Information Paper
on proposed modifications to Generation and Supply licences, necessitated to implement the Integrated Single Electricity Market (I-SEM)

Reference: CER/17/111  
Date Published: 02/06/2017  
Closing Date: 04/07/2017
Executive Summary

The Integrated Single Electricity Market (I-SEM) is due to go-live on 23 May 2018 and aims to maximise the efficient use of interconnection and facilitate greater cross-border electricity trade through day-ahead and intra-day market coupling. The I-SEM project spans the wholesale electricity markets in Ireland and Northern Ireland. The Commission for Energy Regulation (CER) in Ireland and the Utility Regulator (UR) in Northern Ireland, also referred to as the Regulatory Authorities (RAs), have been working alongside EirGrid Plc and SONI Ltd to develop the I-SEM, under the governance of the SEM Committee (SEMC).

In order to give effect to the I-SEM, as contained in decisions of the SEM Committee, a number of modifications are necessary to the Generation and Supply Licences, Market Operator (MO) Licence, Transmission System Operator (TSO) Licence, as well as Interconnector licences in Ireland and Northern Ireland. Such modifications consist of changes to existing licence conditions as well as the introduction of new licence conditions.

This paper details proposed modifications to the following categories of licences:

- Electricity Supply Licences, granted by the CER pursuant to Section 14 (1) (b) of the Electricity Regulation Act, 1999 (the Act)
- Public Electricity Supply (PES) Licence granted to ESB Electric Ireland pursuant to Section 14 (1) (h) of the Act
- Generation Licences granted to Generators with an installed capacity exceeding 10MW, pursuant to Section 14 (1) (a) of the Act
- Generation Licence granted to ESB pursuant to Section 14 (1) (a) of the Act
- Terms and Conditions for Generators with an installed capacity of less than 10MW and over 1MW, licensed by Order pursuant to S.I. 384 of 2008. For ease of reference, this class of generators will be referred to throughout this paper as "Generators under 10MW"

A similar process for licence modifications is being conducted by the Utility Regulator in Northern Ireland. Modification to other licences, such as EirGrid MO and TSO Licences, are being dealt with in other I-SEM papers¹.

¹ Information related to modifications to EirGrid MO and TSO Licences and the new wholesale arrangements in the Single Electricity Market may be found at www.cer.ie and www.semcommittee.com.
A summary of the proposed modifications to the aforementioned categories of licences is presented below. Further details regarding the nature of and reasons for each modification are outlined in Sections 3, 4, 5 and 6.

**SUMMARY OF PROPOSED MODIFICATIONS TO THE ELECTRICITY SUPPLY LICENCES AND THE PUBLIC ELECTRICITY SUPPLY LICENCE**

<table>
<thead>
<tr>
<th>Condition</th>
<th>Summary of proposed modification and supporting rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Condition</strong>&lt;br&gt; Balancing Market Principles Code of Practice</td>
<td>New condition requiring the licence holder (where it is operating as a Demand Side Unit) to comply with the Balancing Market Principles Code of Practice in formulating and submitting Commercial Offer Data to the Single Market Operation Business. The proposed modification is required to implement the SEM Committee decisions on suppliers, operating as Demand Side Units, in relation to the Balancing Market Principles Code of Practice.</td>
</tr>
<tr>
<td><strong>New Condition</strong>&lt;br&gt; Capacity Market Code</td>
<td>New condition requiring licence holders to sign up to and comply with the Capacity Market Code insofar as applicable to them. Insofar as licence holders have obligations under the Capacity Market Code e.g. offering demand side response, it is important that they are subject to a licence condition to comply with the terms of code.</td>
</tr>
<tr>
<td><strong>Existing condition</strong>&lt;br&gt; Interpretation and Construction</td>
<td>Delete the definition of the term “Trading and Settlement Code”. The definition is no longer required as this code has been replaced by the Single Electricity Market Trading and Settlement Code.</td>
</tr>
<tr>
<td><strong>Existing condition</strong>&lt;br&gt; Intermediaries</td>
<td>Amend paragraph 1(a) and the definition of Intermediary to include reference to the Capacity Market Code. Include a new paragraph 2 to provide for the coming into effect of the amendments to this condition. In I-SEM, it will be possible for licence holders to act as an Intermediary (in respect of generation units) under both the Capacity Market Code and the Single Electricity Market Trading and Settlement Code. As such, it is necessary to expand the scope of the condition to oblige licence holders to comply with the Capacity Market Code (as well as the TSC) in their capacity as Intermediary.</td>
</tr>
<tr>
<td><strong>Existing condition</strong>&lt;br&gt; Cost Reflective Bidding in the Single Electricity Market</td>
<td>Introduce a new provision to allow the Commission to “turn off” this condition from a date determined by it (being the same date on which the new proposed BMPCOP condition will take effect).</td>
</tr>
</tbody>
</table>
## SUMMARY OF PROPOSED MODIFICATIONS TO THE GENERATION LICENCES AND THE ESB GENERATION LICENCE

<table>
<thead>
<tr>
<th>Condition</th>
<th>Summary of proposed modification and supporting rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Condition</strong></td>
<td></td>
</tr>
<tr>
<td>Balancing Market Principles Code of Practice</td>
<td>New condition requiring the licence holder to comply with the Balancing Market Principles Code of Practice in formulating and submitting Commercial Offer Data to the Single Market Operation Business in the Balancing Market. The proposed modification is required to implement the SEM Committee decision to establish a generic licence condition to require generation licence holders to comply with the Balancing Market Principles Code of Practice.</td>
</tr>
<tr>
<td><strong>New Condition</strong></td>
<td></td>
</tr>
<tr>
<td>Capacity Market Code</td>
<td>New condition requiring licence holders, or their Intermediaries, to sign up to and comply with the Capacity Market Code insofar as applicable to them. Insofar as licence holders have obligations under the Capacity Market Code, it is important that they are subject to a licence condition to comply with the code.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td></td>
</tr>
<tr>
<td>Interpretation and Construction</td>
<td>Delete the definition of the term &quot;Trading and Settlement Code&quot;. The definition is no longer required as this code has been replaced by the Single Electricity Market Trading and Settlement Code.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td></td>
</tr>
<tr>
<td>Trading and Settlement Codes</td>
<td>Amend the title of the condition to “Single Electricity Market Trading and Settlement Code” and delete paragraph 1 of the Condition which obliges the licence holder to comply with the “Trading and Settlement Code”. The proposed modifications to this condition are to reflect the fact that the Trading and Settlement Code has been replaced by the Single Electricity Market Trading and Settlement Code.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td></td>
</tr>
<tr>
<td>Cost Reflective Bidding in the Single Electricity Market</td>
<td>Modification of the condition to allow the Commission to “turn off” this condition at a date and time determined by it (being the same point in time as the new condition “Balancing Market Principles Code of Practice” will become effective).</td>
</tr>
</tbody>
</table>
The proposed modifications are reflected in annexes to this paper, as follows:

<table>
<thead>
<tr>
<th>Proposed modifications to the Electricity Supply Licences and the PES Licence</th>
<th>Annex 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposed modifications to the Generation Licences</td>
<td>Annex 2</td>
</tr>
<tr>
<td>Proposed modifications to the Terms and Conditions for Generators with an installed capacity of under 10MW and over 1MW</td>
<td>Annex 3</td>
</tr>
</tbody>
</table>

Pursuant to Section 20 of the Electricity Regulation Act 1999 (as amended) (the Act), the CER has now published notices stating that it proposes to make a number of further licence modifications to the Generation Licences (including the ESB Generation Licence), Supply Licences (including the Public Electricity Supply Licence) and the Terms and Conditions for Generators under 10MW required to facilitate the implementation of the I-SEM. The notices outline the nature of and reasons for the proposed modifications and provide a period of not less than 28 days to allow for representations and objections to the CER with respect to these proposed licence modifications. This information paper is published in order to provide background information and supporting rationale for the proposed licence modifications set out in the notices.

In reaching its decision, the CER will consider all representations or objections received regarding the proposed licence modifications. Details of how to submit responses to the proposed modifications can be found in this paper and the notices published in accordance with the statutory licence modification process.
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Impact Statement

In order to give effect to the Integrated Single Electricity Market, and implement SEM Committee policy decisions, the CER issues an Information Paper on proposed modifications to the Electricity Supply Licences, the Public Electricity Supply Licence, the Generation Licences and the Terms and Conditions of Supply for Generators under 10MW.

This document is most likely to be of interest to holders of electricity supply licences, generation licences, Generators licensed by Order pursuant to S.I. 384 of 2008, as well as other market participants.

