

**Power NI Energy Limited
Power Procurement Business (PPB)**

I-SEM

CRM

DSU Compliance with State Aid

Response by Power NI Energy (PPB)

2 May 2019.



Introduction

PPB welcomes the opportunity to respond to the RAs consultation on the changes proposed to ensure DSU Compliance with State Aid under the I-SEM Capacity Remuneration Mechanism (CRM).

General Comments

While the enduring solution would appear to ensure compliance with the State Aid requirements, the proposed interim solution does not achieve wholly equitable treatment of DSUs with other capacity providers and hence cannot be deemed to fully address the State Aid issues identified by the European Commission (EC). This is because under the proposed interim solution, the delivery of capacity by DSUs would not be measured on the same basis as for other providers, being based on Dispatch Instructions regardless of actual delivery, and therefore there remains an inequality of treatment. Similarly, it would appear that the socialisation of the energy payments made to DSUs across all Suppliers (and presumably customers) will not focus the cost on the Supplier of the Individual Demand Site (IDS) which again results in ongoing differential treatment.

Given the problems identified that mean delivering the enduring solution by October 2020 is not possible, it would appear that some form of derogation remains necessary with an interim arrangement to partially address the inequality.

Our more detailed comments on the proposals are set out below.

Comments on the Proposals

Enduring Solution

We agree that the enduring solution proposed would address the State Aid concerns raised by the EC and would be compliant which would enable DSU to participate equally in markets as will be required under the new Clean Energy package legislation. However, we note that this solution does create a complex contractual matrix with considerable system requirements.

A simpler approach may be to adopt the approach set out in the “Alternative Considerations” section (paras 2.2.30 – 2.2.34) which would allow Suppliers to offer such services and facilitate DSUs in the markets with competition between suppliers ensuring efficient outcomes. We do not see why this approach would be inconsistent with the Electricity Regulation.

It is also unclear why an enduring solution cannot be progressed since the scope for change to the proposed Electricity Directive and Regulation seems limited and given the need to deliver a fully State Aid compliant arrangement, this should be progressed without delay.

Interim Solution

The proposed Interim Solution does not deliver equitable treatment for all CRM participants. As specified in paragraph 2.2.22, DSUs are “*settled as if they had delivered the demand response that had been requested by the TSOs*”. This means there is no penalty should the DSU fail to deliver the requested response or indeed wholly ignore the TSO’s dispatch instruction. Other Reliability Option (RO) holders are assessed based on their actual measured delivery and hence there remains a significant disparity that continues to provide a potentially favourable benefit to DSUs.

The consultation paper recognises this problem but simply asserts that the DSU compliance would be monitored (in an unspecified manner) and that ongoing issues could be dealt with by reviewing the derating factor. However, those factors will primarily apply to T-4 capacity auctions where most of the capacity is secured and hence any change would take over 4 years to have any impact. This does not produce equality of treatment for all RO holders.

The consultation paper also notes in paragraph 2.2.24 that to avoid double-counting, the Supplier’s charges must be increased. However, it then states that as this would require system changes, the proposal is to socialise the cost of the energy revenues paid to DSUs across all Suppliers and hence customers through the Socialisation Fund, rather than charging it to the individual Supplier (and customer) who is associated with the IDS. This socialisation clearly results in an inequitable allocation of the costs and hence could not be deemed to overcome the State Aid issue.

On the basis of the ongoing disparity of treatment as noted above, it is not clear how the interim proposal could be determined to satisfy the State Aid concerns. If an enduring solution cannot be implemented by October 2020 then there seems little option but to seek a further derogation from the EC that would identify a timetable for the implementation of the enduring fully compliant solution with interim measures to partially address the current disparity until the enduring solution can be implemented.

If the Interim Solution proposed is to be that interim solution, then we would support the proposal outlined in paragraph 2.2.28 that such energy payments would only be made in those periods where RO difference payments are triggered. This approach would appear to minimise the cost socialised across all Suppliers/customers.