Committee about this practice and the SEM Committee opened their inquiry.

The SEM Committee carried out a comprehensive inquiry on this issue in 2008 and decided:<sup>11</sup>

- that a generator should not be required under its Licence to incur significant avoidable costs without the prospect of being able to recover them, always excepting the sunk costs of past investment decisions.
- all avoidable costs should be capable of being recovered through some element of the participant generator's commercial offer data, including the prospective loss of capacity payments and infra-marginal rent from SMP as a result of an increased number and duration of outages that can be explicitly linked to the running regime of the plant
- all the avoidable costs outlined above – the additional O&M expenditure, the additional equipment costs, the increased risk of failure to plant and equipment as a result of the plant's running regime and the concomitant loss of revenue from capacity payments and infra-marginal rents from SMP – are allowable costs.
- not to allow such costs could threaten the development of efficient new entry and effective competition, given that it may dissuade generators from entering the market if they perceive that they may incur irrecoverable forward-looking costs when doing so. Operation within the market must be economically viable for competition to flourish. The SEM Committee considers that this can only be achieved by ensuring that all avoidable costs are recoverable.

### **Conclusion on risk**

In the bidding inquiry decision, the SEM Committee reiterated its acceptance that risks associated with plant running is a cost and that it must be included within a generator's offer data. Since that decision, the SEM Committee has made no further pronouncements on this matter and has on a number of occasions stated that the SEM has been operating efficiently. Given that the three part offers serve the same purpose for constrained on plants in I-SEM as they do in SEM we don't understand the rationale for this change. If the SEM Committee had concern over the level of risks being included in generators bids they should have addressed this or at least they should have included some historical analysis of the impact of including risks in bids from the generator and consumer point of view. No such analysis is evident in the paper.

If a generator cannot reflect this risk in the energy market it moves to the capacity market and will cause unintended consequences there in the same way as for O&M costs mentioned above.

For the reasons set out above, ESB GWM is strongly of the view that the changes proposed to the recovery of risks associated with a plants running are unjustified and unacceptable. If the SEM Committee is minded to proceed with this change it must put forward detailed analysis, an impact assessment and a review against the SEM Committee's principles. This analysis will need to be brought forward before any consultation on licence conditions to allow generators understand the obligations being placed upon them.

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<sup>11</sup> SEM-08-069

#### 4.2.4 Foregone Revenues

The proposal by the SEM Committee to not allow foregone revenues associated with increased risk of operation of a plant in offers is presented without any analysis or rationale. This issue is closely correlated with the previous section on including risk.

The SEM Committee has already made a decision on this matter in the 2008 inquiry. As part of that decision, the SEM Committee analysed, in detail, the submissions from generators and were clear that the costs must be included. This Consultation proposes to move away from that position but the paper provides no analysis or impact assessment of the changes. Similar to the reasonable provisions for risk, the SEM Committee should have carried out analysis of historic operation of SEM and whether they had any issue with the way foregone revenues were reflected in offers. The SEM Committee has never expressed any specific concerns on these before.

The Consultation outlines three reasons why the SEM Committee believes that foregone revenues should not be included. These appear to be the basis on which the SEM Committee is proposing to make this significant change.

1. *foregone revenues are arguably not opportunity costs associated with any single input used in electricity generation and therefore could be better placed as an additional item in SRMC, rather than within a cost item in SRMC;*

It's not clear what the SEM Committee's intent is with this paragraph. Whether or not its associated with a single input isn't the key point. The point from the market's perspective is that it is a cost of generating electricity. In the case of foregone revenue in start costs it is reflecting a risk that continuous starts and two shifting place additional risks on the plant which will result in increased outages and loss of capacity payments. It is an avoidable cost in that if the generator isn't started continuously it doesn't need to recover these costs. More clarity is welcomed from the SEM Committee on the substantial issue they are raising in this point.

2. *establishing that a certain mode of operation today leads to a loss of some revenues in the future is arguably speculative and accordingly not an appropriate component for a SRMC calculation (for example the SEM Committee would not allow generating participants to use a potential future fuel price in the opportunity cost of using fuel to generate electricity);*

This is a significant point and raises questions for the market and for consumers regarding regulatory consistency. The SEM Committee is criticising the existing approach, which is based on its own 2008 decision, as being "arguably speculative". It should be pointed out that in 2008, the SEM Committee carried out an inquiry and sought submissions from generators before making its decision.