Glossary of Terms and Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>BMPCOP</td>
<td>Balancing Market Principles Code of Practice</td>
</tr>
<tr>
<td>CER</td>
<td>Commission for Energy Regulation (Ireland)</td>
</tr>
<tr>
<td>CMC</td>
<td>Capacity Market Code</td>
</tr>
<tr>
<td>DSO</td>
<td>Distribution System Operator</td>
</tr>
<tr>
<td>EAI</td>
<td>Electricity Association of Ireland</td>
</tr>
<tr>
<td>ESB</td>
<td>Electricity Supply Board</td>
</tr>
<tr>
<td>ETA</td>
<td>Electricity Trading Arrangements</td>
</tr>
<tr>
<td>EU</td>
<td>European Union</td>
</tr>
<tr>
<td>HLD</td>
<td>High Level Design</td>
</tr>
<tr>
<td>I-SEM</td>
<td>Integrated Single Electricity Market</td>
</tr>
<tr>
<td>IWEA</td>
<td>Irish Wind Energy Association</td>
</tr>
<tr>
<td>IWFA</td>
<td>Irish Wind Farmers’ Association</td>
</tr>
<tr>
<td>MO</td>
<td>Market Operator</td>
</tr>
<tr>
<td>MW</td>
<td>Mega Watt</td>
</tr>
<tr>
<td>NEMO</td>
<td>Nominated Electricity Market Operator</td>
</tr>
<tr>
<td>PES</td>
<td>Public Electricity Supplier</td>
</tr>
<tr>
<td>RA</td>
<td>Regulatory Authority</td>
</tr>
<tr>
<td>SEM</td>
<td>Single Electricity Market</td>
</tr>
<tr>
<td>SEMC</td>
<td>Single Electricity Market Committee</td>
</tr>
<tr>
<td>TSC</td>
<td>Trading and Settlement Code</td>
</tr>
<tr>
<td>TSO</td>
<td>Transmission System Operator</td>
</tr>
<tr>
<td>UR</td>
<td>Utility Regulator (Northern Ireland)</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

1.1. Background

The Integrated Single Electricity Market (I-SEM) is due to go-live on 23 May 2018 and aims to maximise the efficient use of interconnection and facilitate greater cross-border electricity trade through day-ahead and intra-day market coupling. The Commission for Energy Regulation (CER) in Ireland and the Utility Regulator (UR) in Northern Ireland, also referred to as the Regulatory Authorities (RAs), have been working alongside EirGrid Plc and SONI Ltd to develop the I-SEM, under the governance of the SEM Committee (SEMC). The SEM Committee has published policy papers on key issues related to the implementation of I-SEM, including:

- I-SEM roles and responsibilities;
- Energy Trading Arrangements;
- Capacity Remuneration Mechanism;
- Market Power;
- Financial Transmission Rights;

SEM Committee papers relevant to these areas, together with other I-SEM related papers, can be found on the SEM Committee website https://www.semcommittee.com/. Information on the CER’s role and relevant legislation can be found on the CER’s website at www.cer.ie.

The implementation of SEM Committee policy decisions is effected via proposed modifications to various licences (including Supply and Generation licences), new or amended market rules (including the Trading and Settlement Code, the NEMO Exchange Rules and the Capacity Market Code) and other means overseen by the RAs and reflected in new compliance requirements.

In order to implement the required licence modifications, a dedicated licensing team was established within the RAs in 2015. The licensing team commenced the licence modifications process in 2016 and, to date, two sets of licence modifications for TSO and MO licences have been completed. This paper details proposed modifications to the Generation and Supply Licences and the Terms and Condition for Generators under 10MW in Ireland. A similar licence modifications process in respect of Generation and Supply Licences is being conducted by the Utility Regulator in Northern Ireland.
1.2. Document Structure
This Information Paper is structured as follows:

- Section 1.3 describes the statutory licence modifications process followed by the CER and the approach to licence holders’ engagement when developing the licence modifications.
- Section 1.4 explains how interested parties can submit representations or objections to the proposed modifications to the Generation and Supply Licences and Terms and Conditions for Generators under 10MW.
- Section 2 provides background on the current SEM arrangements and information on the European requirements for market reform leading to the development and implementation of the I-SEM.
- Section 3 represents an introductory part to the proposed modifications and provides information related to the scope and nature of and reasons for the proposed modifications, together with a summary of same for each category of licences.
- Section 4 includes proposed modifications to the Electricity Supply Licences including the Public Electricity Supply Licence.
- Section 5 includes proposed modifications to the Generation Licences, including the Generation Licences granted to ESB.
- Section 6 includes proposed modifications to the Terms and Conditions for Generators under 10MW.
- Section 7 (Next Steps) provides information on key dates concerning the statutory licence modification process.

1.3. Process for licence modifications
The licence modification process being carried out in parallel in Ireland and Northern Ireland is subject to the respective statutory requirements in each jurisdiction. In Ireland, the legal basis for the proposed licence modifications is set out in Section 20 of the Act and in Northern Ireland is set out in Article 14 of the Northern Ireland Electricity Order 1992 (NI Order).

The respective statutory provisions determine the procedures that must be followed in relation to the proposed licence modifications in each jurisdiction, including the timeline within which representations or objections can be made.

Pursuant to Section 20 of the Act, the CER is required to publish a notice stating that it proposes to make a number of licence modifications to the Generation and Supply licences,
together with the nature of and reasons for such modifications. The notice must provide for a period of minimum 28 days for submission of objections or representations with respect to the proposed modifications. The CER duly published a notice in the Irish Times today, 2 June 2017.

As set out in the notice, representations or objections are due before 4 July 2017. For the avoidance of doubt in the event of conflict between the terms of this Information Paper and the terms of the notice, the latter will take precedence.

The statutory process underway in Ireland will run in parallel with the corresponding statutory process in Northern Ireland which is being led by the Utility Regulator. While not an exact mirror of each other, the effect of the proposed licence modifications in both jurisdictions is generally the same. Pursuant to Section 20(9) of the Act, as the modifications relate to the Single Electricity Market, the CER shall have due regard to the desirability of similar modifications (including similar modifications in Northern Ireland) having effect at the same time. This is reflected in the relevant ‘switch on’ provisions that are contained in a number of the licence modifications as these provisions will enable both RAs to co-ordinate bringing those conditions into substantive effect in both jurisdictions at the same time.

1.3.1. Pre-consultation engagement with Generation and Supply Licence Holders

Completing the licence modifications process within required timelines is vital for the delivery of multiple milestones pertaining to the ISEM project. Furthermore, in the interest of transparency and in line with best regulatory practice, we consider it important to give licence holders ample notification of any licence modification which we intend to make and offer the opportunity for engagement on such proposals. Therefore, the ISEM Licensing team commenced engagement with licence holders (including Generators under 10MW) regarding the upcoming modifications prior to the commencement of the formal consultation process. The main reason for this approach was two-fold:

- To provide licence holders with ample opportunity to clarify understanding of proposed modifications and the licence modification procedure, and;
- To ensure that, insofar as possible, all licence holders are aware of upcoming licence modifications

The pre-consultation engagement process took place during February and March and consisted of meetings and information sessions with licence holders and industry
representatives, such as EAI, IWFA and IWEA. High level informative documents were also published on the CER and SEMC websites. The Utility Regulator in Northern Ireland followed a similar approach.

This publication of the statutory notice by the CER today presents a further opportunity not only for licence holders but also for other interested stakeholders to submit representations or objections on the proposed modifications. All representations and objections received in respect of the notices will be considered before we reach our decision on each of the proposed modifications.

1.4. Submission of representations or objections to the proposed modifications to Generation and Supply Licences

Any representations or objections regarding the published notice should be notified to the CER in accordance with the guidelines set out in this section. The notices published in the Irish Times contain details on the nature of and the reasons for the proposed modifications to Generation Licences, Supply Licences and the PES Licence. The notice in respect of proposed modifications to the Generation Licence covers Generators under 10MW, which are licensed by Order pursuant to S.I. 384 of 2008.

As stated in Section 1.3, the permitted minimum timeframe for the submission of objections or representations with respect to the proposed modifications is minimum 28 days from the date of the publication of the statutory notices by the CER in the Irish Times and Belfast Gazette. As set out in the notices, representations or objections are due before 4 July 2017.

The CER has set up a mail box to receive all such representations or objections, as detailed below: isemlicences@cer.ie. Respondents can also send submissions by post to: The I-SEM Licensing Team, Commission for Energy Regulation, The Exchange, Belgard Square North, Tallaght, Dublin 24.

The CER will give consideration to all representations or objections made during this period and will follow the statutory procedure prescribed in sections 19-22 of the Act as regards its subsequent decision making.
1.5. Related documents

- Below are the most recent documents reflecting SEM Committee policy decisions. Further information regarding recent developments in the SEM and SEM Committee policies are contained in the following websites www.semcommittee.com, www.cer.ie, www.uregni.gov.uk.
- Decision on Modifications to the EirGrid Market Operator Licence and EirGrid Transmission System Operator Licence, necessitated to implement the Integrated Single Electricity Market (CER/16/171);
- Decision on Modifications to EirGrid Market Operator Licence and Transmission System Operator Licence, necessitated to implement the Integrated Single Electricity Market (CER/17/036);
- Consultation Paper Offers in the I-SEM Balancing Market (SEM-16-059)
- Decision on Complex Bid Offer Controls in the I-SEM Balancing Market (SEM-17-020);
- BMPS Terms of Reference Decision Paper (SEM-16-058);
- Consultation on I-SEM Balancing Market Principles Code of Practice (SEM-17-026);
- Decision Paper Complex Bid Offer Controls in the I-SEM Balancing Market
- Decision on I-SEM Trading and Settlement Code Amendments Decision Paper (SEM-17-024)
- Consultation Paper CRM CMC (SEM-17-004)
- Decision Paper CRM CMC (SEM-17-033)
2. SUMMARY OF CURRENT DEVELOPMENTS IN THE SINGLE ELECTRICITY MARKET (SEM)

The Single Electricity Market (SEM) for the Island of Ireland went live on 1 November 2007. It consists of a centralised and mandatory all-island wholesale pool market through which generators and suppliers from Ireland and Northern Ireland trade electricity.

