TO: SEM Committee

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22nd June 2020

Re: SEM-20-028 - Implementation of Regulation 2019/943 in relation to Dispatch and Redispatch

1. Introduction

1.1 The decision reached following the SEM Committee's current consultation in relation to Article 12 and 13 of EU Regulation 2019/943 on the internal market for electricity (SEM-20-028) (the "**Regulation**" and the "**Consultation**" respectively) will impact both new and existing renewable generators and will set the investment environment for renewable generation in Ireland and Northern Ireland. Most of these renewable generators have limited ability to pass increased costs through to consumers. Accordingly, the decision reached by the SEM Committee will need to facilitate the renewables industry in Ireland and Northern Ireland including to meet their respective renewables targets.

1.2 In Ireland, the draft Programme for Government issued on 15 June 2020 contains strong endorsements of the role that renewable generation will play in achieving Ireland's renewable energy targets and outlines more ambitious targets than those set out in the Climate Action Plan. A "Green New Deal" is one of the 12 missions of the Government outlined in the Programme. The recent regulatory developments and the Programme for Government are important official endorsements of all development, including offshore, floating offshore and interconnection, in an expanding Irish renewable energy sector which now appears primed to move past its current 70% RES-E (2030) ambition levels. Greencoat believes that the implementation of the Regulation as outlined in the IWEA, NIRIG and this response will have a positive impact on bringing investment to the market to achieve Ireland's targets.

1.3 The decisions made following the Consultation must be legally compliant with the Regulation and give full effect to the right to compensation provided for in the Regulation. This will provide a stable investment environment for new renewables and maintain a stable regulatory and system operation regime for the dispatch down of existing plant.

1.4 The Regulation came into force on 1st January 2020 and provides a right to compensation in the case of non-market based redispatch. Although the SEM as currently designed does not easily accommodate the payment of such compensation, this does not in any way dilute the requirement to pay compensation. As the amounts owing to generators since 1 January 2020 are considerable and continuing to

rise, a mechanism must be implemented in the short term to give effect to the rights of generators to compensation under the Regulation.

1.5 Greencoat welcomes the opportunity to make its response to the Consultation. Greencoat, in relation to all matters raised in the Consultation, agrees with, adopts and supports the response of IWEA and NIRIG, however, Greencoat wishes to supplement that response as set out below.

2. About Greencoat

Greencoat Renewables PLC "Greencoat" is an investor in euro-denominated renewable energy infrastructure assets. Initially focused solely on the acquisition and management of operating wind farms in Ireland, Greencoat is now also investing in wind and solar assets in certain other Northern European countries with stable and robust renewable energy frameworks. It is managed by Greencoat Capital, an experienced investment manager with more than €5.0 billion under management (over 2GW of renewable projects) and a track record of making acquisitions in the listed renewable energy infrastructure sector. It owns several Irish operational REFIT-supported and merchant windfarms making with a total of 476MW in the Republic of Ireland.

3. Key Summary Positions

3.1 Whilst adopting the IWEA/NIRIG response, Greencoat would like to emphasise certain aspects of that response and make some additional points. We attach a table which sets out a summary of our position. Where these are direct answers to the Consultation questions, this is identified.

3.2 The Regulation, and in particular Article 13, is in force since 1st January 2020. The SEM Committee has agreed that curtailment of windfarms falls within the scope of non-market based downwards redispatching pursuant to Article 13(7) and has calculated the potential compensation due to new and future generators at a global cost level to the consumer.

3.3 There is no divergence between the SEM Committee and Greencoat that compensation for non-market downward redispatch is due under the Regulation and the broad principles of how that would be calculated for merchant and REFIT generation. Where there is divergence between the SEM Committee and Greencoat is in the identification of constraints as non-market based redispatch and the application of the test in Article 13(7) as to whether compensation for curtailment results in an "*unjustifiably low or an unjustifiably high compensation*".

<u>(Response to Question 2) Treating Constraint as Market-Based Redispatch is Incorrect for Priority Dispatch Generators</u>

3.4 The SEM Committee's conclusion that constraint is market-based redispatch is flawed for Priority Dispatch generators. Priority Dispatch generators are not constrained off on the basis of submitted market offers and therefore it cannot be defined as market based redispatch. If constraint of Priority Dispatch renewables were to be market based, this would also represent a diminution of the value of Priority Dispatch, which is not contained within the Regulation.