This material change in approach by the SEM Committee on such a significant issue raises real concerns for the market. Regulatory certainty and stability is a key issue for investment in the market.

ESB GWM entirely accepts and respects that the SEM Committee has a right to change its mind and make decisions which change previous decisions. However, we would expect any such change of position to be consulted upon in a meaningful manner with significant analysis as to why the change was being proposed, what the impact of the change is on the market and consumers in the short and long term. This analysis is absent from the consultation.

3. *allowing generators to include such potential, future foregone revenues today may increase today's market price. The generator may still receive the revenue in the future (e.g. if it does not fail), and the consumers in effect pay twice (once for the chance that the generator may not be able to generate, and second for the electricity it subsequently generates).*

This SEM Committee is expressing a concern that its 2008 decision could result in consumers paying a generator twice. The idea of the consumer paying twice for something should be of concern to the SEM Committee.

The Consultation does not present any evidence that this concern has been borne out in practice. However, it is entirely within the SEM Committee's remit to assess whether consumers have indeed paid twice. Generators are permitted under the BCOP to make a reasonable provision for the risks associated with certain operation of the plant. The SEM Committee has nine years of available market data, it receives regulated accounts from generators annually and can request other information it needs to carry out its work if it believes that the provision being made by a generator is not reasonable.

If based on this analysis the SEM Committee believed that generators were including costs in a way which were leading to double payments they have powers to intervene. Specifically, Condition 17 (7) of the Ireland Licence to Generate allows the Commission to issue a direction to the licensee for the purposes of securing compliance with the cost reflective bidding requirement and the BCOP.

As a generator we are not aware of any concerns expressed by the SEM Committee on this matter. The SEM Committee has consistently stated that the SEM is functioning well.

In summary on this point, ESB GWM is strongly of the view that the changes proposed to the recovery of foregone revenues associated with a plants running are unjustified and unacceptable. If the SEM Committee is minded to proceed with this change it must bring forward detailed historic and forward looking analysis, impact assessment and a review against the SEM Committee's principles. This analysis will need to be brought forward before any consultation on licence conditions to allow generators understand the obligations being placed upon them.

#### 4.2.5 Gas Transmission Capacity Costs

Gas generators are the largest sectoral customer in both Ireland and Northern Ireland's gas transmission networks and the interdependencies between the two markets must be acknowledged, particularly when determining the most appropriate means of cost recovery for gas generators. The SEMC should ensure that any proposed cost recovery mechanism is fit for purpose and seek to improve the current cost recovery mechanism where the treatment of gas recovery costs can be problematic for generators.

There are a range of gas products available in Ireland and Northern Ireland:

- In Ireland, generators can purchase annual, monthly, daily and within day regulated products at the entry and at the exit. There is also secondary trading of annual capacity products at the entry.
- In Northern Ireland, generators can purchase annual, quarterly, monthly, daily and within day regulated products at the entry and can purchase annual regulated products at the exit. There is also secondary trading of annual capacity products at the entry

The SEM Committee carried out a consultation on this matter in 2012 and following that Consultation made an amendment to the BCOP. The result of that BCOP amendment was that generators could include the cost of daily capacity products in their SEM Offers. While ESB GWM welcomed the increasing clarity the 2012 decision brought, the current regime is still lacking in that (i) generators holding annual strips of exit capacity cannot reflect this cost in their offers and (ii) the absence of short term products at exit in Northern Ireland means that Northern Ireland gas plants cannot access the same suite of regulated gas capacity products as those available to a gas plant in Ireland. This, in ESB GWM's view, is a distortion and impacts upon efficient gas capacity procurement decisions. ESB GWM believe that the absence of short term gas capacity products at exit amount to a discriminatory locational signal for Northern Ireland generators.



Having read the Consultation it is not clear exactly what the SEM Committee is proposing with regard to gas capacity. Paragraph 17 of the draft bidding document states the following:

*If the fuel cost calculation method uses a price index that is outside of the all-island market, then the fuel cost calculation can include an element to account for relevant gas transportation costs associated with shipping gas from the outside pricing hub to the relevant gas pricing point in the all-island market, based on published transportation tariffs.*

The interpretation of paragraph 17 hinges on the definition of the relevant pricing point. If the SEM Committee is of the view that the relevant pricing point is the onshore network this would imply that GB exit plus interconnector import (or Corrib entry) should be valued at published tariffs. ESB GWM however, would contend that the power station could equally be considered as the relevant pricing point and in this case the shipping cost would include GB exit, interconnector entry and exit capacity.