The all-island SEM is regulated jointly by the CER in Ireland and the UR in Northern Ireland. The European Union (EU) is building an internal market for electricity and gas to help deliver energy supplies that are affordable, secure and sustainable. This is underpinned by the implementation of the EU Target Model arising from the EU's Third Energy Package. The Third Package of European energy reforms created a new legal framework to promote cross-border trade, in response to the European Commission's inquiry into competition in electricity and gas markets published in January 2007. The inquiry found that there was insufficient integration between Member States’ markets and highlighted a number of issues. These included the fact that insufficient or unavailable cross-border transmission capacity and different market designs were hampering integration. In order to rectify this, a number of legally binding network codes and guidelines have been and are being established. These network codes and guidelines are designed to promote the creation of liquid markets, the efficient use of cross-border transmission capacity and the integration between Member States’ gas and electricity markets.

These EU legislative requirements take legal precedence over existing domestic legislation. Therefore, in order to ensure alignment with the EU Target Model, the SEMC is committed to implementing what has been commonly referred to as the Integrated Single Electricity Market or “I-SEM” on the island of Ireland. Implementing I-SEM requires the existing legal and regulatory framework and industry processes to be modified.

It is expected that the I-SEM will fully facilitate coupling with the electricity markets in the rest of Europe. The I-SEM will update and, in some respects, replace the current SEM arrangements and will:

- introduce Day-Ahead and Intra-Day trading through designated Nominated Electricity Market Operators (NEMOs) in each jurisdiction;

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2 http://ec.europa.eu/competition/sectors/energy/inquiry/index.html
• introduce a new Balancing Market through which the TSOs will accept offers and bids from participants to move away from their traded position in order to balance generation and demand on a minute by minute basis;
• introduce a new Capacity Remuneration Mechanism which will include the introduction of a new Capacity Market Code; and
• introduce the necessary changes to the Grid Codes and other impacted SEM regulatory arrangements.

On 17 September 2014, the SEMC published its decision on the High Level Design for the I-SEM (SEM-14-085a), which was driven by the EU Target Model. Since then, the I-SEM project has entered a ‘design and implementation’ phase. In order to ensure effective implementation, amendments to existing legislation, and modifications to licences, codes and possibly other rules are required in Ireland and Northern Ireland.

On 23 February 2016, the SEMC published an ‘Information Note on the I-SEM Regulatory Framework’ (SEM-16-007). The aim of that paper was to:
• provide clarity on the overarching regulatory framework, comprising legislation, licence changes and market rules which will implement the market design referred to as I-SEM;
• provide insight on the provisional timeline and proposed consultation process regarding licence changes and the introduction of revised (and new) market rules; and
• provide initial thinking on NEMO regulation and enforcement.

Further key current SEM arrangements / developments are provided for in the following documents: We ask readers to note that the list is not exclusive.
• legislation (the Single Electricity Market Act 2007 in Ireland and the Single Electricity Market (Northern Ireland) Order 2007 in Northern Ireland, the Energy Act, 2016);
• S.I. 117 / 2017
• licences for generators, suppliers, Transmission System Operators (TSOs), Distribution System Operators (DSOs), Market Operators (MOs) and Interconnectors in Ireland and Northern Ireland;
• a suite of arrangements (set out primarily in the SEM Trading and Settlement Code, Bidding Codes of Practice, Grid Codes and Metering Codes, the Capacity Market Code);
• decision papers published by the SEM Committee and the RAs, which can be found on www.semcommitee.com, www.cer.ie and www.uregni.gov.uk.
3. OVERVIEW OF PROPOSED MODIFICATIONS

The Regulatory Authorities (RA’s) have collaboratively reviewed the detail of the Generation and Supply licences and the decisions of the SEMC related to the implementation of the I-SEM in order to determine whether modifications to the conditions of these licences are needed to give effect to those decisions. Separate proposed modifications have been published for Generation and Supply licences by the UR in Northern Ireland. Due to jurisdiction specific differences, the CER has conducted a separate review of the ESB Generation and PES licence and the Terms and Conditions for Generators with an installed capacity not exceeding 10MW, which are licensed by Order pursuant to S.I. No. 384 of 2008.

The RA’s approach to licence modifications is to focus predominantly on those modifications which are required to facilitate new wholesale market arrangements in the Single Electricity Market. The proposed modifications are to give effect to the SEM Committee decisions on the I-SEM, with one additional modification proposed (in relation to the Trading and Settlement Code) for clarity.

The proposed modifications are outlined in the next three subsections. Proposed modifications to the Supply Licences and the PES Licence are included in section 4. Given that the proposed modifications impact on the conditions which are common between the Electricity Supply Licences and the PES Licence, the same supporting reasoning is put forward in respect of proposed modifications for both types of licence. The proposed modifications are reflected in Annex 1.

Proposed modifications for the Generation Licence, including the Generation licence granted to ESB, are described in Section 5. The modifications proposed for the Generation Licences are also proposed in respect of the ESB Generation licence. Given that the proposed modifications impact on the conditions which are common between these two types of licence, the same supporting reasoning is put forward in respect of the proposed modifications of each. The proposed modifications are reflected in Annex 2.

The proposed modifications for Generators with an installed capacity of under 10MW and over 1MW are summarised in Section 6. This category of generators are licenced by Order according to S.I. 384 of 2008, which also sets out the Terms and Conditions that this category of Generators must comply with. Proposed modifications to the Terms and Conditions for Generators under 10MW are reflected in Annex 3.
A summary of the proposed modifications, together with the nature of and reason for same, are contained in the tables below and reflected in Annexes 1, 2 and 3. Readers are asked to refer to the annexes to ascertain the full extent of the proposed modifications.

Table 1.0. Summary of proposed modifications in respect of the Electricity Supply Licence and the Public Electricity Supply Licence

<table>
<thead>
<tr>
<th>Condition</th>
<th>Nature of proposed modification</th>
<th>Reason(s) for proposed modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Condition</strong> 19a³</td>
<td>Introduce a new condition requiring the licence holder (where it is operating as a Demand Side Unit) to comply with the Balancing Market Principles Code of Practice in formulating and submitting Commercial Offer Data to the Single Market Operation Business. The Commission will publish the BMPCOP and will make provision to secure that Commercial Offer Data are cost reflective. The Commission will also have powers to issue directions and request explanations from licensees. The Licensee will be obliged to retain records for a period of four years and will be required to provide annual certifications to the Commission that it has acted independently.</td>
<td>The proposed modification is required to implement the SEM Committee decisions on suppliers, operating as Demand Side Units, in relation to the Balancing Market Principles Code of Practice.</td>
</tr>
<tr>
<td><strong>New Condition</strong> 23⁴</td>
<td>Introduce a new condition requiring licence holders to sign up to and comply with the Capacity Market Code insofar as applicable to them.</td>
<td>Insofar as licence holders have obligations under the Capacity Market Code e.g. offering demand side response, it is important that they are subject to a licence</td>
</tr>
</tbody>
</table>

³ This number corresponds to the condition in the Electricity Supply Licence. See Table 1.1 for the number of the corresponding condition in the Public Electricity Supply Licence

⁴ Idem 3
<table>
<thead>
<tr>
<th>Existing condition</th>
<th>Delete the definition of the term “Trading and Settlement Code”</th>
<th>The definition is no longer required as this code has been replaced by the Single Electricity Market Trading and Settlement Code. As such, the term is now redundant.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section B Conditions to Apply from SEM Go Live Condition 15 Interpretation and Construction</td>
<td>Amend paragraph 1(a) and the definition of Intermediary to include reference to the Capacity Market Code. Include a new paragraph (paragraph 2) to provide for the coming into effect of the amendments to this condition.</td>
<td>In I-SEM, it will be possible for licence holders to act as an Intermediary (in respect of generation units) under both the Capacity Market Code and the Single Electricity Market Trading and Settlement Code. As such, it is necessary to expand the scope of the condition to oblige licence holders to comply with the Capacity Market Code (as well as the TSC) in their capacity as Intermediary.</td>
</tr>
<tr>
<td>Condition 19 7 Cost Reflective Bidding in the Single Electricity Market</td>
<td>Introduce a new provision (paragraph 11) to allow the Commission to “turn off” this condition from a date determined by it (being the same date on which the new proposed BMPCOP condition will take effect).</td>
<td>The proposed modification is required to enable the Commission to turn off this condition at the relevant point in time when the new proposed condition, Condition 19a (Balancing Market Principles Code of Practice) is to take effect.</td>
</tr>
</tbody>
</table>

5 Idem 3  
6 Idem 3  
7 Idem 3
The table below indicates the corresponding conditions from the PES Licence:

**Table 1.1.**

<table>
<thead>
<tr>
<th>Condition in the Electricity Supply Licence</th>
<th>Condition in the PES Licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Condition 19a Balancing Market Principles Code of Practice</td>
<td>Condition 25a Balancing Market Principles Code of Practice</td>
</tr>
<tr>
<td>Condition 23 Capacity Market Code</td>
<td>Condition 28 Capacity Market Code</td>
</tr>
<tr>
<td>Section B Condition 1: Interpretation and Construction</td>
<td>Section C Condition 1: Interpretation and Construction</td>
</tr>
<tr>
<td>Condition 13: Intermediaries</td>
<td>Condition 19: Intermediaries</td>
</tr>
</tbody>
</table>
Table 2.0. Summary of proposed modifications in respect of the Generation Licence and the Generation Licence granted to ESB

