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Emailed to: Gina Kelly CRU (gkelly@cru.ie) and
Gary McCullough UR (Gary.Mccullough@uregni.gov.uk)

Re: CGNEE Ireland Response to SEM-21-026 and SEM-21-027

Dear Gary and Gina,

CGNEE Ireland welcomes the opportunity to respond to the Commission for Regulation of Utilities' (CRU) consultation on the review of the interaction of REFIT with potential changes arising from the Clean Energy Package (CRU-21-04).

Introduction to CGNEE Ireland

CGNEE was founded on 30th June 2014 as the renewable power investment platform of CGN Group for Europe. From headquarters in Paris, France, CGNEE operates wind and solar assets across Europe.. Founded in 2017, CGNEE Ireland owns and operates a portfolio of 270MW of wind assets across Ireland (240MW), Northern Ireland and Wales with an established local operations and finance team managing the portfolio's operations and finances.

All CGNEE windfarms currently enjoy Priority Dispatch status. They are a mix of merchant and subsidised (ROC and REFIT), participant and non-participant, and explicitly traded and implicitly traded¹. As of now, there are no committed plans to repower any of the assets, but this will be kept under review, particularly within the context of the outcome of this consultation.

¹ Explicitly traded is where the generator has its own unique ex-ante market registration, and the generator's forecast production is traded and linked explicitly to the generator's balancing market registration. Implicitly

Summary of CGNEE Ireland's Response and Qualified Support for Wind Energy Ireland's Response

CGNEE Ireland's responses seek to ensuring that Priority Dispatch generation's rights and obligations are implemented in line with Article 12 and 13 of Regulation EU/2019/943 ("the Regulation"). While there are material challenges associated with the implementation of market systems for new renewable generation, this is not of direct concern. We are interested, however, in the overall solution of how Priority Dispatch generators compete with new generators without Priority Dispatch for energy dispatch, and the compensation for constraints and curtailment.

WEI has to balance the positions of its members, between established portfolios (such as CGNEE Ireland) and new developers meeting the growing decarbonisation ambition. We can support WEI's response to this consultation despite not all individual elements being in our favour (specifically sharing constraints with new renewables). Our support is dependent, however, on the other key principles of the WEI submission being accepted by the generator: generators which are redispatched such not suffer a penalty as a result, and should be kept whole.

To call it out specifically:

- REFIT supported generators, whether participant or non-participant, must be compensated at the full REFIT support price (or Day-Ahead Price if greater) for all constrained or curtailed energy.
- ROC supported generation, again whether participant or non-participant, must be compensated at the Day-Ahead trade price, plus the financial support of the ROC. We view that for ROCs we should be able to recover the level of revenue foregone.

In line with the Regulation, we believe that generators require firm access to be compensated for such non-market based redispatch under Article 13(7). Like WEI, we recommend a review of the firm access arrangements for generators. Lax policy in the incentivisation of timely delivery of firm access should not be allowed to effectively undermine the intent of the Regulation. We also note our strong disagreement with the SEM Committee position that non-participant generators² are outside the scope of the compensation arrangements of the Regulation. Finally, due care and consideration should be given as to how and whom non-market based redispatch compensation is made. The Regulation is clear: generators are entitled to non-market redispatch compensation, not their route to market providers or their designated balance responsible party.

Since the CRU and UR have no regulatory oversight of power purchase agreements in the SEM (other than Intermediary approval for participant generators), it would be a perverse outcome if route-to-market providers could retain all compensation due to the generator under the Regulation. Simply funnelling all market revenues towards Intermediaries and Suppliers is not compliant with the Regulation.

traded generators include de minimis generators contracted to a Supplier Unit, and generators whose energy imbalance position is managed through assetless portfolio trades.

² Those which are implicitly traded along with other generators and demand customers, aggregated through a Supplier Unit

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Approach to Our Response

We believe WEI have made our core point well.

Compensation should be paid at the level of financial support for firm non-market downwards redispatch for constraint and curtailment, and the SEM Committee's proposals fall well short of that legal obligation.

Their rationale for this is sound in our view: the SEM Committee have interpreted the Regulation in a manner which is not legally allowed. There is limited benefit in reiterating these arguments.

As a result, we wish to focus on three particular scenarios of direct, current relevance to CGNEE Ireland. These three scenarios raise a mixture of Regulation interpretation and implementation considerations. We hope these "use cases" will be informative and will hopefully adjust the SEM Committee's current proposals to align more with the requirements of the Regulation.

We conclude with a summary mix of points in relation to the Regulation, and some suggestions for implementation.

Illustrative Use Cases

1. A Firm Controllable Participant REFIT Priority Dispatch Generator, Contracted via an Intermediary

The Consultation and Proposed Decision papers are written within the context of this use case. The generator is registered by a supplier acting as Intermediary in the Balancing Market with its own Generator Unit. That supplier also a trading unit registered in SEMOpx which is exclusively used for the trading of the Generator Unit. The trades in SEMOpx are "linked" explicitly to the Generator Unit. This explicit linking minimises what are known as Biased Quantities, thus allowing any action taken by TSO to be settled at the deemed decremental offer price of €0/MWh.

Note, however, that as the generator has Priority Dispatch, it does not need to trade to achieve an energy position in dispatch. This is the Regulation's definition of having an energy position, i.e. the TSO is content to dispatch the generator for energy.

This leads to a number of observations.