3.5 Furthermore, if constraints on either Priority Dispatch generators or new renewable generators were treated as market-based, all such generators would want to recover their full lost revenues through the market. These lost revenues include the amount of any subsidy, which is currently a disallowed cost in the formation of short-run marginal cost offers in relation to "non-energy actions" under the Balancing Market Principles Code of Practice. The prevalence of non-firm access amongst new renewable connections would prevent most of these generators' rights to receive full market-based compensation. Defining constraints, therefore, as market based but denying generation the opportunity to *"be financially compensated"*, noting that the intent of the Regulation is that compensation for redispatching will be based on balancing energy bids, is an inconsistent approach.

(Response to Question 14) Compensation for Downwards Redispatch is Due, and Retrospectively to 1st January 2020

3.6 The SEM Committee conclusion that the compensation is unjustifiably high is flawed in several aspects.

(a) The test under the Regulation is whether a generator is in receipt of an "*unjustifiably low or an unjustifiably high compensation*". The test is not to be applied at an industry-wide level, which was the assumption made by the SEM Committee.

(b) The Consultation refers to compensation being unjustifiably high by reference to the resources of TSOs and the cost to the electricity consumer. The base position in the Regulation is that compensation for renewables with zero additional cost for redispatch (i.e. wind) will be an amount equal to the lost revenues at the Day Ahead Market clearing price plus lost support scheme revenue. The word "compensation" is instructive in this regard as it implies putting a person back in the position they would have been in but for the occurrence of an event – in this case the redispatching. Accordingly, to the extent that generators are redispatched, the primary consideration is their lost revenue and "unjustifiably high" refers to revenues which are higher than the generator could have reasonably expected to achieve had it not been redispatched. It does not relate to the burden that the regulation places on the TSO. The Consultation has not identified any lawful or relevant basis for the assertion that Compensation might be "unjustifiably high".

(c) The approach proposed by the Consultation for implementation of Article 13 is by reference to unique circumstances of the Irish system including that:

> *"The SEM is a market with a high level of renewable penetration in a weakly interconnected island context and the definition of curtailment used in the SEM is not the same as the definition used in other Member States, which mainly relates to constraints and congestion management."*
> *"There are specific characteristics in the SEM in relation to system wide curtailment that are not reflected in other EU Member States. The SEM is a market with a high level of renewable penetration in a weakly interconnected island context and the definition of curtailment used in the SEM is not the same as the definition used in many other Member States, which mainly relates to constraints and congestion management. In determining whether the level of compensation outlined in Article*

13(7) is unjustifiably high the RAs are of the view that a comparative analysis of the treatment of curtailment in other jurisdictions is important."

With respect, these considerations are irrelevant and should not be taken into account in the decision about how to give effect to the right to compensation.

(d) The Regulation is a binding EU law instrument and has precedent over national law, and in the circumstances it is not appropriate for the SEM Committee to take account of functions and duties deriving from national law in its decisions seeking to implement the Regulation.

(e) The SEM Committee has a legal obligation to maximise integration of renewables, including pursuant to Article 3(f) of the Regulation and therefore should give full effect to the right to compensation of generators under the Regulation who are key contributors to integration of renewables.

(f) The SEM Committee has had regard to budgetary considerations in developing its proposed approach as outlined in the Consultation. The budget is neither an adequate nor a lawful consideration for the implementation of the Regulation..

(Question 15) The Compensation should be Full Compensation as Envisaged by the Regulation

3.7 Full Compensation at the higher of the day-ahead price or the level of financial support (or in REFIT's case, the sum of the two amounts, i.e. the full REFIT price) is clearly due, and it is clearly due backdated to 1st January 2020.

3.8 There is no requirement that the generator must have been traded in a particular manner to be compensated. Most European markets do not have an exclusive Day-Ahead Market. Accordingly it is appropriate to interpret the Regulation's references to the Day-Ahead Market price as an acceptable reference compensation level, and not that a Day-Ahead Market position is a requirement for receipt of compensation.