<table>
<thead>
<tr>
<th>Condition</th>
<th>Nature of proposed modification</th>
<th>Reason(s) for proposed modifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>New</td>
<td>Introduce a new condition requiring the licence holder to comply with the Balancing Market Principles Code of Practice (BMPCOP) in formulating and submitting Commercial Offer Data to the Single Market Operation Business in the Balancing Market. The Commission will publish the BMPCOP and it will make provision to secure that Commercial Offer Data are cost reflective. The Commission will also have powers to issue directions and request explanations from licensees. Licensees will be obliged to retain records for a period of four years and will be required to provide annual certifications to the Commission that it has acted independently.</td>
<td>The proposed modification is required to implement the SEM Committee decision to establish a generic licence condition to require generation licence holders to comply with the Balancing Market Principles Code of Practice Decision Paper “Complex Bid Offer Controls in the I-SEM Balancing Market” (SEM-17-020).</td>
</tr>
<tr>
<td>New</td>
<td>Introduce a new condition requiring licence holders to sign up to and comply with the Capacity Market Code insofar as applicable to them. If any of the licence holder’s generation units have been registered by an Intermediary, the licence holder will be obliged to ensure that the Intermediary will comply with the</td>
<td>Insofar as licence holders have obligations under the Capacity Market Code, it is important that they are subject to a licence condition to comply with the code.</td>
</tr>
</tbody>
</table>

8 This number corresponds to the condition in the Generation Licence. See Table 2.1 for the number of the corresponding condition in the ESB Generation Licence

9 Idem 8
<table>
<thead>
<tr>
<th><strong>Existing condition</strong></th>
<th>Code in relation to those generation units.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing condition</strong></td>
<td>Delete the definition of the term &quot;Trading and Settlement Code&quot;.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td>The definition is no longer required as this code has been replaced by the Single Electricity Market Trading and Settlement Code. As such, the term is now redundant.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td>Amend the title of the condition to &quot;Single Electricity Market Trading and Settlement Code&quot; and delete paragraph 1 of the Condition which obliges the licence holder to comply with the “Trading and Settlement Code”.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td>The proposed modifications to this condition are to reflect the fact that the Trading and Settlement Code has been replaced by the Single Electricity Market Trading and Settlement Code and as such, the condition no longer needs to refer to the (now defunct) Trading and Settlement Code.</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td>Modification of the condition to allow the Commission to “turn off” this condition at a date and time determined by it (being the same point in time as the proposed new condition 15a will become effective)</td>
</tr>
<tr>
<td><strong>Existing condition</strong></td>
<td>The proposed modification is required to enable the Commission to turn off the condition at the relevant point in time when the new proposed condition, Condition 15a Balancing Market Principles Code of Practice will come into effect.</td>
</tr>
</tbody>
</table>

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10 Idem 8
11 Idem 8
12 Idem 8
The table below indicates the corresponding conditions in the ESB Generation Licence

**Table 2.1**

<table>
<thead>
<tr>
<th>New/Modified</th>
<th>Condition in the generic Generation Licence</th>
<th>Condition in the ESB Generation Licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>New</td>
<td>Condition 15a Balancing Market Principles Code of Practice</td>
<td>Condition 17a Balancing Market Principles Code of Practice</td>
</tr>
<tr>
<td>New</td>
<td>Condition 20 Capacity Market Code</td>
<td>Condition 23 Capacity Market Code</td>
</tr>
<tr>
<td>Modified</td>
<td>Section C Condition 1 Interpretation and construction</td>
<td>Section C Condition 1 Interpretation and construction</td>
</tr>
<tr>
<td>Modified</td>
<td>Condition 14 Trading and Settlement Code</td>
<td>Condition 16 Trading and Settlement Code</td>
</tr>
<tr>
<td>Modified</td>
<td>Condition 15 Cost-Reflective Bidding in the Single Electricity Market</td>
<td>Condition 17 Cost-Reflective Bidding in the Single Electricity Market</td>
</tr>
</tbody>
</table>

**Table 3.0. Summary of proposed modifications in respect of the Terms and Conditions for Generators with an installed capacity of under 10MW and over 1MW**

<table>
<thead>
<tr>
<th>New/Modified</th>
<th>Condition</th>
<th>Indicative Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>New</td>
<td>Condition 10a Balancing Market Principles Code of Practice</td>
<td>New condition which will obligate the generator to comply with the Balancing Market Principles Code of Practice when formulating and submitting Commercial Offer Data to the Single Market Operation Business.</td>
</tr>
<tr>
<td>New</td>
<td>Condition 13 Capacity Market Code</td>
<td>New condition which will obligate the generator to comply with the Capacity Market Code, insofar as applicable to it.</td>
</tr>
<tr>
<td>Modified</td>
<td>Condition 10 Cost-Reflective Bidding in the Single Electricity Market</td>
<td>Proposal to include a new provision stating that this condition will cease to have effect at a date determined by the CER. The new BMPCOP condition is to replace this condition.</td>
</tr>
</tbody>
</table>
4. PROPOSED MODIFICATIONS TO THE ELECTRICITY SUPPLY LICENCES AND THE PES LICENCE

4.1. Legislation
Section 14(1) (b) of the Act provides the legal basis for the CER to license supply of electricity in Ireland. Pursuant to this Section, the CER grants, or refuses to grant, an electricity supply licence to persons who wish to supply electricity to eligible customers. Persons who wish to obtain an electricity supply licence must submit an application to the CER. The PES licence is granted by the CER pursuant to Section 14(h) of the Act. The role of the PES is currently held by ESB Electric Ireland.

4.2. Proposed new licence conditions
In order to give effect to the SEM Committee decisions and facilitate the implementation of the I-SEM, the CER is of the view that new conditions are required to be included in the Supply Licences and the PES Licence. These are outlined in the next paragraphs, together with the supporting reasoning.

4.2.1. Balancing Market Principles Code of Practice

Nature of modification
This proposed licence condition will obligate the licensee (where it is operating as a Demand Side Unit) to comply with the Balancing Market Principles Code of Practice (BMPCOP) when formulating and submitting Commercial Offer Data (COD) in the Balancing Market.

The proposed condition will empower the CER (acting jointly with the UR if it elects) to publish the BMPCOP and amend it following consultation. It also provides that the BMPCOP will (a) apply only to those categories of COD which are specified in it from time to time and (b) make such provision as appears requisite to the CER to ensure such data are cost reflective. The condition will also give the CER power to issue directions to licensees to secure compliance with the licence condition and the BMPCOP.

Obligations imposed on licensees under this condition include:

i) retaining records regarding the COD (including supporting data) for a period of four years and providing the CER with explanations of its calculations as regards COD and their consistency with obligations under the condition and the code;
ii) immediately informing the CER of any case where the COD it submits is inconsistent with its obligations and provide a statement of reasons; and

iii) providing an annual certificate by 1 June (signed by at least one director) to confirm that during the 12 month period ending on the preceding 31 March that it has acted independently in relation to all submissions of COD and no submissions have been co-ordinated with any other submissions made by another party to the TSC.

**Proposed formulation of the condition**
The proposed formulation of the “Balancing Market Principles Code of Practice” condition is included in Annex 1(a).

**Background and supporting reasoning**
The current policy underpinning the market power mitigation strategy in the Single Electricity Market is partially based on bidding principles for generators, including a Bidding Code of Practice (BPCOP), in terms of which generators are required, inter alia, to bid cost reflectively. The latest version of the BPCOP was published in 2014 (SEM-14-019).

The I-SEM Power Mitigation Decision Paper (SEM-16-024) confirmed, inter alia, that the wording of the existing bidding principles will be considered by the SEM Committee prior to the introduction of a relevant licence condition, which will be required to facilitate compliance with the principles.

In October 2016, the SEM Committee published a Consultation Paper “Offers in the I-SEM Balancing Market” (SEM-16-059), which proposed the development of a generic generator licence condition which would require, inter alia, generators to comply with the I-SEM BMPCOP document. The paper also proposed that the licence condition would not define what cost items should be included within a generator’s complex bid offer, nor contain a definition of SRMC. As part of its rationale, the Consultation Paper stated that “such an approach would provide greater clarity, flexibility, and detail to generators and other relevant market participants regarding the application of the BMPCOP document in I-SEM”. Two licence conditions were published for consultation, one in respect of each option for applying ex ante bidding controls to complex bid offer data in the I-SEM Balancing Market, as well as a draft of the BMPCOP document that would be required under Option 1.
In considering responses received, the SEM Committee noted that “its proposal to create a
generic licence condition and transfer content (e.g. definition of SRMC) from the existing “Cost
Reflective Bidding in the Single Electricity Market” licence condition is consistent with previous
SEM Committee communications to stakeholders regarding I-SEM” and that “the transfer of
content from the “Cost Reflective Bidding in the Single Electricity Market” licence condition
necessary to facilitate the creation of a dynamic BMPCOP document for I-SEM that can give
greater clarity to industry regarding eligible costs [ ]”. The SEM Committee provides further
rationale for its decision by noting that its proposal will ensure that, in the future, “doubts as
to the meaning or application of the BMPCOP can be definitively resolved by the SEM
Committee and recorded in the BMPCOP document, which would be updated by the SEM
Committee to reflect particular circumstances following the appropriate consultation process”.
In this way, the SEM Committee “considers it reasonable and prudent to have a framework
that allows timely amendments to any future BMPCOP document should potential deficiencies
arise or need for changes be identified”.

