Response to SEMC Draft Decision on

SEM Market Power & Liquidity

(SEM-11-089)

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Airtricity welcomes the opportunity to respond to the draft decision on SEM Market Power & Liquidity issued by the SEM Committee on 25th November. Airtricity welcomes the policy proposals outlined in that draft decision – to maintain the BCoP, MMU and DCs as market power mitigants for the foreseeable future; to not allow full or partial vertical integration of ESB, but allow horizontal integration; to permit the market 'organically' develop contract liquidity; and to maintain the current 1,150 HHI DC threshold. We also wish to commend the analysis by CEPA as it contributes to the evidence that ESB not only has dominance in the SEM spot and contracts markets, but in fact has actually increased this dominance with the addition of the Aghada plant to its generation portfolio. Contrary to ESB's strenuous disclaimers to that reality, we maintain that view, and regard the policy proposals outlined by the SEMC to be judicious and entirely with keeping with the available evidence. In the next sections, we outline specific comments on aspects of the latest consultation.

BCoP, MMU & DCs

As stated by CEPA, the BCoP appears to be generally fulfilling its design intentions and on that basis there is no compelling evidence to move away from it. Unless, and until, the foundational requirement for SMRC bidding in SEM changes, or until significant dilution of market dominance, there would be no reason to move away from this requirement, or to alter it in any shape.

Regarding the MMU, we have previously argued that its full potential was not been exploited[1]. We stated that with its combination of capabilities and access to pertinent information, the MMU is ideally positioned to serve a public service analytical function to the market, making it a significant public source of insight and useful analysis into the workings of the SEM, for market participants and other interested parties, it addition to the service provided to the regulators. While the SEM has a fully visible price, it is also fully ex-post and hence discounts some of its decision-making utility. Hence any additional sources of analytical information would be valuable to the market.

We note the comment regarding anticipated publication of a decision regarding the MMU; it is our hope that new policy will be adopted that enables the MMU function more constructively.

Regarding DCs, given PSO-related CfDs will continue being offered to the market, the heavy dependence on DCs that would have been resulted would no longer materialise. As the RAs note, DCs will continue making contributions as part of a mix with the PSO-related CfDs, the NDCs, the nascent OTC trading platform, as well as other private contracts between market participants. We agree with the continuation of the DCs at the 1,150 HHI level for now and will be responding to the upcoming consultation on DC offerings for 2012/13.

ESB Integration

Airtricity has no significant issue with the SEMC's proposal to allow ESB horizontally re-integrate its generation businesses. As noted by CEPA, "operational horizontal separation of ESB seems of little value in promoting competition"; as a regulatory measure, it may have indeed run its full course.

[1] Airtricity response to The Market Monitoring Unit (MMU) Governance Process Manual (SEM/10/085) – 26 February 2011

Unless demonstrated otherwise, we do not see any significant challenges to the market were ESB allowed to re-integrate its generation businesses in October 2012.

The challenge posed by any form of vertical integration however is of a different nature. Without rehashing the points made by CEPA in their analysis, the potential significant adverse impacts to competition, particularly by reducing/eliminating any need for Electric Ireland to trade contracts with other market participants and by giving it informational advantages over its competitors who would then be its dependent customers through the various contracts markets, deem it of utmost necessity that this request by ESB not be honoured at this time. And again in our view, and as CEPA notes, a structural mechanism will be much more effective that an on-going monitoring mechanism. Indeed, we welcome the SEMC's draft decision not to grant that request at this time.

Liquidity

While markets development currently proceeding, particularly within the SEM Integration project, could require otherwise, we fully recommend the RAs decision at this time not to mandate any mechanisms to address contract liquidity. While the current situation is far from satisfactory, it is not clear that a mandated proposal will work any better. And indeed, the new Tullet Prebon OTC trading facility offers a mechanism which can be developed as market experience with it deepens.

However as the SEMC notes, this is an area that will require ongoing monitoring, and perhaps reconsideration as new developments arise. We will remain engaged with activities in this area and will communicate updated views as necessary. In the meantime we will continue efforts with industry colleagues to address the shortcomings within the contracts market.