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Sean MacanBhaird
CER
Plaza House
Belgard Road
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Monday, 20 March 2006

Saorgus Energy Ltd Response to CER Consultation on 2006 GVIPP Auction

Dear Mr MacanBhaird,

In the call for responses on its 2006 GVIPP proposals (www.cer.ie 6/3/06), CER has specified that comments should specifically address section 2.1 which describes the proposed auction parameters. However, the very necessity for such an auction must also be questioned. If, as is suggested, the overall purpose is to release AER-contracted renewable energy to non-ESB PES suppliers, then the obvious question should be asked – is a GVIPP the best way to do this? As proposed, the GVIPP method mainly benefits the recipients of payments out of the PSO fund. It will also be to the detriment of independent green generators and green suppliers because both will be asked to accept worse prices than the market would allow. CER should have asked if there was another way that would benefit green generators and green suppliers. It is clear that there is such a way – simply to allow AER generators to contract directly with green suppliers without the involvement of ESB PES.

There are several background problems with a GVIPP as proposed:

1. AER is already used as a hidden PSO levy and a GVIPP will perpetuate this practice: Due to recent rises in the Best New Entrant (BNE) price, very few AER-contracted wind energy projects are now receiving a price per kWh that is above the BNE. However, ESB still effectively pays BNE price for this power and the difference BNE and the contracted price is paid into the PSO fund (ESB nets off the benefit but the effect is the same). This means that the operation of most if not all AER wind energy projects is now resulting in a subsidisation of the PSO fund (over the lifetime of the AER contract if not at the moment). Therefore, the PSO fund effectively has at least two sources of income, both paid for by the final electricity customer. One is the PSO levy identified on electricity bills. The other is the subsidy created by AER contracts. This latter “levy” is not identified on electricity bills but is nevertheless paid by final electricity customers. This means that the full extent of final customers’ subsidisation of the PSO fund is not fully disclosed, contrary to EU state aids rules. A full EU Commission review of the PSO arrangements may be triggered if this anomaly is not addressed. However, a GVIPP will perpetuate this anomaly.

2. GVIPP will introduce a second hidden PSO levy: The introduction of a GVIPP will worsen the problem outlined above. The proposed GVIPP rules specify that all bids must be above the BNE price. The difference between the BNE price and the bid price will effectively be diverted into the PSO fund.

This means that, in addition to the hidden PSO levy outlined in paragraph 1 above, a new hidden PSO subsidy will be created representing the difference between the GVIPP bid price and the BNE. It is clear that if the GVIPP is introduced, two hidden subsidies of the PSO fund will have to be explained to the EU Commission.

3. GVIPP will increase subsidies to fossil fuel generation: Apart from the issues raised above, the problem of where the PSO funds are being spent will have to be addressed. The main recipients of pay outs from the PSO fund are fossil fuel generators, principally the peat burning stations. Therefore peat burning is supported by the operation of the AER. In other words, the most polluting form of generation is being cross-subsidised by the cleanest. CER does not generally allow cross-subsidisation in the Irish energy market. For example, CER has ruled that ESBPG stations cannot cross-subsidise each other. Similarly, CER rules state that electricity companies are not allowed to cross subsidise one element of their business with another e.g. to subsidise generation through profits from retailing. This general approach is summarised in the CER aim to “*prevent cross subsidisation between and within different customer categories in the market*”. However, it is clear that cross-subsidisation of peat burning by renewables is now taking place through the operation of AER. The introduction of a GVIPP will copper fasten this cross-subsidisation. This will be contrary to EU state aids rules and Irish law.

4. GVIPP will unnecessarily increase the price of electricity: The requirement on ESB PES to effectively pay BNE prices for AER electricity is already keeping the price of electricity higher than it need be. The GVIPP will force the price of electricity even higher, again unnecessarily. The proposed rules actually specify that bid prices must be increased above what is now paid by ESB PES. There is general public concern about the very significant rises in electricity prices that have occurred since the CER began regulating the market. It is therefore incongruous that CER would propose to continue an AER system that keeps green energy prices artificially high and to then unnecessarily force the price even higher again via a GVIPP.

A simpler solution: As outlined above, there is another way of releasing AER electricity to non-ESB PES suppliers that avoids all of the problems above; allow AER generators to sell their power directly to non-ESB suppliers. This would have the following advantages:

- a) Lower green energy prices: Both independent suppliers and ESB PES would be able to purchase AER power at a significantly lower long-term price than the prices that CER have specified for the GVIPP. This will allow the supplier to then sell green power on to final customers at a lower price.
- b) Market distortions eliminated: The green generators could have the choice of staying in the AER programme or of entering the free market. This would foster competition in the market and reduce the dominance of the incumbent. The GVIPP proposal prevents independent generators from participating in the free market and locks them into a “support” scheme involving the dominant state utility. Some generators, ourselves included, would be able to significantly improve the economics of their projects by being allowed to obtain a market price for their power. For example, AER3 no longer functions as a price support mechanism for our wind farm at Tursillagh, Co. Kerry. It is now an impediment to our business because it denies us the chance to obtain a higher market price for our electricity. This is a distortion of the market and a GVIPP will make the distortion permanent. ESB PES officials indicated to us at a recent meeting that they do not have an objection to cancelling AER contracts if authorised to do so by CER and/or DCMNR. (obviously, any cancellation of AER5/6 contracts would have to involve the repayment of accelerated payments).
- c) Promotion of renewables: The CER’s responsibilities to promote renewables would be discharged if AER suppliers are given an option to cancel their AER contracts. It can be persuasively argued that a GVIPP will work directly against all three core CER responsibilities to protect the interests of the final customer, to promote competition and to promote renewables.

Legal issues: We would also like to point out that we have obtained legal advice that:

- because the AER3 PPA is silent in relation to the ownership of the “green benefit” of the power from our AER3 Tursillagh project and

- because we obtain no green premium for our electricity (even taking into account the ERDF grant paid as part of AER3) and
 - because AER3 is being used to cross-subsidise other polluting forms of generation,
- we are entitled to the green benefit of the electricity produced at Tursillagh. Therefore, we would like to put the CER on notice that even if a GVIPP is introduced, ESB PES is not entitled to resell this AER3 Tursillagh power. We made this point to ESB PES in a letter sent in November 2002 and the position remains the same now. We wish to sell this power to an independent green supplier, thereby achieving the CER's aim of redistributing AER output.

Saorgus Energy Ltd therefore requests CER to confirm to us as a matter of urgency that the 15.18 MW of AER3 capacity at Tursillagh will not be included in the 183 MW of capacity proposed for the GVIPP. In addition, we request CER to authorise ESB PES to cancel the AER3 contract at Tursillagh.

Regards,

A handwritten signature in black ink, appearing to read 'A. Forde', with a stylized flourish at the end.

Aidan Forde
Saorgus Energy Ltd