Having considered responses received, the SEM Committee published a Decision Paper
“Complex Bid Offer Controls in the I-SEM Balancing Market” (SEM-17-020), notifying
stakeholders, inter alia, of its decision to establish a generic licence condition to require
Generation Licence holders to comply with the BMPCOP: “Taking account of respondents’
comments, the SEM Committee is satisfied with its proposal to establish a generic generator
licence condition, which would require, inter-alia, generators to comply with the I-SEM
BMPCOP document”. The Decision Paper further confirmed that “By implementing an
amended version of Option 1, the SEM Committee is also approving the governance approach
evisaged in the Consultation Paper in terms of which the new licence condition would
prescribe fewer matters than the existing “Cost Reflective Bidding in the Single Electricity
Market” generation licence condition and more matters (e.g. a revised definition of SRMC)
being included in a new Balancing Market Principles Code of Practice (BMPCOP) document
for I-SEM”. The SEM Committee further stated that the RAs would “separately consult on the
details of new licence condition”. The proposed condition mirrors the draft condition published
in SEM-16-059 in respect of Option 1.

The CER notes that the SEM Committee’s policy decision refers to a generic ‘‘generator
licence condition’’. Currently the Electricity Supply Licence includes a cost–reflective bidding
condition\textsuperscript{13}, which applies to Licence holders “where the Licensee operates in the Single

\textsuperscript{13} Condition 19 Cost Reflective Bidding in the Single Electricity Market
Electricity Market as a Demand Side Unit”. In this capacity, Licence holders are subject to the same obligations that are placed on Generators through Condition 15\textsuperscript{14} of the Generation Licence. Therefore, the CER is of the view that the proposed modification needs to be reflected in the Electricity Supply Licence.

4.2.2. Capacity Market Code

Nature of the modification

The proposed condition obligates the licence holder to be party to and comply with the Capacity Market Code insofar as applicable to it. Whilst the licence condition is to be incorporated into all supply licences, in practical terms in the context of electricity suppliers, the obligations to comply with the Code (and in turn, the licence condition) will be most relevant for those suppliers that elect to offer demand side response into the capacity market.

Proposed formulation of the condition

The proposed formulation for the Capacity Market Code condition is included in Annex 1(b).

Background and supporting reasoning

The Capacity Market Code is a core document of the I-SEM. It sets out the rules and procedures of the I-SEM Capacity Market and the associated Capacity Remuneration Mechanism which is designed to ensure adequate level of capacity exist in the I-SEM. The detailed design of the Capacity Remuneration Mechanism, as set out in a series of SEMC decision papers\textsuperscript{15}, has been translated into a set of detailed rules in the Capacity Market Code.

The Capacity Market Code has its own governance system, which allows for modifications to be implemented according to the procedures set out in the code. The development of the Capacity Market Code has undergone a multi-stage consultative process facilitated through the I-SEM Rules Working Group, set up to allow participants, the RAs, the SEMO and the TSO to consult on the drafting of the I-SEM Capacity Market rules required to implement the I-SEM market design\textsuperscript{16}. The consolidated Capacity Market Code was consulted on by the SEMC in January 2017 (SEM-17-004) to allow market participants and other interested parties to carry out their own detailed review of the provisions of the code. The SEM decision

\textsuperscript{14} Condition 15 Cost Reflective Bidding in the Single Electricity Market

\textsuperscript{15} SEM-16-039 Capacity Remuneration Mechanism

\textsuperscript{16} Documents relevant to the consultative process for the provisions of the Capacity Market Code can be found on the SEM Committee website.
(SEM-17-033) approved the Capacity Market Code (as amended following consultation). The approved CMC has been published alongside the decision paper.

In setting out the proposed governance arrangements for the Capacity Remuneration Mechanism, the SEM Committee stated that “should the capacity mechanism be mandatory for existing licence holders in Ireland and Northern Ireland, we will amend generation and supplier licences to require accession to the capacity market rules and prequalification for auction” (SEM-15-044).

The decision which followed from that consultation (CRM1 Decision SEM-15-103) makes participation mandatory for capacity providers “…The SEM Committee has decided on the following principles: Existing dispatchable plant will need to bid within a tolerance band of the centrally determined de-rating factor for that plant…” and “considers the proposed governance arrangements, including associated licence and code changes, as suitable…”

Following the position set out in these previous consultation and decision papers, the SEMC has decided to propose a new condition to be included in the generator and supplier licences obliging them to become a Party to and comply with the Capacity Market Code, insofar as it is applicable to them: “The SEM Committee therefore (a) decides that a licence condition requiring compliance with the CMC (insofar as applicable to them) should be proposed for inclusion in generator and supply licences” (SEM-17-033). For those licensees that do not have any obligations under the CMC, there would be no requirement to become a Party for as long as that position remains (see also section 4.6 of SEM-17-033 for a change to the obligation on Variable Generator Units to Qualify).

Electricity suppliers may have obligations to comply with under the Capacity Market Code e.g. when acting as a Demand Side Unit opting to participate in an action. To the extent that this is the case, it is important that the CER has the ability to enforce compliance with those obligations under the code. The introduction of this licence conditions is the means by which the CER can do so. For any suppliers that do not have any obligations under the Capacity Market Code (and instead their only obligations e.g. re capacity settlement are included in the Trading and Settlement Code) there will be no obligation to be a party to and comply with the Capacity Market Code.

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17 CRM1 Consultation SEM-15-044
18 CRM1 Decision SEM-15-103
4.3. Proposed modifications to existing licence conditions

In order to give effect to the SEM Committee decisions and facilitate the implementation of the I-SEM, the CER is of the view that specific amendments are required to existing conditions in the Electricity Supply Licence. These are outlined in the next paragraphs, together with the supporting reasoning.

4.3.1. Section B, Condition 1 Interpretation and Construction

Nature of modification
It is proposed to remove the definition of the Trading and Settlement Code”.

Proposed formulation of modification
The proposed formulation of the modification is included in Annex 1(c).

Supporting reasoning
The definition is no longer required as this code has been replaced by the Single Electricity Market Trading and Settlement Code. As such, the term is now redundant.

4.3.2. Condition 13: Intermediaries

Nature of modification
It is proposed that paragraph 1(a) of this condition and the definition of Intermediary are amended to include reference to the Capacity Market Code as it will be possible for suppliers to act as Intermediaries under both the Single Electricity Market Trading and Settlement Code (TSC) and the Capacity Market Code. It is further proposed that a new paragraph is introduced to provide for the CER to determine the date and, if required, the transitional arrangements, for the amendments to this condition to come into effect.

Proposed formulation of modifications
The proposed formulation of the modifications is included in Annex 1(d).

Supporting reasoning
In I-SEM, licensees will be able to act as an Intermediary (in respect of generation units) under both the TSC and the Capacity Market Code. It is considered necessary to expand the scope of the licence condition to ensure that licensees comply with the Capacity Market Code, in their capacity as Intermediary (as well as the TSC).
As regards the proposed introduction of the new paragraph (paragraph 2), we are of the view that this is necessary in order to enable the CER to set a date and, if necessary, transitional requirements for this condition to come into effect.

### 4.3.3. Condition 19: Cost-Reflective Bidding in the Single Electricity Market

**Nature of modification**

It is proposed to include a new provision stating that this condition will cease to have effect at a date (and subject to such transitional arrangements) as determined by the CER.

**Proposed formulation of modification/s**

The proposed formulation of the provision is included in Annex 1(e).

**Supporting reasoning**

The proposed modification is required to enable the Commission to ‘turn off’ the application of this condition which will cease to have effect at the same point in time as the new proposed condition, Condition 19a Balancing Market Principles Code of Practice is to come into effect.

### 4.4. Proposed modifications to the PES licence

As stated in Section 3, the modifications proposed for the Electricity Supply Licence are also proposed in respect of the PES licence. Given that the proposed modifications impact on the conditions which are common between the Electricity Supply Licences and the PES Licence, the same supporting information in relation to the nature of and reasons for the modifications are put forward in respect of both types of licence. The proposed modifications and supporting reasoning are not reiterated herein, in order to avoid repetition.

The only exception is represented by proposed modifications to Condition 18 “Trading and Settlement Codes”. It is proposed to remove the first paragraph of the condition. The proposed formulation of the modification is set out below:

```
"Condition 18 Trading and Settlement Codes
2. The Licensee shall be party to, and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to it."
```
The proposed modifications to this condition reflect the fact that the Trading and Settlement Code has been replaced by the Single Electricity Market Trading and Settlement Code and as such, the condition no longer needs to refer to the (now defunct) Trading and Settlement Code.