3.9 As the basis for asserting that compensation is *"unjustifiably high"* is not based on a reasonable interpretation of the Regulation, it is inappropriate to consider the presented options in any detail. We do not propose to comment in detail on the various options for compensation canvassed in the Consultation paper as our position is that none of the options could be said to give effect to right to compensation provided for by the Regulation. The options range from suggesting no form of compensation is payable to suggesting a level of payment which cannot be considered to be an appropriate level of compensation having regard to the real and measurable losses of generators arising from downward redisptach. Accordingly we do not consider this aspect of the Consultation is meaningful. We have therefore focused in this response to Consultation on the principles which must inform any compensation scheme. We would strongly urge the SEM Committee to take account of these principles and consult at a later stage on the detail of different options for compensation.

A Short-Term Solution is Required Urgently

3.10 Between the issues of qualification for priority dispatch (Article 12), the definitions of dispatch and redispatch, and the mechanisms for payment of compensation (Article

13), there are many complex technical issues to resolve. Furthermore, any solution will have to cater for below de minimis generators, which are entitled to equivalent compensation for non-market redispatch under the Regulation. These technical issues may merit further consultation and in any event will take some time to resolve. In contrast, the extent of the obligation to pay compensation and the calculation of the appropriate level of compensation are more straight forward and cannot justifiably be further delayed.

3.11 Greencoat seeks commitment that the consultation process will have reached decisions of sufficient detail to allow modelling of retrospective and future revenues by the end of 2020.

3.12 Implementation of an enduring market based system, following the consultation process, will be highly complex to implement as it will require an assessment of system operator dispatch tools (wind dispatch tool and/or EDIL, neither of which seem fit for purpose by themselves without modification), notification procedures for Priority Dispatch and non-Priority Dispatch renewables, classification of the System Operator instructions dispatch or redispatch within the meaning of the Regulation, new settlement rules in the balancing market design, review of the REFIT and RESS rules, etc.

3.13 As time passes, the amounts due and owing to generators and the work involved in calculating them increases. In the context of a current and directly effective right to compensation under the Regulation, it is appropriate that short-term arrangements are put in place whilst any further consultation process and subsequent implementation process is ongoing. It is not reasonable for generators to wait for this potentially long process to conclude before receiving compensation to which they are currently entitled. This short-term solution should be outside of the standard Balancing Market infrastructure, which is technically incapable of meeting the legal obligation of retrospective compensation and dealing with de minimis generation. Compensation should be calculated at regular intervals and paid to generators or to a party of their choosing, leveraging where possible existing billing/payment functionality of the TSOs. The rules for such compensation can be simple and clear. Curtailment actions (as identified through TSO instructions) should be compensated at the level of financial support. Constraint actions should be compensated insofar as generators have not recovered their costs through the market.

3.14 Greencoat recommends implementation of a short-term solution which involves payment on account to Greencoat reflecting a minimum level of compensation which could not reasonably be disputed as being due, while at the same time providing a legal mechanism for retrospective enhancement of that payment if the final outcome of the Consultation process and any related legal process result in a level of compensation being due which is higher than the initial level. A proposed short-term structure design is provided for in paragraph 5 of our response.

<u>Entity to which the Compensation must be paid</u>

3.15 The entity to which the Compensation is payable is of considerable importance and has not been considered in the Consultation. The introductory language in Article 13(7) of the Regulation states that:

"Where non-market based redispatching is used, it shall be subject to financial compensation by the system operator requesting the redispatching to the operator of the redispatched generation".

3.16 In Ireland participation in the REFIT schemes required generators to enter into power purchase agreements with licensed suppliers and it is those licensed suppliers who participate in the Single Electricity Market in respect of the electrical output of such generators. Plainly the licensed supplier is not the operator of the relevant generator. The operator must be interpreted to be the relevant licensed generator. Accordingly, the Regulation does not allow the compensation to be paid to licensed suppliers who act as REFIT PPA offtakers. Instead, it must be paid to the relevant licensed generator. As the Regulation takes precedence over Irish law, the PSO Order and the REFIT competition rules cannot be used as a basis to pay the compensation to anyone other than the licensed generators. It may be that, to implement payments directly to the licensed generator, the payments must be made by some means other than through the SEM. Such a mechanism being outside the SEM would have the added benefit of avoiding complications as regards having to review the calculation of PSO support payments.

4. Interaction with Subsidy Regimes

4.1 While not an SEM Committee matter, without prejudice to the above paragraph setting out our view as to the entity to which the compensation should be paid, if payments are to be made through the SEM, any coordinated workplan to deliver on the Regulation's requirements must include the interaction with the REFIT design and RESS design. REFIT and RESS must allow the pass through / retention of constraint and curtailment compensation. RESS already allows pass-through of constraint compensation.