Paragraph 17 of the draft bidding document provides less flexibility for generators and potentially more costs for consumers than the current SEM. This is because generators can currently include provision for secondary entry capacity or primary entry capacity in their offers as per the BCOP. If the SEM Committee is proposing to disallow secondary entry capacity to be included in offers we would welcome further discussion on the rationale for this.

Paragraph 19 of the draft bidding document deals explicitly with exit capacity. The wording differs from the text that the SEM Committee added to the BCOP in 2012. However, the significance of these changes is unclear and they are not really explained. It is very difficult to comment given the information in the Consultation.

The new text appears to prohibit generators from reflecting the cost of regulated daily gas products in their offers to the market. If this is the intention, this is a substantial change and one that has wide reaching implications. Again, the SEM Committee has not provided any substantial description of the change, has not provided significant rationale for the change, has not provided any analysis or impact assessment of the change in the Consultation. It is difficult for respondents to comment without this information from the SEM Committee.

It should also be noted that the proposed bidding control relating to gas capacity could result in significant impacts to revenue recovery for the gas network operators. We would suggest that the SEM Committee engage with the network operators and the gas industry in advance of any changes to definitions of recoverable costs within I-SEM.

The Consultation suggests that changes are being made in the interest of equity between Northern Ireland and Ireland. In general, it is important to ensure consistency between the two jurisdictions but where generators have costs to recover they should not be prevented from doing so on the basis of harmonisation between the two jurisdictions.

ESB GWM's position is that the principles in the current provisions in the BCOP with regard to gas capacity should be maintained and that an addition should be made to allow holders of annual capacity to recover the cost of that annual capacity product even where no secondary product is available.

- Building up the current provisions is the most efficient solution for the market. Efficiencies will be realised by allowing generators flexibility in choosing which product to employ for the purpose of electricity generation. To make arbitrary interventions on what can and can't be bid will distort the economic equilibrium and will result in generators having to make sub-optimal decisions based on external regulatory interventions. Where the market becomes less efficient the consumer can only lose out

- It is appropriate to allow generators holding long-term strips of capacity to reflect the costs of that in bids. For holders of long-term capacity it allows them to recover a legitimately incurred cost of generating electricity which is fair. For generators deciding between annual and daily products, the ability to recover costs of the annual strip allows a more balanced assessment to be carried out between buying daily and annual. This is efficient and ultimately benefits the market and consumers.
- The SEM Committee's most recent report on generator profitability (SEM/14/111) shows that profitability of gas generators has greatly reduced and was 5% in 2013. The placing of additional cost burden on gas generators is neither reasonable nor fair and will ultimately impact upon their ability to stay in the market. The proposals in the consultation could see gas plant displaced by distillate plant which in a tighter system anticipated under I-SEM will see higher energy market prices. The SEM Committee needs to give further consideration to these potential unintended consequences.
- To significantly restrict the choices available to generators in purchasing gas capacity products will have unintended consequences. If the balancing market does not include these costs, suppliers in the day ahead market and intraday market will be incentivised to go short knowing that the electricity price in the BM is significantly undervalued. This will greatly affect market efficiency. As mentioned above, this could also distort cross-border balancing markets under SO-SO trades, Project TERRE or the Network Code on Electricity Balancing, where the GB TSOs may benefit from undervalued I-SEM products.

In summary on this point, ESB GWM is strongly of the view that the changes proposed to recovery of gas capacity need further consideration. The SEM Committee must explain any changes it is proposing in detail exactly and it should then bring forward analysis, impact assessment and a review against the SEM Committee's principles. This analysis will need to be brought forward before any consultation on licence conditions to allow generators understand the obligations being placed upon them.

## 5. REVIEW OF SEM COMMITTEE OPTIONS

This section sets out our analysis of the two proposed options to amend the current bidding controls for I-SEM

### 5.1 Option 1 – Offer Principles

The SEM Committee has suggested that this option is based on the current BCOP arrangements. However, ESB GWM is of the view that it is a significant change from the current BCOP regime. In the previous sections we have set out concerns regarding the licence bidding code relationship and valuation of specific cost items and have not repeated them here. We have set out a number of observations on this option below. We do not believe that Option 1, as put forward in the Consultation is efficient, workable or acceptable.