The table below indicates the corresponding conditions in the PES Licence

<table>
<thead>
<tr>
<th>Condition in the Electricity Supply Licence</th>
<th>Condition in the PES Licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Condition 19a Balancing Market Principles Code of Practice</td>
<td>Condition 25a Balancing Market Principles Code of Practice</td>
</tr>
<tr>
<td>Condition 23 Capacity Market Code</td>
<td>Condition 28 Capacity Market Code</td>
</tr>
<tr>
<td>Section B Condition 1: Interpretation and Construction</td>
<td>Section C Condition 1: Interpretation and Construction</td>
</tr>
<tr>
<td>Condition 13: Intermediaries</td>
<td>Condition 19: Intermediaries</td>
</tr>
</tbody>
</table>
5. PROPOSED MODIFICATIONS TO THE GENERATION LICENCE

5.1. Legislation

Section 14(1) (a) of the Act provides the legal basis for the CER to license generation of electricity in Ireland. Pursuant to this Section, the CER grants, or refuses to grant, generation licences to persons who wish to generate electricity. This licence applies to all Generators with an installed capacity exceeding 10MW. This category of Generators must submit an application for a Generation Licence to the CER.

5.2. Proposed new licence conditions

In order to give effect to the SEM Committee decisions and facilitate the implementation of the I-SEM, the CER is of the view that new conditions are required to be included in the Generation Licences and the ESB Generation Licence. These are outlined in the next paragraphs, together with the supporting reasoning.

5.2.1. Balancing Market Principles Code of Practice

Nature of modification

This proposed licence condition will obligate the licensee (where it is operating as a Demand Side Unit) to comply with the Balancing Market Principles Code of Practice (BMPCOP) when formulating and submitting Commercial Offer Data (COD) in the Balancing Market.

The proposed condition will empower the CER (acting jointly with the UR if it elects) to publish the BMPCOP and amend it following consultation. It also provides that the BMPCOP will (a) apply only to those categories of COD which are specified in it from time to time and (b) make such provision as appears requisite to the CER to ensure such data are cost reflective. The condition will also give the CER power to issue directions to licensees to secure compliance with the licence condition and the BMPCOP.

Obligations imposed on licensees under this condition include:

iv) retaining records regarding the COD (including supporting data) for a period of four years and providing the CER with explanations of its calculations as regards COD and their consistency with obligations under the condition and the code;
v) immediately informing the CER of any case where the COD it submits is inconsistent with its obligations and provide a statement of reasons; and
vi) providing an annual certificate by 1 June (signed by at least one director) to confirm that during the 12 month period ending on the preceding 31 March that it has acted independently in relation to all submissions of COD and no submissions have been co-ordinated with any other submissions made by another party to the TSC.

**Proposed formulation of the condition**
The proposed formulation of the “Balancing Market Principles Code of Practice” condition is included in Annex 1(a).

**Background and supporting reasoning**
The current policy underpinning the market power mitigation strategy in the Single Electricity Market is partially based on bidding principles for generators, including a Bidding Code of Practice (BPCOP), in terms of which generators are required, inter alia, to bid cost reflectively. The latest version of the BPCOP was published in 2014 (SEM-14-019).

The I-SEM Power Mitigation Decision Paper (SEM-16-024) confirmed, inter alia, that the wording of the existing bidding principles will be considered by the SEM Committee prior to the introduction of a relevant licence condition, which will be required to facilitate compliance with the principles.

In October 2016, the SEM Committee published a Consultation Paper “Offers in the I-SEM Balancing Market” (SEM-16-059), which proposed the development of a generic generator licence condition which would require, inter alia, generators to comply with the I-SEM BMPCOP document. The paper also proposed that the licence condition would not define what cost items should be included within a generator’s complex bid offer, nor contain a definition of SRMC. As part of its rationale, the Consultation Paper stated that “such an approach would provide greater clarity, flexibility, and detail to generators and other relevant market participants regarding the application of the BMPCOP document in I-SEM”. Two licence conditions were published for consultation, one in respect of each option for applying ex ante bidding controls to complex bid offer data in the I-SEM Balancing Market, as well as a draft of the BMPCOP document that would be required under Option 1.
In considering responses received, the SEM Committee noted that “its proposal to create a generic licence condition and transfer content (e.g. definition of SRMC) from the existing “Cost Reflective Bidding in the Single Electricity Market” licence condition is consistent with previous SEM Committee communications to stakeholders regarding I-SEM” and that “the transfer of content from the “Cost Reflective Bidding in the Single Electricity Market” licence condition necessary to facilitate the creation of a dynamic BMPCOP document for I-SEM that can give greater clarity to industry regarding eligible costs [ ]”. The SEM Committee provides further rationale for its decision by noting that its proposal will ensure that, in the future, “doubts as to the meaning or application of the BMPCOP can be definitively resolved by the SEM Committee and recorded in the BMPCOP document, which would be updated by the SEM Committee to reflect particular circumstances following the appropriate consultation process”. In this way, the SEM Committee “considers it reasonable and prudent to have a framework that allows timely amendments to any future BMPCOP document should potential deficiencies arise or need for changes be identified”.

Having considered responses received, the SEM Committee published a Decision Paper “Complex Bid Offer Controls in the I-SEM Balancing Market” (SEM-17-020), notifying stakeholders, inter alia, of its decision to establish a generic licence condition to require Generation Licence holders to comply with the BMPCOP: “Taking account of respondents’ comments, the SEM Committee is satisfied with its proposal to establish a generic generator licence condition, which would require, inter-alia, generators to comply with the I-SEM BMPCOP document”. The Decision Paper further confirmed that “By implementing an amended version of Option 1, the SEM Committee is also approving the governance approach envisaged in the Consultation Paper in terms of which the new licence condition would prescribe fewer matters than the existing “Cost Reflective Bidding in the Single Electricity Market” generation licence condition and more matters (e.g. a revised definition of SRMC) being included in a new Balancing Market Principles Code of Practice (BMPCOP) document for I-SEM”. The SEM Committee further stated that the RAs would “separately consult on the details of new licence condition”. The proposed condition mirrors the draft condition published in SEM-16-059 in respect of Option 1.
5.2.2. Capacity Market Code

Nature of the modification

The proposed condition obligates the licence holder to be party to and comply with the Capacity Market Code insofar as applicable to it. Whilst the licence condition is to be incorporated into all supply licences, in practical terms in the context of electricity suppliers, the obligations to comply with the Code (and in turn, the licence condition) will be most relevant for those suppliers that elect to offer demand side response into the capacity market.

Proposed formulation of the condition

The proposed formulation for the Capacity Market Code condition is included in Annex 1(b).

Background and supporting reasoning

The Capacity Market Code is a core document of the I-SEM. It sets out the rules and procedures of the I-SEM Capacity Market and the associated Capacity Remuneration Mechanism which is designed to ensure adequate level of capacity exist in the I-SEM. The detailed design of the Capacity Remuneration Mechanism, as set out in a series of SEMC decision papers\textsuperscript{19}, has been translated into a set of detailed rules in the Capacity Market Code.

The Capacity Market Code has its own governance system, which allows for modifications to be implemented according to the procedures set out in the code. The development of the Capacity Market Code has undergone a multi-stage consultative process facilitated through the I-SEM Rules Working Group, set up to allow participants, the RAs, the SEMO and the TSO to consult on the drafting of the I-SEM Capacity Market rules required to implement the I-SEM market design\textsuperscript{20}. The consolidated Capacity Market Code was consulted on by the SEMC in January 2017 (SEM-17-004) to allow market participants and other interested parties to carry out their own detailed review of the provisions of the code. The SEM decision (SEM-17-033) approved the Capacity Market Code (as amended following consultation). The approved CMC has been published alongside the decision paper.

In setting out the proposed governance arrangements for the Capacity Remuneration Mechanism, the SEM Committee stated that “should the capacity mechanism be mandatory for existing licence holders in Ireland and Northern Ireland, we will amend generation and

\textsuperscript{19} SEM-16-039 Capacity Remuneration Mechanism

\textsuperscript{20} Documents relevant to the consultative process for the provisions of the Capacity Market Code can be found on the SEM Committee website.
**supplier licences** to require accession to the capacity market rules and prequalification for auction” 21 (SEM-15-044).

The decision which followed from that consultation (CRM1 Decision SEM-15-10322) makes participation mandatory for capacity providers “…The SEM Committee has decided on the following principles: Existing dispatchable plant will need to bid within a tolerance band of the centrally determined de-rating factor for that plant…” and “considers the proposed governance arrangements, including associated licence and code changes, as suitable…”

Following the position set out in these previous consultation and decision papers, the SEMC has decided to propose a new condition to be included in the generator and supplier licences obliging them to become a Party to and comply with the Capacity Market Code, insofar as it is applicable to them: “The SEM Committee therefore (a) decides that a licence condition requiring compliance with the CMC (insofar as applicable to them) should be proposed for inclusion in generator and supply licences” (SEM-17-033). For those licensees that do not have any obligations under the CMC, there would be no requirement to become a Party for as long as that position remains (see also section 4.6 of SEM-17-033 for a change to the obligation on Variable Generator Units to Qualify).

Electricity suppliers may have obligations to comply with under the Capacity Market Code e.g. when acting as a Demand Side Unit opting to participate in an action. To the extent that this is the case, it is important that the CER has the ability to enforce compliance with those obligations under the code. The introduction of this licence conditions is the means by which the CER can do so. For any suppliers that do not have any obligations under the Capacity Market Code (and instead their only obligations e.g. re capacity settlement are included in the Trading and Settlement Code) there will be no obligation to be a party to and comply with the Capacity Market Code.

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21 CRM1 Consultation SEM-15-044
22 CRM1 Decision SEM-15-103
5.3. Proposed modifications to existing licence conditions

In order to give effect to the SEM Committee decisions and facilitate the implementation of the I-SEM, the CER is of the view that specific amendments are required to existing conditions in the Generation Licences. These are outlined in the next paragraphs, together with the supporting reasoning.