4.2 If the design of any Irish support scheme remains such that compensation payable for redispatch (or any portion of it) reduces a party's support entitlements, the generators in question will have had their rights under the Regulation denied. Furthermore, if the compensation payable for redispatch is funded through an all-island mechanism, it leads to Northern Ireland consumers subsidising (i.e. reducing the required payments from) the Irish support schemes.

5. Proposed Short-Term Design Solution

It is Greencoat's view that while compensation for downwards redispatch remains non-market based, it should remain implemented through this short-term solution outside of the market design. We propose the following sample structure. Payments would be:

(a) Issued from the System Operators, as required under the Regulation;

(b) Made quarterly in arrears directly to the generator or an account of its own choosing. By not tying the payment to the supplier, this removes any need to revisit the REFIT rules and it also places the obligation on the generator to identify the correct account into which to pay the support (therefore also removing any need to track any change of PPA off-taker);

(c) Funded through a jurisdictional adder to Imperfections charges, to ensure that cross-border payment for different renewable subsidy regimes did not become an issue;

(d) Cognisant of any constraint payments made to participant generators – this requires a single report to be pulled from the balancing market systems;

(e) Be paid at the greater of the level of financial support or the day-ahead price. This will require a simple look-up table containing the support level (REFIT, ROC, RESS) for each individual generator. REFIT and ROC prices would need to be updated annually;

(f) Would therefore require no changes to the T&SC provisions regarding settlement for renewable generators; and

(g) Would have a light contractual relationship (if any) noting that the PSO Levy is implemented based directly from legislation in Ireland – we would propose a similar process here.

The SEM Committee should consider our response incremental to the position set out in the IWEA/NIRIG response paper. Greencoat is willing to meet with the SEM Committee to discuss the position regarding the Consultation further including in respect of the responses to the questions set out in this document or in the IWEA/NIRIG response.

Yours Sincerely

Paul O'Donnell

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For and on behalf of Greencoat Renewables Plc

Paul O'Donnell – Fund Manager

#	SEM Committee Query	Response incremental to IWEA/NIRIG Position
1	Do you agree with the RAs' interpretation of the requirements under Articles 12 and 13 and specifically the application of dispatch, redispatch and market based/non-market based redispatch in the SEM?	As per main body of our response.
2	In terms of the practical implementation of Article 12(1) to introduce a distinction between units which retain eligibility for priority dispatch and those which are not eligible, the RAs propose; • Where a commissioning programme has been agreed with the TSOs on or before 4 July 2019, it is proposed that such units will be eligible for priority dispatch. • Where a unit is eligible to be processed to receive a valid connection offer by 4 July 2019, the RAs are of the view that this represents a contract concluded before priority dispatch ceases to apply under Article 12 and that such units are also eligible for priority dispatch. • Where a unit becomes active under a contract concluded before 4 July 2019 including a REFIT letter of offer or PPA, the RAs welcome feedback on the proposal for such generators to be eligible for priority dispatch. Interested stakeholder's views are invited on these proposals.	Greencoat supports IWEA's position.
3	It is the RAs' understanding that any unit which is non-renewable dispatchable but is no longer eligible for priority dispatch can be treated like any other unit within the current scheduling and dispatch process, through submission of PNs with an associated incremental and decremental curve. Feedback is requested on this aspect of implementation of Article 12 of the new Electricity Regulation.	Greencoat supports IWEA's position.
4	**Consultation Question 4:** It is proposed that any unit which is non-dispatchable but controllable and is no longer eligible for priority dispatch would run at their FPN, be settled at the imbalance price for any volumes sold ex-ante and could set the imbalance price. As part of this proposal, there is a question of whether such units would be required to submit	Greencoat would like to emphasise that Priority Dispatch is not Mandatory Dispatch. A merchant windfarm may choose to enter into a Day-Ahead Price indexed Power Purchase Agreement and wish to avoid low/ negative Day-Ahead Prices by choosing