#### 5.1.1 Rules versus Principles

Option 1 is referred to as 'offer principles'. However, based on the proposals, they appear more akin to rules than principles. There is an important distinction between rules and principles. Rules are prescriptive, unambiguous and should contain very little or no discretion or room for interpretation. In comparison, principles are more flexible and provide a fixed pre-determined framework or guidance.

Option 1 marks a significant departure from the current bidding regime. The bidding principles in SEM are intentionally principles based and the RAs were keen, in 2007, that they avoid bidding rules. This was discussed by the RAs in the BCOP decision (AIP/SEM/07/430) in 2007 and they confirmed the following with regard to bidding principles framework for SEM:



- *the bidding principles would give market participants considerable latitude in determining aspects of marginal costs that require judgment;*
- *the Regulatory Authorities are keen to **avoid becoming involved in the business decisions of generators;** and*
- *the Regulatory Authorities want to **let the market innovate** through bidding strategy.*

Option 1 is a marked change from the current bidding principles and the RAs are seeking to make the majority of aspects of generators offers subject to ex-ante regulatory approval. The move to a much more rules based approach has not been discussed in the paper so it is difficult to understand the shift in policy based on what is presented in the paper. Also, the RAs have not provided any firm reasoning for their new approach to market offers.

ESB GWM is of the view that bidding principles are more appropriate than bidding rules. We hold this position for the following reasons:

- The three-part offers to which these bidding controls will apply to affect more than just plant constrained on by the TSO. Given the design of the balancing market pricing mechanism the three part offers will have wide reaching effects across the markets. Therefore, we believe that all the RAs' reasoning supporting principles over rules in 2007 would be valid today.
- The ex-ante approvals regime being proposed by the SEM Committee places a significant administrative burden on the RAs and on generators and moves from exception monitoring to assessing every change to a generator's offers. In 2007, the RAs rightly decided that they did not want to become involved with business decisions of generators. The methodology now proposed by the SEM Committee means that many ongoing business decisions need to be ex-ante approved before they can take effect. The RAs would need to ensure that they have a team available to understand the operation of all units on the system and would need to be able to make decisions on inclusions or exclusions with quick turnarounds.
- The ex-ante approvals regime being proposed by the SEM Committee places a significant risk on the market. With potentially up to 70 individual units on the system the RAs could be inundated with requests to make amendments to costs. If these cannot be turned around quickly the generator and the wider market faces losing out.
  - One example of a potential issue would be where a generator has access to a number of fuel price indices and might submit offers based on different indices at different times. This process would not be possible under the SEM Committee's proposals.
  - Another example could be where a generator wishes to offer peak firing at a plant. This mode of operation has increased costs as it incurs more EOH than normal operation etc. Even if the TSO wanted this facility for an expected tight system, the generator couldn't offer this until it gets regulatory approval.

### 5.1.2 Recognising Cost Uncertainties

In proposing a much more rules based approach the SEM Committee has not considered evidence on the complexity and concerns that need to be addressed from other relevant markets. Such evidence will not be forthcoming in Europe given that these markets tend not to have bidding controls. However, there have been attempts to address this issue in the PJM market in the US although the wider market design is quite different and therefore may not lead to the same outcomes.

PJM uses cost based offers and market based offers. The decision as to which set of offers is used is based on a complex Three Pivotal Supplier (TPS) test. This test is a complex one which carries out real time assessment of the transmission system to decide which offers should be mitigated. Such an approach has already been ruled out for Go-Live in I-SEM.<sup>12</sup> As part of its cost based offer methodologies PJM allows generators to include two different adders which are discussed below.<sup>13</sup>

- The first adder is referred to as the Ten Percent Adder. This adder allows any generator, at their own discretion, uplift their cost based offer by an additional 10%. PJM states that the 10% adder “*is to account for uncertainty in the process of defining costs*” and that “*in certain circumstances, it may be possible that the cost development guidelines are in error and are too low for a particular generator or for a particular time period*”.
- The second adder is referred to as the Frequently Mitigated Unit (FMU) adder. Generators that are offer-capped for constraints more than 60% of their run hours in the prior 12 calendar months may include a \$20 adder to their cost-based offer. At an offer cap frequency of 70% this adder can rise to \$30 and at an offer cap frequency of 80% the amount increases to \$40. Generators may elect not to include the adder, or may only include part of it. In approving the FMU adder, FERC stated that the purpose of the adder is to cover the going forward costs of the generator that may not be adequately covered if a generator is frequently mitigated.

