CGN Europe Energy Ireland Ltd,
Portview House, Thorncastle Street,
Ringsend, Dublin 4, D04 V9Y9, Ireland
Tel: +353 (0)1 643 0801

Email: mark.byrne@cgnpc.com.cn
Web: www.CGNEE.com

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Emailed to: Adam Fitzpatrick (afitzpatrick@cru.ie), Ian McClelland (Ian.McClelland@uregni.gov.uk)

Re: SEM-20-033 Consultation on the review of Intermediary arrangements in the SEM

Dear Adam and Ian,

CGN Europe Energy welcomes the opportunity to respond to the SEM Committee's consultation on the review of Intermediary arrangements for the SEM (SEM-20-033).

Introduction to CGN Europe Energy

CGN Europe Energy (CGNEE) was founded on 30th June 2014 as the renewable power investment platform of CGN Group for Europe. The CGN group employs over 38,000 staff worldwide and is the largest power operator in China as well as the largest nuclear power constructor worldwide. From headquarters in Paris, France, CGNEE has acquired wind and solar assets across Europe. CGNEE employ over 120 employees covering all company requirements including Finance, Engineering, Operation & Maintenance, Legal, Commercial & Contracting. As well as headquarters in Paris, CGNEE also holds offices in Bordeaux, Troyes, Belgium, London and Dublin. Founded in 2017, CGN Europe Energy Ireland directly manages a portfolio of 270MW of wind assets across Ireland, Northern Ireland and Wales with an established local operations and finance team providing the full end-to-end asset management capabilities.

CGNEE Summary of Response

CGNEE contends:

- As generators on a site greater than or equal to 10MW Maximum Export Capacity have the Licence responsibility to either participate in the Balancing Market, or secure an Intermediary to do so on its behalf, there is no need for Intermediaries to have a supply licence with parallel obligations;

- The generator is responsible for its licence compliance, irrespective of what Intermediary (or indeed outsourced service provider it has utilised to manage it Balancing Market requirements);

- Requiring Intermediaries to have a supply licence means that any business which is primarily interested in acting only as an Intermediary in the wholesale market is required to also comply with any applicable retail market activities. These activities may be of no interest to the Intermediary;
    - It also has resulted in both Regulators being requested for supply licences which is an unnecessary draw on resources;
- While the Regulatory Authorities may get some comfort that Intermediaries have parallel licence requirements to generators in relation to T&SC compliance and compliance with the bidding code of practice, the responsibility will still lie with the generator even if the Party to the T&SC is not licensed (such as registrants of Assetless Units).

To that end, CGNEE supports an Intermediary regime whereby:

- Any company of reasonable financial and operational standing may act as Intermediary, without the need for a Supply Licence. CGNEE recommends that this is assessed by the generator making the Intermediary application;
- This will remain subject to Regulatory Authority approval and discretion. Reasons for such discretion could be, for example, concern in relation to the increase in market power of a given participant in a particular sector. The Regulatory Authority may also ask for evidence of the financial and operational standing of the Intermediary, should it choose to do so;
- Intermediaries may act on behalf of any technology type or size of market participant, as long as the overall Intermediary market power across its own business and other contracted businesses meet the Regulatory Authority criteria.

Our response provides further detail and rationalisation as to the benefits of such a simplified, streamlined regime. The Appendix provides for answers to the individual questions.

Regulatory Considerations

At all times CGNEE understands and accepts the Generator Licence responsibilities of the generator. This involves compliance with regulatory reporting obligations, Grid Code compliance, Balancing Market Bidding Code of Practice (BMPCOP) compliance, along with (when located on a generation site greater than or equal to 10MW Maximum Export Capacity) either:

a) Directly participating in the Balancing Market arrangements under the Trading & Settlement Code T&SC; or

b) Subject to regulatory approval, obtaining Intermediary consent, executing a PPA with a supplier, entering into the Form of Authority with that supplier, and requiring the supplier to participate in the market on the generator's behalf.

As the supplier is in receipt of a Supply Licence, and that Supply Licence also shares many parallel obligations such as compliance with the T&SC and the BMPCOP, there is in effect a joint licence obligation on the generator and supplier to comply with certain provisions. It also means that the Regulatory Authorities can keep control of market power concerns through limiting the granting of the Intermediary approval should market concentration issues arise.

