

Mo Cloonan
Commission for Regulation of Utilities (CRU)
The Grain House
The Exchange
Belgard Square North
Tallaght
Dublin 24
mcloonan@cru.ie

Lesley Robinson
Utility Regulator
Queens House
14 Queen Street
Belfast
BT1 6ED
Lesley.robinson@uregni.gov.uk

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RE: CRM - DSU Compliance with State Aid, Consultation Paper, SEM-19-013

Dear Mo and Lesley,

Bord Gáis Energy (**BGE**) welcomes the opportunity to respond to the consultation on the DSU compliance with state aid as it relates to the capacity mechanism, consultation SEM-19-013 (“**the Consultation**”).

1. Introduction and context

In general, BGE accepts that pursuant to the EU Commission’s 2017 state aid decision on the Irish capacity mechanism the Regulatory Authorities (**RAs**) have an obligation to ensure that DSUs are exposed to Reliability Option (**RO**) paybacks from October 2020. This is in our view the most pressing issue under this Consultation given the timelines involved in making and implementing any decision subsequent to the Consultation.

We also recognise however that the Clean Energy Package (**CEP**) legislation is almost complete and that the legislation will entail a degree of changes to be implemented to ensure that market participants, such as DSUs, are fully integrated into energy markets. While the CEP requirements must be complied with in due course, and the proposed “enduring solution” in this Consultation seeks to outline what that compliance might look like, we agree with the RAs’ view that the final form of the legislation needs to be published before an enduring solution to address its requirements, can be implemented or indeed designed. In fact, with regard to the proposed enduring solution, BGE is of the view that the topic of DSUs and their participation and settlement (in particular) in the SEM is a complex one – the breadth and depth of complexity of which we do not believe has been adequately captured in the Consultation. There are for example knock-on consequences with some of the proposed changes that need to be fully fleshed out and understood by all stakeholders, before an informed view on the appropriate course of action for an enduring solution can be taken. For example, from our understanding of the proposed operation of the enduring solution, it appears that if DSUs commence earning energy revenues, and demand reductions are no longer recognised in the metering of supplier units, this will mean that suppliers (and consumers) will still be charged the full rate of consumption (i.e. settlement will ignore that consumption levels on the supplier unit are in reality less than forecast). This in practice means that: a) DSUs (and depending on contractual arrangements, their related demand sites) will receive energy payments for the demand reductions but also; b) demand site customers could be charged as if they had consumed the originally forecasted energy, and not receive any benefit of the reduction in demand they have delivered into the market (depending on their bilateral agreement with the related DSU). Implications for DUOS and TUOS recovery are other issues requiring consideration before designing the long term solution. Overall we believe that once the CEP legislative provisions are fully known and understood, all SEM stakeholders would benefit from further discussions on the appropriate enduring solution for DSU integration into the market to ensure that all potential, intended or unintended, consequences are captured insofar as possible to ensure that the right balance is achieved between enabling fair DSU participation in the market and ensuring that all customers get value for money.

It is against this context that BGE puts forward its views on: i) the interim proposals in the first instance, and ii) the enduring proposal, followed by our suggested way forward on the latter.

2. BGE’s views on the “interim” proposals

As mentioned, BGE believes that the primary issue needing address under this Consultation is to ensure that from October 2020 DSUs in SEM are exposed to RO Paybacks when they arise. Ideally, all relevant systems and meters would be installed across DSUs, demand sites, supplier units to enable accurate monitoring of revenue

flows due to the benefits of demand side reduction, across these entities. Evidently that cannot be the case for October 2020, so alternatives must be considered.