The SEM Committee appears to favour a move to more rules based cost offerings akin to PJM. However, the SEM Committee has failed to take cognisance of a number of key issues faced by PJM with prescriptive rules namely that ex-ante rules cannot be prescribed for all situations and eventualities and that discretionary adders were required there to address this issue.

### 5.1.3 Demand Side Units

The Consultation make no reference to applying bidding controls to demand side units. While ESB GWM is not offering an opinion either way on this, the absence of any commentary or analysis in the paper on this point is notable. In the development of the bidding principles in 2006 the RAs considered that there may not be a need to impose bidding principles on demand side units but ultimately required their imposition when change were made to the demand side unit framework in 2012.

If a decision has been made to excuse demand side units from bidding principles it would be important to see the SEM Committee’s rationale for this change and to understand whether it is based on experience in SEM or whether it relates to the different market design in I-SEM.

### 5.1.4 Opportunity Cost

This section on opportunity costs have been largely carried across from the current BCOP with some additions. However, opportunity cost is a concept related closely to bidding principles and doesn’t sit as well with the type of bidding rules proposed in Option 1. Given the level of prescription in the earlier sections it’s not clear what items are actually calculated at opportunity cost.

As discussed elsewhere in the document, ESB GWM is of the view that Opportunity Cost remains an appropriate approach to the valuation of cost items and if explicitly needed, this should be done in the context of the current framework as opposed to the restricted rules based framework proposed in this paper.

The draft bidding document in the consultation requests that a generator provides three bilateral offers for a cost item where no liquid market exists. Notwithstanding the uncertainty as to what costs are actually valued

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<sup>12</sup> Option 2a in the SEM Committee’s Market Power consultation (SEM-15-094) and Market Power decision (SEM-16-024)

<sup>13</sup> A Review of Generation Compensation and Cost Elements in PJM Markets

at opportunity cost the requirement for three offers is unworkable. For example, it would be impossible to present three bilateral offers for peat costs.

In summary, ESB GWM is of the view this opportunity cost section needs to be reconsidered in terms of how it sits with the overall document. As written now, it does not seem to coherently fit with the very strict bidding rules being proposed in the document.

### 5.1.5 Energy, emissions or time limited units

The detailed rules for pumped storage and energy limited units have been changing throughout the various stages at the Market Rules Working Group. A number of changes were made as recently as the last release of documents in September. It is still not clear to ESB GWM how these units will operate in I-SEM so we would urge caution in setting out a restrictive methodology for how they are allowed to bid before all information is to hand.

The latest version of the market rules suggests that pumped storage will have start costs and no load costs of zero and so all scheduling from the day ahead stage will be carried out using the incremental parts of the three part offers. Hydro units, if classed as energy limited units in the market will have a no load cost of zero.

In the current SEM market, energy limited units and pumped storage are optimised where they generate at the most expensive times with pumped storage pumping at the most economically advantageous time. Detail is not yet available as to how the TSO scheduling software will operate. In submitting the offers to the TSOs at 13:30 on D-1 the generator cannot pick the hours it wishes to run in; it seeks to do this in the ex-ante market. Therefore the opportunity cost for those units wouldn't be a price across the energy limit time; instead it would be the forecast peak price for generation or forecast minimum price for pumping, i.e bids and offers would be priced differently. This would be consistent with the current operation of the market.

To place a requirement to make offers at 13:30 on D-1 using very different methodologies than are being used in the simple bids and offers would likely cause distortions in the scheduling decisions of the TSO.

ESB GWM is of the view that this section needs further consideration and should take into account the specifics of the market rules and the interactions of the different market timeframes.

### 5.1.6 Ancillary Services

We have set out elsewhere in the response concerns regarding significant distortion of the overall I-SEM through the way in which three part offers are regulated. The absence of any discussion on ancillary services is notable. In the current SEM, the SEM Committee made a decision that offers should not make any provision for ancillary services payments.

