



IWEA response to the SEM Committee Consultation on the Generator Financial Reporting in the SEM

SEM-11-106

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The Irish Wind Energy Association (IWEA) welcomes the opportunity to respond to the SEM Committee Consultation on the Generator Financial Reporting in the SEM. IWEA feels strongly that this is an unnecessary and excessive intrusion into commercial arrangements in the SEM and particularly in the context of price taking windfarms.

There is a wider European level initiative to enhance integrity and transparency of markets which commenced with the publication of Regulation (EC) No 1227/2011 in December 2011. IWEA believes that this Regulation and forthcoming regulatory initiatives provides useful context for this consultation as its objectives are aligned with the state objectives of the SEM Committee. Specifically, in its objective to ensure the integrity and transparency of the internal energy market the Regulation provides that any initiative does not “go beyond what is necessary, in particular in its impact on those who trade in wholesale energy products, in order to achieve the intended objective”. In this regard, IWEA does not believe that the proposals will better meet the intended objective without prejudicing the commercial position and adding a considerable administrative burden on those who participate in the SEM. The SEM was designed to mitigate market power and the Bidding Code of Practice along with the Trading and Settlement Code ensures that market abuse is not a feature of the SEM. This is particularly the case for wind farms, which as price takers are unable to influence market price. Therefore, there is no need for the proposed burden of additional financial reporting, in particular with respect to windfarms.

IWEA would note that all companies in Ireland and Northern Ireland are obliged to submit their company accounts to the CRO and the equivalent in Northern Ireland. These offices collect accounts from all companies registered on the island to ensure that an appropriate level of information is available to stakeholders of all businesses. IWEA would note that these offices do not require the detailed information that is being proposed by the RAs and would assert that this level of detail is not necessary for customers or RAs to understand the profitability of companies and to inform policy decisions. Furthermore, the publication of this information could also be detrimental to competition, as companies consider this information to be commercially sensitive. Requiring companies to publish this information could have a negative effect on their ability to compete and may discourage new investment.

IWEA has a number of concerns relating to this consultation which are outlined as follows:

- IWEA considers that generators provide sufficient information to the RAs in their audited accounts. We consider that the design of the SEM, particularly bidding rules, is restrictive on generators and controls the profits that may be made by generators. It is not necessary or appropriate for the RAs to examine further detailed information on generator profits. IWEA is unsettled by the statements throughout this consultation paper that the RAs would use the proposed information to inform policy-making in the SEM. This creates regulatory uncertainty, and undermines confidence in SEM design.
- IWEA acknowledges that stakeholders may wish to know about the financial performance of generators operating in the SEM but considers that most of this information is publicly available. The additional information the RAs have proposed to require is commercially sensitive and sufficient justification has not been given for its release to third parties, this is discussed further below.
- IWEA agrees with the SEM Committee's comments in section 5.2 of the paper that clear market rules and transparency in the SEM have played a part in encouraging investments in new generation capacity over the last few years. However, we do not agree that it is a 'natural extension' of this approach for the 'RAs to publish a greater level of information on the profitability of generators operating in the market via a report detailing annual profits across key generators'. IWEA considers that the proposed 'natural extension' is not necessary as it is accepted that sufficient transparency already attracts new investment, and that the proposal goes too far by infringing commercial sensitivity and confidentiality. This view is further supported by the publication of the SEM Committee's recent Decision Paper on Market Power and Liquidity (SEM-12-002) which provides that "[T]he BCoP, MMU and DCs have helped ensure that generator bids are at competitive SRMC levels, resulting in SEM wholesale prices that are efficient and providing the correct market signals".
- IWEA notes the RAs' comments that it will be possible to compare generator profits in the SEM with profits earned by generators in Great Britain but believes that this is not a legitimate comparison to make given the differences between the markets and jurisdictions. Generators in GB are not bound by the SEM Bidding Code of Practice and are therefore able to affect the market price to a greater extent than generators in the SEM. As stated previously, Wind Generators in the SEM are price-takers and therefore do not affect market price. As such, wind generators should be excluded from any requirements for additional financial information.
- Also more importantly, IWEA notes that under the SEM order, actions should be targeted at cases in which action is needed and in that context IWEA believes that the proposals put forward are outside of the SEM Committee requirement to show "appropriateness of level of transparency"

IWEA also requests that the SEM Committee specifically clarify the grounds on which it is considered that the information to be provided in the Templates is capable of disclosure/publication.

