Greencoat Renewables PLC
Riverside One
Sir John Rogerson's Quay
Dublin 1

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Gina Kelly
Commission for Regulation of Utilities,
The Exchange,
Belgard Square North,
Tallaght,
Dublin 24.
D24 PXW0
gkelly@cru.ie

Gary McCullough
Utility Regulator for Northern Ireland,
Queens House, 14 Queen St ,
Belfast,
BT1 6ED.
Gary.Mccullough@uregni.gov.uk

RE: Proposed Decision (SEM-21-027) on the treatment of scheduling and dispatch for new renewable generation and the Consultation on the level of compensation for downwards redispatch of renewables (SEM-21-026) "the Papers" implementing Regulation EU/2019/943

Dear Ms. Kelly and Mr. McCullough,

Thank you for the opportunity to respond to the parallel Proposed Decision (SEM-21-027) on the treatment of scheduling and dispatch for new renewable generation and the Consultation on the level of compensation for downwards redispatch of renewables (SEM-21-026) "the Papers" implementing Regulation EU/2019/943 "the Regulation".

Greencoat Renewables PLC "Greencoat" is an investor in euro-denominated renewable energy infrastructure assets and is focused on the acquisition and management of operating wind farms and solar in Ireland and the EU. It is managed by Greencoat Capital, an experienced investment manager with more than €7.5 billion of assets under management (3.9 GW of renewable projects) and a track record of making acquisitions and delivering strong shareholder returns in the listed renewable energy infrastructure sector. It is the largest owner of wind farms in the Republic of Ireland, with twenty-one windfarms (620MW).

Greencoat supports Wind Energy Ireland's (WEI) response to this consultation when taken as a full combined proposal. Constraint of Priority Dispatch renewables was 6.1%[1] in 2020 (5.6% YTD for 2021), in excess of what would be predicted for Priority Dispatch generation. While Greencoat would arguably benefit from protecting our existing investments from further constraints arising from new renewable generation, we can support the WEI position to share such constraints if and if only our clear right to be compensated at the level of financial support for firm downwards redispatch of our generators is granted.

[1] Wind-DD-Historical.png (2868×2014) (eirgridgroup.com)

We emphasise that Regulation EU/2019/943 of the Clean Energy Package has been in force since 1st January 2020. Renewable generation has been entitled to compensation at the level of financial support for non-market downward redispatch since that date under Article 13 of the Regulation. Delay in appropriate implementation of the Regulation is increasing the level of back-dated compensation due.

We note the SEM Committee's proposals to exclude the recovery of such compensation from the Imperfections Charge (see SEM-21-053). Greencoat supports that decision, as we believe that the Trading & Settlement Code is not designed for retrospective settlement, cannot facilitate compensation to de minimis generation, and ties the SEM Committee's hands in the determination of non-market based redispatch with market rules.

It has been a year since our last engagement with this process with the RA's to bring Ireland and Northern Ireland into compliance with Articles 12 and 13 of the Regulation. During this time, Greencoat has continued to invest in renewables in Ireland, including investment in new under construction RESS-1 qualified windfarms. The previous year has also proven to be prediction-defying with regards to the level of downwards dispatch – particularly for constraints – which our portfolio has experienced. Priority Dispatch does not, by itself, guarantee financial performance in line with reasonable prudent expectations.

Summary

There are aspects to the consultation which Greencoat welcome, but we remain concerned with the SEM Committee's reluctance to engage with their legal obligations under Article 13 in particular. The SEM Committee has:

- incorrectly assessed their national legislative duties as having primacy over the requirements of the Regulation to the point where the plain English interpretation of the Regulation's text have been deliberately circumvented;
- relied on recitals to the Regulation to interpret the meaning of Article 13 where there is no ambiguity in the text that requires such reliance;
- failed to recognise that Article 13(7) is written clearly within the context of compensation to an individual generator, and the test is whether the compensation is excessive for that generator and not the wider consumer;
- argued that compensating Priority Dispatch generation would simply result in unjustified profits for investors, not acknowledging that investments and refinancing's have been made on the reasonable expectation of full future compliance with the Regulation, and that the levels of downwards redispatch currently are far in excess of standard market assumptions;
- justified non-compensation for curtailment for Priority Dispatch generators in comparison to generators without Priority Dispatch, where the Regulation specifies no such comparative test; and without appearing to have validly established that the compensation is unjustifiably high are determining the level of compensation as the lesser of two elements, rather than the combination of two elements as the Regulation specifies.