For I-SEM we expected this position to be reviewed given the discussions on incentives for plants to part load etc. It is difficult to clearly identify what the distortion on this point would be but there would be a general concern that if the bidding of three part offers doesn't allow provision for ancillary services then the other markets are less likely to allow for them. There could be a resultant efficiency loss from this which needs to be considered by the SEM Committee. At the same time, it is likely that a provision for ancillary services couldn't be mandatory as some plants may want to do different things in the market. Further consideration and analysis on this point would be welcome.

### 5.1.7 Application of the Code of Practice

We have highlighted in Section 2.2 our concerns with the impacts of the three part offers across the market. The impact of this concern is revealed in paragraph 3 of the draft code of practice. Paragraph 3 suggests that the complex offers are for non-energy actions. However, the design of the balancing market is more complex than this and a significant number of units could be settled off three part offers. In addition, three part offers will have impacts on price – for example the TSO might take an early action to position reserve

but that positioning brings an amount of energy with it. The pricing mechanism is complex but the energy taken or any subsequent actions may go into the pricing stack based on the regulated offers. This will likely lead to distortions across the market. To reiterate our comments in Section 2.2, we suggest that further consideration is given to the interaction across different market and the potential for unintended adverse consequences.

### 5.1.8 Treatment of Must Run Plant

The SEM Committee in the assessment of Option 1 suggests that it is concerned with must run plant submitting excessive offers and that the generator would have no incentive to innovate. This appears to be a key issue for the SEM Committee but it has not been discussed or analysed in any level of detail.

The absence of an incentive to innovate presumes that the generator is must run all the time. In the SEM there are very few generators that fall into this category. There are many plants that could be must run or in a constraint group for part of the year but could not be needed or could be competitive in the unconstrained market for other parts of the year. The SEM Committee needs to consider this as part of its decision making and must develop a framework robust to this.

The SEM Committee has, in some places in the paper, raised concerns with generators making offers as high as possible and has cited instances in the past of disagreements with generators. However, the proposed answer to this seems to be to put in place a very restrictive regime to avoid these disagreements. We do not believe this to be the appropriate nor proportionate or targeted way forward.

As discussed previously, the SEM Committee through the individual RAs have a robust MMU in place complemented by a range of ex-post powers to investigate and enforce against any unlawful conduct. The commentary from the SEM Committee in the consultation expresses a clear preference for ex-ante prescriptive rules in favour of relying on these ex-post powers. The potential for unintended consequences of the proposed intervention is high. ESB GWM considers the imposition of prescriptive rules should only be undertaken after rigorous analysis shows there is clear basis for the intervention. We do not think the case has been made for intervening in this manner on the basis of the evidence and analysis put forward in the Consultation.

## 5.2 Option 2 – Offer limits

In Option 2, the SEM Committee proposes to put in place a number of published bid offer limits for different groups of technology of plant. The SEM Committee has suggested that there is a precedent for such an approach but limited desktop research carried out in the preparation of this response provided no conclusive evidence of a strong precedent. In particular, the Italian market is a complex one and picking out this one very particular aspect without context is not conclusive. It would have been useful had the SEM Committee provided more holistic detail on the Italian treatment of must run plant in the Consultation given that it seems to be supporting the potential implementation of such a solution.

It is not clear to ESB GWM that Offer Limits are clearly an appropriate mechanism for the I-SEM three part offers. To this end, we offer the following observations and commentary on implementing offer limits..

- The absence of a clear identification of the problem that the SEM Committee is seeking to address makes it difficult to assess this option. For example, the offer cap will need to be high enough to allow the most expensive generator in that category to recover costs. On the basis that other generators in the category are operating competitively then the solution could work well. However, the SEM Committee has expressed reservations about this solution for must run plant so to this end it is difficult to comment further.
- It's not clear that the offer limits address the solution we believe the SEM Committee is trying to address, namely plants needed by the TSO. This is acknowledged in the Consultation but possibly

from a different perspective. The SEM Committee appears concerned that a must run generator would have no incentive to bid anything other than the offer cap. However, these specific generators will be out of merit and the problem they will face is that the limit won't be at a sufficiently high level.