5.3.1. Section C, Condition 1: Interpretation and Construction

Nature of modification

It is proposed to remove the definition of the “Trading and Settlement Code”.

Proposed formulation of modification

The proposed formulation of the modification is included in Annex 2(c).

Supporting reasoning

The definition is no longer required as this code has been replaced by the Single Electricity Market Trading and Settlement Code. As such, the term is now redundant.

5.3.2. Condition 14: Trading and Settlement Codes

Nature of modification

It is proposed to amend the title of the condition to “Single Electricity Market Trading and Settlement Code” and to remove paragraph 1 of the condition which requires the Licence holder to be party to and comply with the Trading and Settlement Code (which is no longer in force).

Formulation of proposed modifications

The formulation of proposed modifications is included in Annex 2(d).

Supporting reasoning

The proposed modifications to this condition are to reflect the fact that the Trading and Settlement Code has been replaced by the Single Electricity Market Trading and Settlement Code and as such, the condition no longer needs to refer to the (now defunct) Trading and Settlement Code.
5.3.3. Condition 15: Cost Reflective Bidding in the Single Electricity Market

Nature of modification
It is proposed to include a new provision stating that this condition will cease to have effect at a date (and subject to such transitional arrangements) as determined by the CER.

Proposed formulation of modification/s
The proposed formulation of the provision is included in Annex 2(e).

Supporting reasoning
The proposed modification is required to enable the Commission to turn off the condition at the relevant point in time when the new proposed condition, Condition 15a Balancing Market Principles Code of Practice will come into effect.

5.4. Proposed modifications to ESB Generation Licence
As stated in Section 3, the modifications proposed for the Generation Licence are also proposed in respect of the ESB Generation licence. Given that the proposed modifications impact on the conditions which are common between these two types of licence, the same supporting reasoning is put forward as to the nature of, and reasons for, the proposed modifications. The proposed modifications and supporting reasoning are not reiterated herein, in order to avoid repetition.

The table below indicates the corresponding conditions in the ESB Generation Licence.

<table>
<thead>
<tr>
<th>New/ Modified</th>
<th>Condition in the generic Generation Licence</th>
<th>Condition in the ESB Generation Licence</th>
</tr>
</thead>
<tbody>
<tr>
<td>New</td>
<td>Condition 15a Balancing Market Principles Code of Practice</td>
<td>Condition 17a Balancing Market Principles Code of Practice</td>
</tr>
<tr>
<td>New</td>
<td>Condition 20 Capacity Market Code</td>
<td>Condition 23 Capacity Market Code</td>
</tr>
<tr>
<td>Modified</td>
<td>Section C Condition 1 Interpretation and construction</td>
<td>Section C Condition 1 Interpretation and construction</td>
</tr>
<tr>
<td>Modified</td>
<td>Condition 14 Trading and Settlement Code</td>
<td>Condition 16 Trading and Settlement Code</td>
</tr>
<tr>
<td>Modified</td>
<td>Condition 15</td>
<td>Condition 17</td>
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<tr>
<td></td>
<td>Cost-Reflective Bidding in the Single Electricity Market</td>
<td>Cost-Reflective Bidding in the Single Electricity Market</td>
</tr>
</tbody>
</table>
6. Proposed modifications to the Terms and Conditions for Generators with an installed capacity under 10MW and over 1MW

6.1. Legislation
Generators with an installed capacity lower than 10MW are licenced by Order according to S.I. 384 of 2008, which also sets out the Terms and Conditions that this category of Generators must comply with. The Terms and Conditions set out in S.I. 384 of 2008 are, in fact, a number of conditions in the Generation Licence selected based on relevance to this category of Generators. The proposed modifications for Generators under 10MW are summarised below and reflected in Annex 3.

6.2. Proposed new Terms and Conditions
The CER proposes that two new conditions are included in the Terms and Conditions for Generators under 10MW. These new conditions are:

- Condition 10a: Balancing Market Code of Practice; and

Nature of modification and supporting reasoning
The nature of proposed modifications and supporting reasoning is similar to those put forth in respect of proposed modifications to the Generation Licence. To avoid duplications, they are not reiterated herein.

Proposed formulation of the condition

6.3. Proposed modifications to existing Terms and Conditions
The CER proposes that specific modifications are made to the condition titled Cost-reflective bidding in the Single Electricity Market.
6.3.1. Cost Reflective Bidding in the Single Electricity Market

Nature of modification and supporting reasoning

The nature of proposed modifications and supporting reasoning is similar to those put forth in respect of proposed modifications to the Generation Licence. To avoid duplications, they are not reiterated herein.

Proposed formulation of modification/s

The proposed formulation of the provision is reflected in Annex 3.

6.3.2. Process for amending the Terms and Conditions for Generators under 10MW

As stated above, Generators with an installed capacity below 10MW are licensed by Order, pursuant to S.I. No. 384 of 2008. The S.I. sets out the Terms and Conditions that Generators under 10MW are required to comply with. To give effect to the modifications proposed to be brought to these Terms and Conditions, a new S.I. will be issued. The proposed modifications to the Terms and Conditions for Generators under 10MW are set out in the annex. Readers are asked to note that the annex is not a legal document.

7. Next Steps

Representations and objections to the proposed modifications are due before 4 July 2017. The CER will publish a decision on the licence modifications once all responses have been reviewed. The licence modifications published in the CER’s decision paper will take effect no less than 28 days afterwards.
ANNEX 1
PROPOSED MODIFICATIONS TO ELECTRICITY SUPPLY LICENCES AND THE PES LICENCE

ANNEX 1(a) BALANCING MARKET PRINCIPLES CODE OF PRACTICE

Condition 19a: Balancing Market Principles Code of Practice

1. This Condition applies to the Licensee only where the Licensee operates in the Single Electricity Market as a Demand Side Unit. The Licensee shall ensure that, in formulating and submitting Commercial Offer Data to the Single Market Operation Business in the Balancing Market under the Single Electricity Market Trading and Settlement Code (whether by the Licensee itself or by any person acting on its behalf in relation to a Demand Side Unit for which the Licensee is the licensed supplier), it acts so as to ensure its compliance with the Balancing Market Principles Code of Practice.

2. The Commission shall publish and, following consultation with the holders of Supplier Licences and such other persons as the Commission considers appropriate, from time to time by direction amend, a document to be known as the Balancing Market Principles Code of Practice, which:
   (a) shall apply to such categories of Commercial Offer Data submitted into the Balancing Market as may be specified in the Code of Practice from time to time;
   (b) shall make such provision as appears requisite to the Commission for the purpose of securing that such Commercial Offer Data are cost-reflective

and the Commission may elect to perform the functions conferred by this paragraph jointly with the Northern Ireland Authority for Utility Regulation

3. The Commission may issue directions to the Licensee for the purposes of securing that the Licensee, in carrying out the activity to which paragraph 1 refers, complies with this Condition and with the Code of Practice, and the Licensee shall comply with such directions.

4. The Licensee shall retain records of each set of Relevant Commercial Offer Data, and all of its supporting data relevant to the calculation of the components of such Relevant Commercial Offer Data, for a period of at least four years commencing on the date on which the Relevant Commercial Offer Data are submitted to the Single Market Operation Business.
5. The Licensee shall, if requested to do so by the Commission, provide the Commission with:
   (a) a reasoned explanation of its calculations in relation to any relevant Commercial Data; and
   (b) supporting evidence sufficient to establish the consistency of those relevant Commercial Offer Data with the obligations of the Licensee under this Condition and the Code of Practice.

6. In any case in which Relevant Commercial Offer Data are submitted to the Single Market Operation Business which are not consistent with the Licensee’s obligation under paragraph 1 of this Condition, the Licensee shall immediately inform the Commission and provide to the Commission a statement of its reasons for the Relevant Commercial Offer Data submitted.

7. The Licensee shall by 1 June in each year submit to the Commission a certificate, signed by at least one director on behalf of the board of directors of the Licensee, to confirm that during the period of twelve months ending on the preceding 31 March:
   (a) it has acted independently in relation to all submissions of Relevant Commercial Offer Data that have been submitted, by it or on its behalf, under the Single Electricity Market Trading and Settlement Code; and
   (b) no such submissions made by it or on its behalf have been co-ordinated with any other submissions made by or on behalf of another party to the Single Electricity Market Trading and Settlement Code.

8. The provisions of this Condition (other than those of this paragraph which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Commission may by discretion appoint. Different days may be so appointed for different provisions and for different purposes.

9. In this Condition:

   Balancing Market has the meaning given to it in the Single Electricity Market Trading and Settlement Code, Part B.
**Balancing Market Principles**

**Code of Practice or “Code of Practice”** means the document of that title published by the Commission in accordance with paragraph 2, as it may be amended from time to time in accordance with the provisions of that paragraph.

**Commercial Offer Data** has the meaning given to it in the Single Electricity Market Trading and Settlement Code.

**Demand Side Unit** has the meaning given to it in the Single Electricity Market Code as it may be amended from time to time.

**Relevant Commercial Offer Data** means Commercial Offer Data falling within the category specified in the Code of Practice;

**Single Market Operator Business** has the meaning given to it in the licence granted pursuant to Section 14 (1) (j) of the Act.

