



**Response to  
consultation on requirement for enhanced market power  
mitigation measures within generation licences**

03 December 2010

In evaluating the ability of AES to exercise market power in SEM, we discount the market share by capacity as with the makeup of the units in the portfolio, market share by energy gives a more useful basis for consideration.

With the relevant share of AES for energy at less than 10% in 2012, placing it fourth in relative size in the SEM, it is unlikely to see how AES can in an independent sense exercise market power in the SEM. Even with an improvement in coal prices, as modelled under the 'low coal' scenario, the SEM energy share goes up to 13%, presumably pushing it up into third position by size, this conclusion is unlikely to shift. Furthermore, factoring in volumes contracted to PPB, any ability committable to the exercise of market power is further diminished. Finally the negligible impact on HHI by energy lends further support to this conclusion.

The consultation notes that if a constrained system was to be modelled, the total share of AES would be significantly greater. Given the proposals under consideration in the Principles of Market Scheduling and Dispatch work stream, it would have be useful to provide an analysis to lend credence to the assertion made about a significantly greater market share in a constrained system. Needless to say, any increase in ability to exercise market power will predominantly be at the local level. We address that issue next.

### **Ability to exercise market power in NI**

Given the unconstrained market model in existence in the SEM, any ability to exercise market power at the local level is muted, and is probably only limited to opportunistically displacing other plants from the market schedule, plants that may still be dispatched because of network constraints. Other than that, the conclusion reached regarding ability to exercise market power in the SEM most probably holds true. Nevertheless, given the local conditions that prevail within Northern Ireland it is feasible that some opportunity for market power exists.

However we are of the view that this potential for market power can sufficiently be addressed by the monitoring function of the MMU under the Bidding Code of Practice. This mechanism can react in short timescales, which is most appropriate given that prevailing conditions may shift considering proposals under the Principles of Market Scheduling and Dispatch; volumes contracted to PPB which may come out of contract; and, construction/commissioning of the NS south interconnector. Furthermore this mechanism can be finely targeted at the likeliest forms of market power exercise.

We would recommend that the most appropriate mechanism to address any potential for market power is through a vigilant and well resourced MMU.

## **On Condition relating to Directed Contracts**

Over the short history of the SEM, Directed Contracts have been implemented almost exclusively in relation to ESBPG. NIE was brought into the mechanism for the mid-merit product in Q2 and Q3 2009. NIE's market share by energy was presumably greater than it has been in 2010, which is greater still than AES's market share. Furthermore AES's market share by energy falls even further by 2012.

Given the above, it is unlikely to see AES being brought into the Directed Contracts mechanism even if the condition were to be introduced into its licence.

## **On Ring-fencing of Generation Businesses**

It is not clear what benefits ring-fencing would contribute to mitigating any potential for local market power identified. Even with the combined portfolio, AES gains just sufficient market share to reach, on an NI-only basis, the 30% screening threshold applied in Holland (as noted from the 2004 ETSO Report on Monitoring of Market Power referenced in the consultation). As discussed above, the subsisting existence of the Bidding Code of Practice and the MMU, should be sufficient to address any potential for market power.

## **On Local Market Power Mitigation Measures**

We do not see any need for such at the moment. However given the significant share of AES in Northern Ireland, this may need to be kept under review, primarily through the activity of the MMU.

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