It is not correct nor reasonable to make the claim that any further compensation to Priority Dispatch generators beyond existing market performance is "unjustifiably" high and this is not in line with the Regulation. There is also no basis for what is determined by the RA's as "unjustifiably" high. Any non-payment of such compensation is not compliant with the Regulation.

These SEM Committee proposals result in allocating risks without any compensation (dispatch down risks) to generators which are outside of those generators' control. As a result, the SEM Committee proposals actively and adversely impact the performance of existing investments and the certainty for new investment.

Outside of non-payment of compensation due to our business as required by Article 13(7), we are concerned that the SEM Committee proposals will adversely impact the decarbonisation agenda of both Ireland and Northern Ireland. Such uncertainty will come with increased cost and delay in achieving such renewable targets. The overall cost to the consumer may actually be lower by; having constraint and curtailment risk managed by the entity best placed to resolve it i.e. TSO, having a more efficient market and trading system and

the appropriate compensation mechanism for downwards redispatch lowering investment risk and therefore the required return from investors.

Detailed Comments

Compensation at the Level of Financial Support

In our introduction, we have summarised the high-level legal advice received from counsel as to the intent of the letter of the Regulation. Full compensation at the level of financial support is required to be made, and to be made retrospectively to 1st January 2020.

With respect to Priority Dispatch generation, we note that such generators do not have to compete in markets in order to receive an energy position, or "dispatch". Correspondingly, it is Greencoat's position that the meaning of redispatch under the Regulation is any dispatch down from the available power of a Priority Dispatch generator. It is not necessary for a Priority Dispatch generator to have secured an ex-ante trade in order to be compensated for redispatch. That is a historical feature of the SEM design for compensation for constraints, which now represents an unjustified (in terms of the Regulation) restriction for non-market based compensation for constraint and curtailment.

In particular for projects which may have been traded since 1st January 2020 and are managing their balance responsibility through assetless units or Supplier Units (as accepted as legitimate by the SEMC under SEM-20-027), Greencoat expects to receive full compensation at the level of financial support for any such firm downward redispatch when a retrospective settlement is made.

Firm Access

Article 13(7) of the Regulation requires a connection agreement which guarantees firm delivery of power so compensation for non-market downward redispatch is payable. Greencoat agrees with the SEM Committee that this, within the context of our centrally dispatched market, is analogous to our own market's concept of "financially firm" connection offers.

That said, we request that the SEM Committee review the historical performance of when firm access is granted to generators when compared to the initial timelines which were provided by the TSOs to generators at the time of investment. We believe that the SEM Committee will accept the point that where investment is reliant on compensation for downwards redispatch (for example in areas where constraints are forecast to be high for several years), the successful delivery of firm access is crucial in the certainty of financial projections. Unfortunately, as firm access is reliant on successful delivery of network assets (outside of generators' control) and replanning of the network by the TSO, projected firm access dates are consistently not achieved and are not reliable. Both financed and operational generators continue to have their firm access dates revised and extended by up to eight to ten years in some cases.

We believe that this performance review will prompt the SEM Committee to engage with the individual Regulatory Authorities to rationalise the firm access regime, with a view to removing resulting investment distortions between the jurisdictions. Such distortions in the investment regime North/South are clearly a SEM matter. We believe that delivery of firm access must become much more predictable at the time of investment in both jurisdictions than is currently the case, levelling the playing field for new investment on an all-island basis. We also note that RESS-1 generators and corporate PPA generators are developing in a particularly uncertain environment, with secured prices and a materially volatile regulatory regime.

This firm access process should address the failure to deliver network assets on time by granting firm access (or some other acceleration of same) for all adversely affected generators.

Compensation Mechanisms

Greencoat has evaluated the various mechanisms through which compensation could be paid to generators at the level of financial support. The three possibilities that we identified are:

1. The Trading & Settlement Code (T&SC).
2. Locational Subsidy Rules, such as REFIT and RESS reconciliations.
3. Non-Market Settlement Mechanism.

