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**RE: *Consultation on “Treatment of Price Taking Generation in Tie Breaks in Dispatch in the Single Electricity Market and Associated Issues” SEM-11-063***

On behalf of the members of NOW Ireland, who have circa 800 MW of connection applications being processed in Gate 3, I would like to make the following observations in relation to the above consultation paper:

As stated in the consultation document, there is a *“potential for this approach to impact negatively on the ability of renewable generators to finance their activities which would, in turn, ultimately threaten the progressive realisation of renewables targets”*. It is the mitigation of such risks to 2020 targets that is a primary aim of the provisions of the EU Renewable Energy Directive 2009.28.EC. Therefore, the designers of the regulatory framework for investment in renewable energy in Ireland must have regard to both this legal framework and the need for positive investment signals to the domestic and international investment community. Ireland is a small and peripheral investment location and is subject to the vagaries of the international capital markets. This clearly requires that all regulations governing the renewables industry in Ireland are clear, consistent and long-term. Therefore, in this instance, the tie-break terms proposed should be stress-tested as international investment criteria.

We also urge the CER and the SEM Committee to ensure full compliance with the spirit and letter of all applicable laws and to have due regard to the legitimate

expectations of regulatory treatment arising from EU regulations. The tie-break terms proposed should be legally stress-tested against all relevant regulations.

The principle of having to dispatch down excess generation in exceptional circumstances for safety and reliability reasons is not questioned, provided that it adheres to the two design principles outlined above. The key issue is whether this non-dispatch of renewable generation is to be paid for. NOW argues that the requirement for non-dispatch of renewable generation is caused mainly by the failure to provide adequate facilities to accommodate this renewable generation, whether those facilities are grid infrastructure (including storage and interconnection) or market design and operation or other provisions. The investment community would clearly prefer if the facilities and regulations to fully accommodate renewables were in place, so that no compensation costs arose. However, the publication of this consultation demonstrates that these facilities and regulations are not in place and are unlikely to be in the near future. Therefore, under our interpretation of the requirements of the Renewables Directive, the rights of renewable generators, particularly as regards guaranteed transmission, are not protected. This protection must therefore be introduced as a take-or-pay principle, with payment at the REFIT rate. Payment at the support rate will not be onerous on the REFIT schemes or the consumer, provided that the grid and market development required by the Renewables Directive is put in place by Government and regulators. In contrast, payment for constrained or curtailed output at the market price, or in some circumstances no payment at all, will send an unnecessarily negative investment signal to the investors on whom the State is relying to fulfil 2020 targets. In this sense, the choice of tie-break option, while significant, is not the key issue in reaching renewable targets; it is whether the unused output will be fully paid for.

Where the CER and SEM Committee persist in not allowing full compensation at the REFIT price, the administration of tie-break will have very significant impacts on the industry either way. While on the face of it, full pro-rata of both constraint and curtailment would better suit projects that have yet to build, such as our own, it is also the case that such a policy will undermine existing projects (and thereby, the industry as a whole including our own built projects), as increased losses are shared out. Thus we are being presented with a double-bind, where any outcome will be detrimental, and potentially fatal, in some way or other.

Yours sincerely,

NOW Ireland



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Aidan Forde  
Council Member and Chairman Policy Committee