	FPNs or where no FPN is submitted, the unit could be assigned a deemed FPN calculated by the TSOs as per the process today. Where a unit elects to submit an FPN, in this case, the TSOs would be required to use this as long as it does not deviate above a certain percentage of the TSOs' own forecast availability of the unit. As an alternative or as a possible interim measure, taking account of the zero marginal cost nature of non-dispatchable but controllable generation in the market today, i.e. wind, solar, units no longer eligible for priority dispatch could be scheduled to their availability as per the process today on the assumption that this reflects economic dispatch in any case, but where there is excessive generation on the system such units would be subject to energy balancing prior to any priority dispatch units. In particular, the RAs are seeking feedback from the TSOs on measures which can be introduced to facilitate required compliance with the new Electricity Regulation within the scheduling and dispatch and balancing market systems.	not to run. It should not have to forego Priority Dispatch to do so, as other conventional Priority Dispatch generators are not obliged to run at their full availability when market prices are below their cost of production. If such a generator had to give up Priority Dispatch to avoid negative Day-Ahead Prices, this would devalue the asset for any subsequent fixed price arrangement with a corporate off-taker, for example.
5	Feedback is invited from interested stakeholders on the treatment of non-dispatchable and non-controllable units.	De Minimis generation are entitled to equivalent compensation as participant generation for non-market redispatch under the Regulation. It would not align with the Regulation to say that in order to be compensated for non-market based redispatch, one had to be a market participant.
6	Do you agree with the RA's interpretation that new generators which are no longer eligible for priority dispatch (both dispatchable and non-dispatchable but controllable) will be subject to energy balancing actions by the TSOs, considered in dispatch economically and settled like any other instance of balancing energy?	As per IWEA response. See response to Question 8.
7	What is your view on the application of bids and offers to zero marginal cost generation?	See response to Question 8.
8	What is your view on a potential rule-set being implemented for non-dispatchable units where (a), systems cannot facilitate ranking of decremental bids for such units for balancing actions for a certain time period and/or (b) where convergent bid prices require a tie-break rule?	This section seems to imply that BMPCOP applies to energy actions (ie. dispatch under the Regulation). We would like to confirm that this is not the case.
9	Do you agree with the TSOs' proposal for a revised priority dispatch hierarchy? The RAs request that the TSOs consider the points raised in this Section in their response with any further proposed changes to the hierarchy.	TSO countertrading has been removed from the Priority Dispatch hierarchy. Greencoat understands that TSO countertrading post the IDA gate closures is now regulated under the Network Codes and this may be the reason for its exclusion. Nevertheless, until the IDC is coupled with

		effect over the Interconnectors, the market is blocked from influencing interconnector flows closer to real-time, i.e. for the several hours from IDA gate closure to delivery. Article 13(5) (see Question 12) obliges minimisation of redispatch of renewables. The TSO should be transparent over what it is doing on the Interconnectors (if anything) post IDA gate closures, and identify clearly any legal impediment it may have to countertrade on the Interconnectors. This review should be published, with reference to any actions which are taken under the procedure BP_SO_11.4, or any other relevant procedure.
10	Feedback is requested from interested stakeholders on the types of demonstration projects that may be suitable for an application process for limited priority dispatch eligibility.	Greencoat supports IWEA's position.
11	The RAs' interpretation of the Regulation is that where a new connection agreement is required or where the generation capacity of a unit is increased, a unit will no longer be eligible for priority dispatch. The RAs also propose that units should be able to make a choice on whether they wish to retain their priority dispatch status or not. Feedback is requested on this proposal.	Greencoat supports IWEA's position.
12	Do you agree with the RAs' interpretation of Article 13(5)(b) whereby downward redispatching of electricity produced from renewable energy sources or from high-efficiency cogeneration (i.e. the application of constraints and curtailment) regardless of priority dispatch status, should be minimised in the SEM? Under this interpretation, the only difference between renewable generators and HECHP eligible for priority dispatch will be how they are treated in terms of energy balancing.	Greencoat agrees that redispatch of renewables should be minimised. Please see the response to Question 9, which is one area where such activities could be undertaken.
13	Do you agree with the RAs' interpretation of Article 13(6) and the introduction of a new hierarchy for the application of non-market-based downward redispatching?	Greencoat supports IWEA's position.
14	Do you agree with the RAs' interpretation of Article 13(7) and the view that the provision of financial compensation to firm generators subject to curtailment based on net revenues from the day-ahead market including any	As per main body of our response.

	financial support that would have been received represents an unjustifiably high level of compensation?	
15	Which of the options on compensation for curtailment presented above do you view to be most appropriate to adopt in the SEM? Are there additional options that the RAs should consider around compensation for curtailment?	As per main body of our response.