On reflection, Greencoat contends that a new Non-Market Settlement Mechanism is the best approach, for the following reasons:

1. Allows for faster implementation outside of a congested market development roadmap;
2. Ensures dispatch balancing costs under the T&SC remain non-distorted by subsidy and corporate PPA prices;
3. Allows for settlement for de minimis generation (see below);
4. Can easily maintain commercially confidential information without the need to publish (cPPA process, RESS strike prices);
5. Can perform retrospective settlement;
6. Can settle for both jurisdictions separate subsidy regimes (ROC generation cannot readily be compensated under the funding of its subsidy rules, unlike REFIT and RESS generators);
7. Can be funded in a manner which ensures that Northern Ireland consumers pay only for dispatch down compensation for Northern Ireland generators, and Ireland consumers pay only for Ireland generators respectively;
8. In practice can deliver compensation at levels different to that which would currently be set by the BCOP/BMPCoP and can supplement any market-based revenues already received; and
9. Can make payment to an account designated by the generation licence holder, removing the obligation of the new settlement system to track the current PPA off-taker.

While this last bullet point may seem a rather procedural point, it would be dysfunctional for the Regulation to specify non-market redispatch compensation for a generator, but for that revenue to be held and retained by the generator's route-to-market provider. This also means that changes to existing PPAs such as reconsideration of negotiated balancing costs, inter-party collateral, etc., – most of which underpinning long-term debt financed projects – would be minimal, given that the existing day-to-day trading and imbalance within the T&SC would be left to operate largely unchanged.

Finally, while not a SEM Committee matter, Greencoat was pleased with the position presented by the CRU in its earlier consultation this year on the operation of REFIT with respect to the Clean Energy Package (CRU/21/04).

"Nevertheless, the CRU is of the view that, were compensation to be provided for non-market based redispatch, the coming into force of Article 13(7) means it would no longer be appropriate for that compensation to be then taken away by deducting it (by dint of its inclusion in the calculation of Actual Market Revenues) from support payments"

While that consultation process never reached a final decision in relation to such matters, Greencoat supports this position which is in line with the Regulation that it would be dysfunctional for compensation for downward redispatch to be payable at any level, and it to be subsequently withdrawn through a support scheme.

Other Considerations

De Minimis Generation

In SEM-21-026, it is stated that the SEM Committee are of the view that de minimis (non-participant) generation does not have an energy position. Correspondingly it is not entitled for any compensation for redispatch away from that energy position.

Pragmatically for that to be the case, it would mean that if a de minimis generator was dispatched away from its forecast and traded position, its trader would not face any imbalance cost. This is factually incorrect. Furthermore, in the absence of being able to obtain an energy position, it is unclear how TSOs will dispatch and schedule such generators.

We believe that this oversight can be resolved through our proposed Non-Market Settlement Mechanism as mentioned above, which can be implemented with relative speed.

Portfolio Trading

While Portfolio Trading is unlikely to be implemented in the short-term, Greencoat is of the view that the Regulation is highly supportive of aggregation, and it would be a material assistance to non-priority dispatch renewables to manage their market position for dispatch. Note as per our arguments above, we do not believe Priority Dispatch generators need to trade to achieve a market position, be eligible for dispatch, or for downwards redispatch compensation pursuant to the Regulation.

Under the existing market rules, in principle it is possible for a portfolio of generators to manage their balance responsibility through an aggregated "Assetless Unit" trade, but that Assetless Unit is unable to allocate its ex ante position into Final Physical Notifications (or ex ante trades which facilitate market-based compensation for redispatch should that remain the SEM Committee's position). If such an allocation of a trade were possible, it would resolve various potential issues, such as the inaccuracy of trading and notifying dispatch unit-by-unit to the TSO. Errors in individual generators' positions can be aggregated, positive and negative errors partially negated, when allocating the portfolio position to individual generators in dispatch and settlement.

Greencoat have fully engaged with the SEM Committee in this and all such consultations, and we fully commit to ongoing cooperation on these matters. It is our strong and sincere preference to align the SEM Committee's position with our own through this consultation process, and we are willing to discuss our analysis bilaterally at the Regulatory Authorities' convenience. We must re-emphasise however that the Regulation has been in force since 1st January 2020 and under Article 13 of the Regulation, renewable generation has been entitled to compensation at the level of financial support for non-market downward redispatch since that date. As such, we reserve the right to progress these matters through legal means.

Yours Sincerely

Patrick Maguire

For and on behalf of Greencoat Renewables Plc