- The SEM Committee has stated in a number of areas that the current regime has been too resource intensive. Notwithstanding the fact that we disagree with this assertion, the imposition of bid limits will potentially result in a higher administrative burden.
- The SEM Committee has stated that it would review the limits on a quarterly basis. This would involve significant resources in terms of building up the estimates, presenting to industry and reviewing responses from interested parties.
- If limits are set too low, generators would be forced to make offers at a higher level and to subsequently discuss these with the RAs. This could result in a significant administrative burden on the RAs given that all offers over the limit would be treated as exceptions.
- The timing put forward by the SEM Committee for Option 2 does not seem to work with the planned I-SEM Go-Live date. The Consultation suggests that the final offer limits would not be finalised until Q3 2017. Given the restrictive position to I-SEM offers in the Consultation combined with the interactions between the balancing market and other markets such as the CRM and forwards, generators would not have sufficient information to bid into the CRM or to offer forward liquidity absent this detail.

## 6. ESB GWM PROPOSED WAY FORWARD

Having considered the proposals in the Consultation, ESB GWM is of the view that the options proposed by the SEM Committee are not appropriate to implement in the new I-SEM environment in their current format. In particular, the redefinition of allowable cost items is unreasonable and would be a prohibitive imposition on the generator. ESB GWM is of the view that the consistency of the SEM Committee's proposals in the CRM and in the energy market needs further consideration. The approach being taken in the CRM is built around the proposition that there is a competitive unfettered energy market.

ESB GWM does support having a form of bidding principles for three part offers in I-SEM. However these bidding principles must be appropriate to the design of I-SEM and in particular the numerous markets that come together in the balancing market (energy, capacity and system services). The SEM Committee has stated a position that with an FCO in place, the unconstrained elements of the I-SEM markets will be competitive. Therefore the development of bidding principles must seek to address the specific plants it wishes to target.

The development of any bidding principles must be cognisant of neighbouring markets with which I-SEM will be integrated. Other regulators rely predominantly on ex-post monitoring and enforcement powers inherent under applicable laws and regulations including REMIT, the Transparency Regulation, the Market Abuse Regulation, EMIR and arising under competition law. In this regard, to avoid distortions, the bidding principles developed in I-SEM should be consistent insofar as possible with other European markets or the wider European Internal Energy Market (IEM) that the all island market will join under I-SEM.

ESB GWM believes that the solution being proposed in the bidding consultation goes much further than mitigating market power for the very specific plant required by the TSO and appears to have the effect of regulating prices to below cost and instituting a new missing money problem for generators.

The I-SEM will be a complex set of market arrangements with parts of the detailed design still emerging. With this in mind, the development of bidding principles for I-SEM would benefit from a more collaborative

approach where all participants can understand the SEM Committee's concerns and the SEM Committee can understand dynamics of the various markets coming together and the concerns of licensees.

## 6.1 Collaborative Process

As set out above, we believe that a form of bidding principles remains an appropriate solution for I-SEM. However, we believe that the SEM Committee should continue to engage with industry and further afield to determine an appropriate set of principles.

To greater understand this issue, we would endorse the establishment of a group similar to the RLG set up for the ETA or the RWG set up for the rules development. With a very specific terms of reference this group could develop appropriate solutions. The terms of reference could cover topics such as problem identification, international precedent, potential options etc.

The establishment of a working group would serve many purposes.

- It would allow the SEM Committee (through the RAs) to come together with industry to establish a shared understanding of the issues faced with transacting across numerous markets. The group would facilitate an education of all participants in the market and the SEM Committee on the key issues such as market overlap, the impacts of the tagging process etc. The SEM Committee may not ultimately accept the concerns of the industry but they will have a chance to greater understand these concerns before making decisions.
- The group could draw upon international experts to give accounts of bidding controls in other markets or could provide information on why other markets have chosen one approach or another. The SEM Committee has adopted such an approach previously for the CRM and it has greatly assisted in understanding of issues.
- The establishment of a group should deliver a more robust consultation process and should ultimately result in a more efficient licence modification process. With the RLG used during the ETA development, industry had a good understanding of the proposals when the consultation papers were published. This allowed more for constructive responses and a more efficient turnaround of decisions for the SEM Committee. This could be particularly important for licence modifications as generators will need a robust understanding of the licence conditions being imposed upon them.

## 6.2 Workstream Timelines

As set out above, ESB GWM proposes that the SEM Committee sets up a dedicated working group for the development of I-SEM appropriate market power measures in the BM. The timelines for setting up a group and holding meetings are tight based on the scheduled Go-Live date. However, we don't see an alternative way to arrive at a commonly understood and fair framework that has a much higher chance of gaining consensus before proposing licence modifications.

We strongly urge the SEM Committee to give significant further consideration to their approach to develop BM controls in I-SEM.