We note that NI Article 9(7) of the SEM Order provides that:

“In carrying out any of the functions mentioned in paragraph (1) [the principal function] in accordance with the preceding provisions of this Article, the Department, the Authority and the SEM Committee shall have regard to –

(a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;

In ROI Section 9BD of the Electricity Regulation Act 1999 (as amended, inter alia, by the SEM Act 2007, the "1999 Act") contains a similar but not identical requirement:

“The Minister, the Commission and the SEM Committee shall have regard to the objective that the performance of any of their respective functions in relation to the Single Electricity Market should, to the extent that the person exercising the function believes is practical in the circumstances, be transparent, accountable, proportionate, consistent and targeted only at cases where action is needed.

In the proposals presented there is no justification for the basis on which the level of disclosure sought is considered ‘appropriate’ other than to assert that more information is better. We would also note that no specific transparency gap is identified. Furthermore, Article 61 of the Northern Ireland Energy Order¹ limits what NIAUR is able to publish in NI and considers that the publication of this information is not permissible without the express consent of the related companies.

- IWEA strongly believes that the measures proposed are not 'proportionate'. They provide little incremental information and, significantly, may result in the disclosure of commercially sensitive information. Some of the information required is subjective, potentially misleading and will likely prejudice the commercial position of the providers and/or third party commercial contracts.

Proposed reporting requirements

IWEA considers that the RAs may seek to have a common source / format of information which can be published for consumers. We would note that information on all registered market participants is publicly available from SEMO. IWEA suggests that CER direct SEMO to provide this information to the SEMC in the format they require, specifically, data on volume of electricity sold, revenue from the SEM Pool and Revenue from Capacity Payments for all generators registered in the market.

IWEA considers that the information requested by the RAs under Other Revenue and non-fuel related Operating Costs also do not impact the Pool price and questions why the RAs are requesting this information. As wind generators do not have fuel-related operating costs, we have no comment on this item. In relation to Other Revenues, the relevant other revenues from the market would be revenues

¹ <http://www.legislation.gov.uk/nisi/1992/231/article/61/made>

paid by the TSOs. IWEA considers that the RAs should direct the TSO to provide the SEMC with information on Ancillary Services Payments and Generator Performance Incentives/Penalties by station and number of event. IWEA would welcome publication of this information as these areas of the market are currently not transparent.

As discussed above, IWEA considers that detailed information on revenue from Contracts for Differences (CfDs) is commercially sensitive. It is also not clear why the RAs are seeking this information, as the CfDs have no impact on the Pool price. In addition, these contracts will not necessarily align with the generators' financial year and may span multiple years or part of a year; thus comparing different generators' submissions will not compare like with like. Using part data is problematic and reflects business decisions taken at different points in time. It will also be unhelpful and misleading for any comparative exercises.

IWEA is concerned that the proposals outlined in this consultation document are not necessary to promote investment in the SEM. It is possible that such requirements may indeed have a negative impact on the SEM by discouraging investment, as companies would be concerned about the infringement on their confidentiality and the regulatory uncertainty in the market.

It is useful also to note that wind generation is price taking (non price setting) and is generally supported by support schemes (REFIT / ROCs), and does not set market prices.

IWEA considers that the financial reporting proposed would place an excessive administrative burden on generators and does not see that this would be of benefit in assessing potential abuses of market power or in providing necessary information on generator profitability to end-customers.

In conclusion, there has been no justification for seeking the level of information proposed and IWEA does believe it goes beyond the relevant SEM legislation in both jurisdictions, and so would disclose commercial information and would not provide comparability with GB markets.

IWEA strongly believes also that the measures proposed are not 'proportionate'. They provide little incremental information and, significantly, may result in the disclosure of commercially sensitive information.