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Submission to the Commission for Energy Regulation on the Consultation

"Public Service Obligation Levy 2012/2013, Proposed Decision Paper",

Ref: CER/12/080, 15th June 2012

By email to John Lynch (jlynch@cer.ie)

It has come to our attention that there appears to be a calculation error in the implementation of the R-factor connected with the REFIT support scheme.

It seems to us reasonable to assume that a project that is firm will receive the benefit of 'compensation' payments for constrained and curtailed output, as per the current policy of the SEM. Under that policy, this is paid at the level of the SMP, not the full REFIT[1]. Where a project is non-firm, these payments would not be received, so that projects see a difference between being firm and non-firm.

For projects that benefit from REFIT, presumably this difference should also be evident. In this case the supplier would receive the compensation when the project is firm, and be inclined to pass some or all of that on to the generator. Some PPAs have reflected this approach, but this is now less evident.

To appreciate the point in question we need to consider two separate situations.

The first is where the average annual project SMP (plus capacity) is above the relevant REFIT price level for the year in question. In that case there are no REFIT payments, and the supplier is paid the SMP for all generated output, plus capacity payments. It also receives compensation for constrained or curtailed output on firm projects at the SMP level, but should not receive them for non-firm projects. So far so good.

However, in the second case, where the REFIT is triggered because the average annual project SMP (plus capacity) is below the relevant REFIT price level for the year in question, we see a difficulty. The calculation as currently performed subtracts total market revenues from the total REFIT that is due (on metered output), and pays the difference from the PSO to the supplier. For non-firm projects, since no compensation is to be paid by the market, there is no issue. However, where a project is firm, and is due to receive compensation, that is added to the total market payments before calculation of the REFIT top-up. Thus

[1] A matter we have taken up elsewhere and don't propose to deal with in this submission

for a firm project, where market revenues are higher due to the compensation, the top-up is less by the same amount. In effect, the compensation received from the consumer is returned to the consumer.

So in effect, where REFIT is triggered, there is no difference in the payments received by a supplier as between firm and non-firm projects. Now that suppliers have realised this error, they have started to withdraw any compensation payments from generators.

It is thus of absolutely no value for wind-farms to become firm, and much of the effort we have all engaged in as regards firm access has been nullified.

As indicated at the start, we believe this is simply an error in the formula used. We would therefore ask the CER to review the formula without delay, in conjunction with DCENR, and to:

1. Correct the formula, so that suppliers, and thereby projects, see the benefit of being firm;

2. Revise the current Draft PSO Levy accordingly;

3. Review past payments and do a retrospective correction.

Yours truly,

Thomas W. Cooke

Thomas Cooke, Chairman