- Firstly, the generator cannot reflect the value of its lost financial support in its decremental offer. This requires a review of the BMPCoP, and the procedures around submissions of such offers to the Market Operator;
- Secondly, the Balancing Market defines eligibility for compensation for redispatch in a much more restrictive manner than that required under the Regulation. The T&SC requires an ex-ante trade to be taken for compensation to apply. The Regulation has no such requirement – the Regulation starts from the position of having a dispatched for energy position. Correspondingly, redispatch needs to be ascertain relative to the available power of the generator, and not the ex-ante trade received.

2. A Firm Controllable De Minimis REFIT Priority Dispatch Generator, Contracted to a Supplier

This is another typical situation in the market, yet it has been entirely ignored in the Consultation and Proposed Decision. The supplier purchases the delivered power from the generator, aggregates it to its demand portfolio, and seeks to balance that overall portfolio's energy market position across the various energy markets. This leads to a number of implications:

- While the market has no information about the specific forecast energy assumption the supplier made in relation to the generator, the generator's volume is reflected in ex ante trades, and any deviation of the supplier's forecast of that generator's energy production results in a contribution to the net imbalance position of the supplier in the energy market.
- Again, as a priority dispatch generator, the generator is granted an energy position without regard to any commercial merit order³. This is demonstrated by a Priority Dispatch generator having the right to produce irrespective of its trade.
- The supplier under the current market rules, however, only faces imbalances when dispatched down. Even with its implicit energy position, there is no mechanical mechanism to receive redispatch compensation. As the T&SC market does not receive control instructions for non-participant generators, no constraint compensation is receivable by the supplier.
- While the generator could earn constraint payments by participating in the market, the operational overhead and annual fees are prohibitively expensive, and in any event the REFIT rules would "claw back" any such compensation.

So, in this scenario, we have a non-market priority dispatch controllable generator which according to the SEM Committee does not have an energy position but is allowed to run, is redispatched from that dispatched position yet according to the SEM Committee deserves no compensation.

This is clearly unreasonable. Without attribution here, CGNEE Ireland have often been told to become a market participant to resolve such issues. Outside of our limited ability to trigger power purchase agreement renegotiations to make such a registration change, agreeing a percentage share of those revenues with the supplier, receiving corresponding banking approval for the agreed changes, dealing with ongoing operational costs, direct market fees and trader fees, fundamentally CGNEE Ireland does not believe the "become a market participant" approach is a sensible approach for the wider market.

It will dramatically scale the size of the wholesale market registration process from dealing with tens of registrations to hundreds overnight. In extremis, over time this registration activity could approach retail-market operation with the growth of distributed energy and active prosumers. With non-priority dispatch generators it will rapidly increase the number of units which need to be considered within the central dispatch scheduling and market systems, triggering computational feasibility issues earlier. Finally, the level of new market registrants in the ex-ante markets will also grow, which outside the relative absurdity of seeking to recouple hundreds of small trading units into the European arrangements on delivery of the Celtic Interconnector, in turn can trigger further registration activities in the Balancing Market every time the ex-ante trader changes for the generator.

³ Please reference the definition of Priority Dispatch under the Regulation.

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3. A Non-Firm Controllable Participant ROC Priority Dispatch Generator, Balancing Risk Managed Assetlessly

Another CGNEE scenario is a participant generator, contracted via Intermediary, in Northern Ireland. It has a firm connection agreement and is currently being spilled into the Balancing Market. Its balancing risk is therefore not being managed by the PPA intermediary trading directly for the generator, but rather implicitly within an overall “Assetless” portfolio which manages the balancing risk of several market participants on a net basis. Direct linking of the trade has no commercial benefit until the windfarm achieves a firm connection agreement.

Should that generator become firm, it is unclear whether the SEM Committee view that this generator cannot be considered to have an energy position to be compensated for non-market based downwards redispatch.

CGNEE Ireland contend – just as for the above examples – that this generator has a dispatch position, and when firm should be able to receive compensation for downwards redispatch.

This particular structure, where the PPA supplier and traders of the assetless unit managing balancing risk are different legal entities, raises the question as to whom such downwards redispatch value should be paid.

Summary Position

- Priority dispatch generators, whether participant or non-participant, do not need to demonstrate to the Balancing Market a unique traded position to have a dispatch position.
- Any generator, when redispatched on a non-market basis from its dispatch position is entitled to compensation pursuant to Article 13(7). We note again that we disagree with the SEM Committee’s current assessment of the value of that compensation.
 - Any specific rules which undermine that legal right to compensation, i.e. unit-based ex ante trading, seem to place inefficient barriers to the delivery of the requirements of the Regulation. The current ISEM High Level Design requirements of an explicit ex ante trade for downwards redispatch compensation will need to change to be compliant with the Regulation in fulfilling the requirements of Article 13(7).
- The Trading & Settlement Code and the Balancing Market is constantly under pressure of required and requested changes. The Trading & Settlement Code also is not designed to retrospectively settle dispatch down compensation back to January 2020, the date of legal effect of the Regulation.
 - CGNEE Ireland believes that all firm priority dispatch generation should be compensated up to their level of availability for downward redispatch, irrespective of their historical trading structure.
- CGNEE Ireland recommend that a settlement engine other than the Trading & Settlement Code systems are utilised to calculate the required compensation. To avoid this settlement engine needing to track the status of trading structures, de minimis PPA off-takers and so forth, the generation licence holder should designate the counterparty to which all settlement payments should be made.
 - This settlement engine in practice can bypass the need for any changes to the Bidding Code of Practice / Balancing Market Principles Code of Practice. The settlement engine would only need to know underlying market price at the time of downward redispatch, and a register record of the level of financial support of the generator. It would not need to receive Commercial Offer Data, simple or complex.