

Clive Bowers,
The Commission for Energy regulation,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 4

Kenny Dane,
Utility Regulator,
Queens House
14 Queen Street
Belfast
BT1 6ED

Your reference SEM 10/085

25th February 2011

Dear Clive/Kenny,

MMU Governance Process Manual - Consultation Paper

ESB PG welcomes the opportunity to respond to this consultation and indeed the increased transparency of the MMU's procedures as provided by this consultation.

Confidence in the MMU and its activities is essential for participants as it helps ensure confidence in adherence to the bidding principles which are a critical aspect of SEM design. The increased transparency offered by the publication of the Process Manual and adherence to the provision of information as outlined in same will assist greatly in this regard.

We are in broad agreement with the procedures outlined in the Process Manual and believe in general, that the MMU has proposed a reasonable balance between transparency and the confidence in SEM that this generates, and the rights of participants for commercially sensitive information to remain confidential and for minor errors/misunderstandings not to be given undue significance.

ESB PG responds to the specific questions posed in the consultation below:

Should the Traffic Light Report devised by the MMU, signifying when a party is subject to Inquiry/Investigation, be made public?

ESB PG is of the opinion that transparency of the activities of the MMU is important for participants, but recognises the need for balance due to the commercially sensitive nature of parties' internal processes for compiling offer data. Therefore a Traffic Light Report, describing at a high level the nature of an inquiry that is ongoing is appropriate. ESB PG is of the opinion that all inquiries should remain on the Traffic Light Report until such time as the Inquiry (formal or informal) has concluded. Upon conclusion of the Inquiry, the outcome should be published in the subsequent Traffic Light Report and then removed from the report the following month.

This level of transparency will allow participants over time to build up a more comprehensive understanding the BCOP and ensure adherence to it as SEM progresses and adapts.

Once a case has been investigated, what level of information is to be published, to whom and in what arena?

As stated above, ESB PG is of the opinion that upon conclusion of the Inquiry, the outcome should be published in the subsequent Traffic Light Report and then

removed from the report the following month. For informal inquiries, the outcome should advise, if a breach was found, and if the participant was requested to alter their behaviour. Where an investigation leads to a significant new interpretation/understanding of the bidding principles that has general application it is important that a short report issues on same that is published so that there is clarity within the industry on the BCOP.

For formal investigations, the same principles can apply.

Finally, ESB PG is of the view that the MMU should in its annual report, give a reasonably detailed summary of its investigation activities outlining the volume and broad nature of investigations e.g. ' 40% of investigations related to start up costs and in particular....'

Should you have any queries in relation to the above response please do not hesitate to contact me.

Yours sincerely,

John Lawlor
Manager, Strategic Regulation
Strategy & Portfolio Development
ESB Energy International