Historical Considerations: Mandatory Market Participation

The SEM Pool was the mandatory exclusive market for the trade of electricity in Ireland and Northern Ireland. It was considered important as part of the SEM High Level Design (AIP/SEM/42/05) to ensure that all generated and consumed power was represented in the wholesale market at a given point in time. This, along with the precursor to the BMPCOP, the Bidding Code of Practice, was considered an important strand in the management of market power: a liquid energy market was created with a fully available market price arising from the costs of all generators and the total demand to be served[1].

It was originally assumed that all generation licence holders greater than 10MW would have to become a Party to the T&SC and sell their power into the market to deliver this requirement of a gross mandatory Pool. Pragmatically, however, this could not be readily achieved. Several generators were in long-term PPAs prior to November 2007 which committed the generator to the physical sale of power to an off-taker. Subsidy / PSO regimes in Northern Ireland and Ireland also were statutorily linked to sale of physical power to particular entities.

Thus began a series of consultations which have continually broadened who can become an Intermediary. The original rationale of why Intermediaries were required to have a supply licence, however, was never fully explained. CGNEE believe it may have been down to the requirement to have the T&SC Party to be also responsible for compliance under licence with the bidding code of practice. This is despite the fact that the generator is ultimately responsible for bidding behaviour under its own licence.

The other Intermediary acceptance criteria in these consultations, in CGNEE's view, were all primarily related to market power.

Industry Considerations

While all generators were contracted to retail suppliers of electricity early in the SEM, the requirement to have a supply-licensed Intermediary was not an issue. Indeed, it was a requirement of several subsidy regimes such as Ireland's Renewable Energy Feed-in Tariff.

Two things changed:

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[1] The mandatory participation in the SEM Pool has been replaced with mandatory participation in the Balancing Market since November 2018.

- There was a period of uncompetitive PPA offerings from those suppliers, with few available creditworthy counterparties as several counterparties withdrew from the market; and
- Generators started coming off subsidy schemes that required the PPA to be with a licensed supplier.

This led to trading structures whereby generators sought to develop SPV supply companies for generators both larger and smaller than 10MW[2] in order to manage trading themselves. This occurred for operational reasons (e.g. only wanted one Party to manage several windfarms), financing reasons (e.g. wanted to simplify the number of entities under a structure to the minimum possible), commercial reasons (i.e. greater revenues were obtainable through direct market participation), or subsidy (e.g. REFIT) reasons.

This led to applications for supply licences to both Regulatory Authorities (particularly the CRU), and as a consequence placed retail supply obligations on those SPV Intermediaries, even when those Intermediaries had no business reason to be involved in the retail market. Retail supply, unlike the PPA market, had remained relatively competitive.

Existing utilities and new market players developed support agreements to help the generator manage those market interactions on behalf of the SPV supply company, in both the wholesale and retail markets. Even though the SPV supply companies are the party to the T&SC, day-to-day interactions with the market are often subcontracted to a different entity (which need not have a Supply Licence).

Conclusions

There already have been circumstances in the market where license holders resource their wholesale market interactions through subcontracts with non-licensed entities.

Moving to a scenario whereby such non-licensed service providers become Party to the T&SC (like Assetless Traders who have no licence requirements), in CGNEE's view, does not change the responsibility of the generator to comply with its own Generation Licence, nor the regulatory oversight of those day-to-day activities.

The mandatory participation of each generator equal or over 10MW in size in the Balancing Market will not be impacted.

Subject to the Intermediary being appropriately competent and resourced, this leaves market power the remaining Regulatory Authority concern.

To that end, CGNEE supports an Intermediary regime whereby:

- Any company of reasonable financial and operational standing may act as Intermediary, without the need for a Supply Licence. CGNEE recommends that this is assessed by the generator making the Intermediary application;
- This will remain subject to Regulatory Authority approval and discretion. Reasons for such discretion could be, for example, concern in relation to the increase in market power of a given participant in a particular sector. The Regulatory Authority

[2] The 10MW refers to the size of the connection agreement.

may also ask for evidence of the financial and operational standing of the Intermediary, should it choose to do so;

- Intermediaries may act on behalf of any technology type or size of market participant, as long as the overall Intermediary market power across its own business and other contracted businesses meet the Regulatory Authority criteria.

In conclusion, we would like to thank the SEM Committee for the opportunity to engage on this matter and look forward to continuing our work with you in future.