Before going on to discuss BGE's preferred interim proposal, we believe it is necessary to clarify some issues. Firstly, there are a number of stipulations throughout the Consultation that are said to apply to all of the proposals raised in the Consultation.¹ These stipulations seem to imply that there is a straight transfer of energy revenues currently being credited to suppliers, which need to instead be credited to DSUs going forward and that therefore under the "interim" solution(s) the entire amount of energy revenues that will be credited to DSUs going forward will be netted entirely off the socialisation fund. This assumption of a direct monetary benefit of demand side reduction currently accruing for all suppliers, is incorrect and needs to be re-examined. Rather than all of the energy revenues paid to DSUs going forward being gross netted off the socialisation fund, our understanding of how the fund should be used to address the issue in question is that an assessment of what DSUs earned during the year, versus what they should have earned will be made with shortfalls being made up by the socialisation fund. We would welcome confirmation from the RAs that it is the latter interpretation, in terms of how the socialisation fund will be used, that is the correct one? Insight into how the socialisation fund is expected to operate to address this DSU issue ideally would have been outlined in more detail in the Consultation as stakeholders, particularly consumers that pay socialisation fund charges, should be fully informed as to how their exposure to DSU energy payments will be calculated such that tariff impacts at least can be easily monitored. It is on the basis of our understanding that there is not to be a 'straight' net off of energy revenues paid to DSUs from the socialisation fund (rather the fund will be used to cover seldom shortfalls), that we can support the interim proposal in para 2.2.28 as discussed further below.

In terms of the main "interim" proposal outlined in the Consultation (paragraphs 2.2.20 – 2.2.27), generally the use of dispatched quantity to calculate DSU energy payments, in the absence of installed meters or another alternative to measure metered quantity, is reasonable in our view. We are also supportive of the RAs' desire to assure that the dispatched quantity is a good proxy for the metered quantity as outlined in para 2.2.23. We do not however agree that in order to meet the state aid compliance obligation aim of this proposal, that it is necessary that DSUs receive energy revenues at all times. Our rationale for this view is largely aligned with our concerns on the enduring solution outlined in section 1 above. BGE believes that much of the concerns outlined there, are also relevant for the main interim solution being proposed – i.e. there are potential side issues not delved into in the Consultation (e.g. volumes on which suppliers will be charged which charges, depending on contracts, may flow back to customers and possibly not recognise the demand reduction benefits delivered by some customers; DUOS, TUOS cost implications) which in our view require considerably more discussion and understanding by all stakeholders, with a view to protecting against unjustifiable increases in consumer tariffs² while appropriately rewarding demand side reduction, before going down this path.

In this context therefore, **BGE is currently only in a position to offer its support to the second interim proposal put forward in para 2.2.28**; i.e. to provide energy revenue to DSUs only at times when difference payments are triggered. In our view this interim option: a) limits the value exposed to socialisation; b) strengthens the link of the monies subtracted from the Socialisation Fund to the CRM; c) adequately addresses the state aid compliance obligation stipulated for DSUs in the RO mechanism; d) on the face of it, poses a lesser risk of unreasonable consequences (including socialisation fund risk) of how it is formulated than the main interim solution proposed. BGE urges the RAs to heavily consider the para 2.2.28 option as the optimal way forward given that the value to the customer of the other/ main interim proposal has not been proven nor have all potential consequences on, for example, demand sites' income and bilateral negotiation requirements on revenue sharing (which could deter their desire to participate as demand side), been fully bottomed out.

Our support for this para 2.2.28 interim proposal is however subject to the caveat that the socialisation fund will be used to address the exposure of DSUs to RO paybacks in line with BGE's understanding thereof (i.e. shortfall coverage), as outlined earlier in this section.

Finally, we would also welcome confirmation as to the expected duration of this interim solution. It is to come into effect from October 2020, but at what stage or how long do the TSOs and market operator expect it will be before systems capable of implementing an enduring solution will be ready?

¹ E.g. The RAs stipulate that in all the proposals outlined: that "the energy revenue which will be credited to DSUs is currently being received by Suppliers. Each proposal removes this revenue from Suppliers in order to allow the appropriate revenue to be credited to DSUs" (para 2.1.10); that DSU energy payments will be calculated "to socialise the energy revenue paid to DSUs across all Suppliers" (para 2.2.21) and; that there is a need to "net the energy paid to DSUs from the energy revenue received by Suppliers in order to avoid double-counting" (para 2.2.24).

