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RE: EAI Response to the Consultation on the Implementation of Regulation 2019/943 in relation to Dispatch and Redispatch (SEM-20-028)

By email to gkelly@cru.ie and Gary.Mccullough@uregni.gov.uk

Introduction

The Electricity Association of Ireland (EAI) welcomes the opportunity to respond to the SEM Committee consultation on the implementation of Article 12 'Dispatching of generation and demand response' and Article 13 'Redispatching', under the EU Regulation 2019/943 on the internal market for electricity (recast) (the Regulation) which forms part of the EU's Clean Energy Package.

This is an important consultation affecting some fundamental aspects of the market, that will require changes to the current market and systems and rules, as well as to previous regulatory decisions. It is necessary that the Regulatory Authorities (RAs) set a clear roadmap for full implementation of Articles 12 and 13 and, where possible to do so in the interim, take appropriate steps to progress implementation and to provide clarity to market participants.

The Electricity Association of Ireland (EAI) is the representative body for the electricity industry and gas retail sector operating within the Integrated Single Energy Market (SEM) on the Island of Ireland. Our membership comprises utilities that represent 90% of generation and retail business activities and 100% of distribution within the market. We also represent the Irish electricity industry in EURELECTRIC, the representative body for the European electricity industry, and help shape the broader European response to developing policy and legislative initiatives.

EU Regulation 2019/943 on the internal market for electricity (recast)

The Regulation that has given rise to this consultation is part of a wider legislative package, the Clean Energy Package for All Europeans, that sets new ambitious targets for energy efficiency and the integration of at least 32% renewable energy into the grid by 2030 while also allowing consumers greater choice and flexibility. This Regulation has a number of stated objectives, including but not limited to:

1. Removal of State interventions and market distortions in the European wholesale electricity market, including priority dispatch.
2. Maximise of the use of electricity generated from renewable sources or high-efficiency cogeneration.
3. Require TSOs and DSOs to guarantee the capability of their respective networks to transmit electricity produced from renewable energy sources or high-efficiency cogeneration with minimum possible redispatching.

4. Promote market-based electricity trading and balance responsibility.
5. Complete the effective integration of renewable energy into the internal energy market to drive investments in the long term and contribute to delivering the objectives of Energy Union and the 2030 climate and energy framework, including the achievement of affordable energy for final customers.

It is necessary to consider the specific Articles of the Regulation that are the focus of this consultation in this broader context of the Regulation and the various strands of the Clean Energy Package. The EU is seeking to conclude a transformative change in electricity markets and systems, that will have renewables at its core by 2030. This will require unprecedented levels of investment during this period and therefore looks to provide the necessary certainty to investors that their investments will not be stranded by State interventions or inadequacies in the electricity network.

In terms of the two Articles that form the basis for this consultation, Article 12 requires all (new) renewable generators to participate in the market on the same basis as conventional generators and for the use of electricity from renewable sources or high-efficiency cogeneration to be maximised. Article 13 requires a market-based system for redispatch but where such a market does not exist, it stipulates that generators must receive financial compensation. While this summary could be described as an over-simplification of the complex issues raised in the consultation paper, it nevertheless highlights the necessary conclusion of this process; i.e. the full market integration of renewables into SEM, noting the benefits and burdens this places on (new) renewable generators, with compensation for redispatch where the system cannot guarantee the capability of the network(s) to transmit the maximum amount of electricity produced from renewable energy sources or high-efficiency cogeneration.

Our members recognise that this solution cannot be implemented overnight. It is however important to note that both Article 12 and Article 13 became the law in Ireland and Northern Ireland on 01 January 2020. Recognising the legal position we are now in and the apparent impediments to implementing the required changes, EAI members request that the RAs prepare a roadmap of interim and enduring changes that are, to the greatest extent possible with regard to the interim changes, capable of giving effect to Article 12 and Article 13.

Article 12 Dispatch

Our members have highlighted areas of concern and/or clarification in respect of the following aspects of the proposed approach to Article 12:

- Eligibility
- The equal treatment of all generators in Scheduling and Dispatch
- Balance responsibility
- Revision of the Priority Dispatch hierarchy
- The definition of “significant modification” to “power generating facilities” and the cessation of priority dispatch

On the options to grandfather rights to priority dispatch, our members favour a clean break between REFIT and RESS, and as such consider the appropriate definition for contracts concluded prior to 4th July 2019 to be with reference to projects that had concluded the relevant contracts, these must be contracts that have no scope for back-dating and are easily referenceable as having concluded pre 4th July 2019; e.g. REFIT Letter of Offer or PPA providing a route to market. The inclusion of priority dispatch and non-priority dispatch projects in RESS is an unnecessary complicating factor, particularly given the RESS Terms and Conditions and the approach to negative price events. In terms of the other options proposed, neither adhere to the principle of separating REFIT from RESS. Furthermore, commissioning programmes are rare and therefore seem an unusual basis upon which to seek to base this definition and it is unclear what contracts of relevance are concluded where a unit is merely eligible to be processed to receive a valid connection offer.

The consultation paper is clear, non-dispatchable renewable generators that are “in the market” do not participate on an equal basis with dispatchable units and, are unable to submit TOD or COD and where PN’s are submitted, they are ignored by the TSOs who include their own forecasts of availability for the units. The requirements of this Article will necessitate changes to the central market systems to allow all non-priority dispatch, non-dispatchable, controllable generators to fully participate in the market. Systems must be able to cater for all dispatchable and non-dispatchable units to be able to fully participate on a level playing field. Clarity on the changes required and the timing of the changes is urgently required, particularly if the impact of this uncertainty on the upcoming RESS auction is to be avoided.