Yours sincerely,

Mark Byrne,

For and on behalf of CGN Europe Energy

Appendix

Consultation Question 1: The RAs propose to revise Part C of the eligibility criteria to allow for a broader range of market participant categories to apply and also to provide for renewable units which may be dispatchable and/or controllable to take part in such arrangements. The revised criterion would be; where a Wind Power Unit, a Pumped Storage Unit, a Battery Storage Unit, a Demand Side Unit or a Solar Power Unit with a Maximum Export Capacity of less than 100MW is contracted to a Supplier that is Party to the TSC.	CGNEE argue that subject to the technical capability of the entity acting as Intermediary and a Regulatory Authority examination of market power concerns, there is no reason why any unit in the market (conventional, renewable, DSU, supply, storage) of any size should not be able to appoint an Intermediary. At the very least, however, the requirement for an Intermediary to be a supplier should be removed from Part C of the eligibility criteria.
Consultation Question 2: The RAs propose to allow Suppliers to take part in Intermediary arrangements. Do you agree with this proposal and do you have a view on whether this should be available to all suppliers or only to those below a certain threshold of market share?	As per our response to Question 1.
Consultation Question 3: The RAs propose that an additional criterion is added to the Trading and Settlement Code to allow for specific registrations to be approved once they meet the SEM Committee's specific objectives in this area. A Modification to the TSC would 13 | Page be raised following this Consultation to provide for this change. Do you agree with this proposal?	Yes, we agree with the Proposal.
Consultation Question 4: The RAs propose to publish a quarterly report on the SEM Committee website setting out the details of the current Intermediary arrangements in place in the SEM. Participants involved in these arrangements would be required to notify the RAs and SEMO of any changes to these. Do you agree with this proposal?	We believe this is already in place, both in the publication by SEMO of daily market participant market unit reports, and in the requirement to effect any change in registration requires refreshed Intermediary approvals to be sought from the Regulatory Authority.
Consultation Question 5: What is your view on the potential added value of the	Currently it is possible for a third party to register to trade in the ex ante market on behalf of a

application of Intermediary Arrangements in the Ex-Ante Markets?	market unit registered to a different party. This requires a logical linking of the ex ante Trading Unit (registered to Party A) to the Balancing Market Generator Unit (registered to Party B – which may be the generator or the Intermediary). Specific forms are required from the clearing house (TP01b) and SEMOpx on behalf of Party A and Party B, i.e. the registrants in the ex ante markets. This functionality therefore already exists.
Consultation Question 6: Are there limitations to the current arrangements which could be revised to better facilitate corporate PPAs?	Intermediary approval requires both generator and PPA off-taker to state that there is a physical PPA between the Parties. The PPA off-taker becomes the Intermediary, and in turn is obliged to sell the power into the market. It may be useful in terms of the Intermediary approval to allow the generator to first sell its power to the corporate, which in turn sells it power to the Intermediary. The Intermediary approval would describe that chain-of-ownership of the power and would remove the need for corporates to be market participants while still allowing it to demonstrate the purchase of renewable power through a straightforward bilateral PPA with an agreed price.
Consultation Question 7: Are there further changes to the FoA that the Regulatory Authorities should consider?	As Generators (or indeed Intermediaries) can allow another Party to trade in the ex ante market on their behalf, we don't believe the Form of Authority (which is limited to the T&SC) need be altered. Having a separate trader acting on behalf of a registered generator in the Capacity Market to the trader acting on behalf of the generator in the Balancing Market is an attractive prospect. Those who may be best at managing energy contracts might not be the best at managing capacity contracts, and vice versa.

	That said, however, CGNEE understands that this may cause several technical issues in relation to market architecture, given that energy settlement is a core component of capacity market settlement (i.e. the reliability option), and it may be difficult to technically disaggregate these activities where two independent parties are participating separately in the energy and capacity markets on behalf of one generator. Finally, there is reference to "*aggregation in the ex-ante markets*". CGNEE would strongly support a review of this entire area. Currently, in order to earn constraint payments in the market, generators as small as 10MW are required to establish a unique Trading Unit registration in the ex ante markets for that generator. Beyond the question of Intermediaries, this is clearly a somewhat absurd situation, were 10MW SEM windfarms are trading alongside multiple-GW European portfolios in the same EUPHEMIA-structured market. Noting the concurrent paper on Aggregation in the ISEM, there is potentially an opportunity to deliver on the promised aggregation in ex ante markets for variable generators such as wind, which was part of the original ISEM high level design but was never delivered on. For example, a trader in SEMOpx with an ex ante trade of 100MW could be allowed to disaggregate that single trade amongst several different smaller registered generators in an efficient manner. This indeed would require a new process, and rule changes to the SEM T&SC (or the SEMOpx rules, allowing for such disaggregation to be done without triggering potential identification of such trades as "self-trading").