² Due to for example increases in the Difference Payment Socialisation Multiplier (FSOCDIFFPy) or DUOS, TUOS recovery

3. BGE's views on the "enduring" proposal

Our views on the enduring proposal have been mostly addressed in section 1 and elements of section 2 above. In essence, **we disagree with the RAs' suggested roll out of the enduring solution set out in the Consultation as soon as practicable, without considerably more assessment of consequences of the option and further discussion** with stakeholders such that DSU integration is facilitated but not at an unjustifiable cost or risk to consumers or indeed demand sites. We are also of the view that once the final CEP provisions are known and assessed, alternative ways of addressing the issue at hand may become apparent³. It is premature in our view to decide on the enduring solution at this point and ideally further discussions on the issue be they via workshop(s) or a consultation/ proposed decision after finalisation of the CEP, should occur.

4. Conclusion

In conclusion, BGE is at this point only in a position to put forward a supporting view for the interim proposal outlined in paragraph 2.2.28 of the Consultation – i.e. to provide energy revenue to DSUs only at times when difference payments are triggered. As noted by the RAs, this interim option limits the value exposed to socialisation and strengthens the link of the monies subtracted from the Socialisation Fund to the CRM. We have outlined above (section 2) how the immediate issue that needs addressing is the state aid compliance obligation to expose DSUs to RO paybacks. We firmly believe this interim option adequately addresses that issue without exposing the consumer to currently unquantified costs (via the Socialisation Fund). It is neither necessary to go beyond what the immediate state aid issue requires in our view, or appropriate to go beyond the issue (by paying energy revenues at all times to DSUs) at the risk of exposing consumers unnecessarily to growing costs (including for example socialisation fund charges, UoS charges), bearing in mind that an enduring solution to this issue (and the wider CEP issues) should be forthcoming within ~1 year of this interim solution being implemented in any event. Our support for the para 2.2.28 interim proposal is however subject to the caveat that the socialisation fund will be used to address the exposure of DSUs to RO paybacks in line with BGE's view of its appropriate operation, (as outlined in section 2 above).

In relation to the way forward on the enduring solution, BGE urges the RAs to consider our high-level concerns outlined in sections 1 and 3 in particular, above. To fully assess the consequences of how DSUs are to be treated in SEM on foot of the need to comply with CEP provisions, we submit that further discussions with all stakeholders (be that via workshop (s) or further consultation/ proposed decision, formats) will be necessary. Stakeholders need to be fully abreast of the expected revenue flows between the various entities here – DSUs, demand sites, suppliers, consumers – and how that might impact not only on bilateral contracts between the various entities and potential impacts on the attractiveness for demand sites to offer their services; but also on the charges that customers and end consumers might expect to be faced with (e.g. DUOS, TUOS, socialisation fund charges). Furthermore, changes required to other documents/ rules in SEM such as the Metering Code, Connection Agreements, licences should also ideally be fully bottomed out before determining the appropriate enduring solution to implement.

For the avoidance of doubt, BGE is very much in favour of facilitating the full integration of DSUs into the market but believes that side consequences of various methods of facilitating their integration should be fully assessed and addressed before deciding on the appropriate enduring option to bring forward to implementation. We look forward to working with the RAs and industry with a view to achieving a long-term solution that facilitates this aim in a way that does not undermine demand site activity while ensuring ongoing value for the customer.

I hope that you find the above comments and suggestions helpful, but should you wish to discuss further please do not hesitate to contact me.

Yours sincerely,

Julie-Anne Hannon
Regulatory Affairs – Commercial
Bord Gáis Energy

{By email}

³ For example there may be a way of transferring imbalance exposures between entities requiring simpler system changes than those likely required on foot of the enduring proposal outlined in the Consultation