Full market participation also brings with it the challenges of balance responsibility for the generator. The full implementation of Article 13 and the corresponding opportunity or entitlement to access compensation for redispatch, is representative of the symbiotic arrangements in the Regulation with respect to market risk and reward.

On the inclusion of the proposal to revise the priority dispatch hierarchy, including renewable hybrid units such as co-firing fossil and biomass (whose omission in the consultation paper appears to be an oversight), EAI members request clarity on a number of points, including:

1. Given this is outside of the scope of Article 12 of the Regulation, what priority will it be given in terms of the changes that are otherwise required by law?
2. Is it sustainable to have two separate priority dispatch hierarchies, as set out in sections 3.4 and 4.3 of the consultation paper?
3. In the event that these changes are made, how will they be given effect to in the BMPS?

Finally in respect of Article 12, EAI members share the RAs concerns around the possible introduction of perverse incentives from Article 12(6) and the definition of “significant modifications”. It is our view that progress on this specific aspect of the Regulation would benefit from industry engagement and further consultation.

Article 13 Redispatch

Read in isolation, Article 13 introduces an unequivocal requirement on the TSO to compensate generators for redispatch. This requirement should be discharged through a market-based

mechanism but where that is not possible, the level of compensation to be paid to generators for the redispatch of their generation defaults to the approach outlined in Article 13(7). The mechanism could be viewed as one necessary to provide certainty to investors, a counter-weight to generators that are to be newly exposed to balancing risk, the correct incentives to TSOs in how they plan, build and operate the system; the level of compensation can be one way of indicating what work has to be done by the TSOs to guarantee systems capable of transmitting the large volumes of renewable energy expected under the Clean Energy Package. TSO incentives around constraint and curtailment volumes should also be considered with a view to enhancing the system to facilitate renewables.

On the specific provisions of Article 13, EAI members welcome the reporting requirement outlined in 13(4) and the very high standard required under 13(5) to ensure dispatching of renewable generation and high-efficiency CHP is minimised. We note the RAs share this view in the consultation paper: *“regardless of the application of priority dispatch, this means that the TSOs should aim to minimise the application of constraints or curtailment in the SEM to renewable generators and HECHP”*¹. Having regard to all of 13(5), this suggests that the RAs will be providing significantly more money to the SOs to invest in the wires, technology and services necessary to allow them to guarantee that the grid is capable of transmitting the volume of renewable energy that will be on the system in 2030 with the minimum possible dispatching. This is another important and necessary step if SEM is to comply with these requirements and attract the investment needed to transform our market and system into one dominated by renewables, as foreseen by the Clean Energy Package.

As well as what has to be done on the back of this consultation, the paper also highlights a number of areas where regulatory decisions now have to be revisited and may need to be revised, specifically in relation to compensation; these should be progressed urgently.

Conclusions

As noted at the outset of this response, this is an important consultation affecting fundamental aspects of the market. One of the key objectives of this Regulation is to provide certainty to investors in renewable electricity and high-efficiency cogeneration. The Regulation also removes distortions from the market such that all generation is to compete on an equal basis, thus promoting market-based outcomes that seek to maximise the use of renewable energy.

This Regulation came into effect on 01 January 2020. Ireland must urgently progress the implementation of the required changes and noting this consultation is a first step, continued meaningful progress will be necessary. The scale and scope of the required changes are significant, and EAI members do not expect all issues to be resolved by this consultation. It is therefore important that the Regulatory Authorities (RAs) set a clear roadmap for full implementation of Articles 12 and 13 and, where possible to do so in the interim, take appropriate steps to progress implementation and to provide clarity to market participants. The following are areas of critical importance to our members:

1. Decide on the threshold to be applied to the grandfathering of priority dispatch. The EAI considers there to be a strong justification for limiting the scope for grandfathering priority dispatch only to

¹ SEM-20-028, page 43

units that had a reasonable expectation of benefitting from it; i.e. those with legal agreements on a route to market in place prior to 4 July 2019 and have evidence of same.

2. Noting the importance of understanding the approach to compensation to informing the considerations of market participants on other significant areas affected by this consultation – e.g. hierarchy of priority dispatch, RESS auctions, NI Energy Strategy and support for renewables – a decision on the issue of compensation is urgently required.
3. The RAs must commence a workstream on the required market reform with the System Operators, in consultation with market participants. This scope of this work, from design to full implementation, should be strictly time limited (e.g. 12 months) so as to minimise further delay and uncertainty for investors, and potential costs for customers.

The EU's Clean Energy Package is intended to facilitate the achievement of Europe's 2030 targets. Compliance with this Regulation is a requirement throughout Europe and to achieve this, change is inevitable and may come with a cost. We do note the wider Energy Union's objective of affordability of energy for final customers. However, through measures that seek to maximise the use of renewable energy, that remove market distortions and, that create clear incentives to overcome transitory restrictions and to invest in the achievement of long-term decarbonisation goals, there are clear benefits for all on the island of Ireland. We therefore urge the SEM Committee and respective RAs to urgently progress with the various strands of work necessary to implement these important aspects of this Regulation.

The Electricity Association of Ireland, 22nd of June 2020