**Supplier Licence** means a licence granted under Section 14(1) (b) of the Act.
ANNEX 1(b) CAPACITY MARKET CODE

Condition 23: Capacity Market Code

1. The Licensee shall be party to, and shall comply with the Capacity Market Code, insofar as applicable to it.

2. The provisions of this Condition (other than those of this paragraph and paragraph 3 below which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Commission may by direction appoint.

3. In this Condition

“Capacity Market Code” has the meaning given to that term in the Transmission System Operator licence
"Trading and Settlement Code" means the Trading and Settlement Code developed pursuant to Section 9(1)(d) of the Act as from time to time, revised, amended, supplemented or replaced with the approval or at the instance of the Commission.
ANNEX 1(d)
Section B, Conditions to Apply from SEM Go Live, Condition 13 Intermediaries

Condition 13: Intermediaries

1. Where the Commission has consented to the registration of any generation units by the Licensee, acting as an Intermediary, the Licensee shall:
   comply with the Single Electricity Market Trading and Settlement Code and/or the Capacity Market Code (as appropriate) insofar as it is applicable to the Licensee in respect of such generation units; and when submitting the price components of Commercial Offer Data under the Single Electricity Market Trading and Settlement Code, comply with the relevant conditions of the licence granted pursuant to Section 14(1)(a) of the Act to the person on whose behalf the Licensee is acting as Intermediary.

2. The provisions of this condition inserted (or, as the case may be, removed) by virtue of decision of the Commission dated (insert date) shall come into (or, as the case may be, continue to have) effect on (or, as the case may be, until) such day, and subject to such transitional arrangements, as the Commission may be direction appoint. Different days may be so appointed for different provisions and for different purposes.

3. In this Condition:
   "Commercial Offer Data" has the meaning given to it in the Single Electricity Market Trading and Settlement Code; and
   "Intermediary" has the meaning given to it in the Single Electricity Market Trading and Settlement Code and/or the Capacity Market Code (as appropriate).
ANNEX 1(e)
Section B, Conditions to Apply from SEM Go Live, Condition 19 Cost-reflective bidding in the Single Electricity Market

11. This condition shall cease to have any effect from the date determined by the Commission subject to any transitional arrangements which the Commission may direct and without prejudice to the continuing enforceability of any rights or obligations which may have accrued or otherwise fallen due for performance prior to that date (including any requirement to comply with the direction of the Commission issued prior to that date).
ANNEX 2
PROPOSED MODIFICATIONS TO GENERATION LICENCES
Annex 2 (a) Balancing Market Principles Code of Practice

Condition 15a: Balancing Market Principles Code of Practice

1. The Licensee shall ensure that, in formulating and submitting Commercial Offer Data to the Single Market Operation Business in the Balancing Market under the Single Electricity Market Trading and Settlement Code (whether by the Licensee itself or by any person acting on its behalf in relation to a generation unit for which the Licensee is the licensed generator), it acts so as to ensure its compliance with the Balancing Market Principles Code of Practice.

2. The Commission shall publish and, following consultation with the holders of Generation Licences and such other persons as the Commission considers appropriate, from time to time by direction amend, a document to be known as the Balancing Market Principles Code of Practice, which:
   (a) shall apply to such categories of Commercial Offer Data submitted into the Balancing Market as may be specified in the Code of Practice from time to time;
   (b) shall make such provision as appears requisite to the Commission for the purpose of securing that such Commercial Offer Data are cost-reflective

   and the Commission may elect to perform the functions conferred by this paragraph jointly with the Northern Ireland Authority for Utility Regulation

3. The Commission may issue directions to the Licensee for the purposes of securing that the Licensee, in carrying out the activity to which paragraph 1 refers, complies with this Condition and with the Code of Practice, and the Licensee shall comply with such directions.

4. The Licensee shall retain records of each set of Relevant Commercial Offer Data, and all of its supporting data relevant to the calculation of the components of such Relevant Commercial Offer Data, for a period of at least four years commencing on the date on which the Relevant Commercial Offer Data are submitted to the Single Market Operation Business.

5. The Licensee shall, if requested to do so by the Commission, provide the Commission with:
(a) a reasoned explanation of its calculations in relation to any relevant Commercial Offer Data; and
(b) supporting evidence sufficient to establish the consistency of those relevant Commercial Offer Data with the obligations of the Licensee under this Condition and the Code of Practice.

6. In any case in which Relevant Commercial Offer Data are submitted to the Single Market Operation Business which are not consistent with the Licensee’s obligation under paragraph 1 of this Condition, the Licensee shall immediately inform the Commission and provide to the Commission a statement of its reasons for the Relevant Commercial Offer Data submitted.

7. The Licensee shall by 1 June in each year submit to the Commission a certificate, signed by at least one director on behalf of the board of directors of the Licensee, to confirm that during the period of twelve months ending on the preceding 31 March:
(a) it has acted independently in relation to all submissions of relevant Commercial Offer Data that have been submitted, by it or on its behalf, under the Single Electricity Market Trading and Settlement Code; and
(b) no such submissions made by it or on its behalf have been co-ordinated with any other submissions made by or on behalf of another party to the Single Electricity Market Trading and Settlement Code.

8. The provisions of this Condition (other than those of this paragraph and paragraph 9 below which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Commission may by direction appoint. Different days may be so appointed for different provisions and for different purposes.

9. In this Condition:
Balancing Market has the meaning given to it in Part B of the Single Electricity Market Trading and Settlement Code

Balancing Market Principles Code of Practice or
“Code of Practice” means the document of that title published by the Commission in accordance with paragraph 2, as it may be amended from time to time in accordance with the provisions of that paragraph.
Commercial Offer Data has the meaning given to it in the Single Electricity Market Code as it may be amended from time to time.

Relevant Commercial Offer Data means Commercial Offer Data falling within the category specified in the Code of Practice.

Single Market Operator Business has the meaning given to it in the licence granted pursuant to Section 14 (1) (j) of the Act.
Annex 2 (b) Capacity Market Code

**Condition 20: Capacity Market Code**

1. The Licensee shall be party to, and shall comply with the Capacity Market Code, insofar as applicable to it.

2. Where the Commission has consented to the registration of any of the Licensee’s generation units by an Intermediary, the Licensee shall not be obliged to the Capacity market Code in respect of such generation units but shall ensure that the Intermediary shall be party to shall comply with the Capacity Market Code, insofar as applicable to the Intermediary in respect of such generation units.

3. The provisions of this Condition (other than those of this paragraph and paragraph 4 below which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Commission may by direction appoint. Different days may be so appointed for different provisions for different purposes.

3. In this Condition

“Capacity Market Code” has the meaning given to that term in the Transmission System Operator licence

Intermediary has the meaning given to that term in the Capacity Market Code
Annex 2(c) Section C, Conditions to Apply from SEM GO Live, Condition 1 Interpretation and Construction

"Trading and Settlement Code" means the Trading and Settlement Code developed pursuant to Section 9(1)(d) of the Act as from time to time, revised, amended, supplemented or replaced with the approval or at the instance of the Commission.
Annex 2(d) Section C, Conditions to Apply from SEM GO Live, Condition 14 Trading and Settlement Codes

Condition 14: Single Electricity Market Trading and Settlement Codes

The Licensee shall be party to, and shall comply with the Trading and Settlement Code insofar as applicable to it.

1. Subject to paragraph 2, the Licensee shall be party to, and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to it.

2. Where the Commission has consented to the registration of any of the Licensee’s generation units by an Intermediary, the Licensee shall not be obliged to be a party to the Single Electricity Market Trading and Settlement Code in respect of such generation units but shall ensure that the Intermediary shall be party to and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to the Intermediary in respect of such generation units.

3. In this Condition:

"Intermediary" has the meaning given to it in the Single Electricity Market Trading and Settlement Code.
Annex 2(e) Section C, Conditions to Apply from SEM GO Live, Condition 15 Cost-reflective bidding in the Single Electricity Market

11. This Condition shall cease to have any effect from the date determined by the Commission subject to any transitional arrangements which the Commission may direct and without prejudice to the continuing enforceability of any rights or obligations which may have accrued or otherwise fallen due for performance prior to that date (including any requirements to comply with the direction of the Commission issued prior to that date).
ANNEX 3
PROPOSED MODIFICATIONS TO THE TERMS AND CONDITIONS FOR GENERATORS UNDER 10MW

THIS IS NOT A LEGAL DOCUMENT

S.I. No. ____ of 201708
ELECTRICITY REGULATION ACT 1999 SECTION 14(1A) ORDER 201708

The Commission for Energy Regulation in exercise of the powers conferred on it by Section 14(1A) of the Electricity Regulation Act 1999 (as inserted by Regulation 16(b) of the European Communities (Internal Market in Electricity) Regulations 2005) (S. I. No. 60 of 2005) hereby orders as follows:

Citation.
1. This Order may be cited as the Electricity Regulation Act 1999 (Section 14(1A)) Order 201708.

Commencement.
2. This Order shall come into operation on (insert date).

Interpretation.
3. (1) In this Order, unless the context otherwise requires-
“Act” means the Electricity Regulation Act 1999 (No. 23 of 1999), as amended; “generator” means a person licensed to generate electricity under Section 14(1) (a) of the Act;
“generator site” means the site owned (or occupied pursuant to a lease, licence or other agreement) by the generator which contains the connection point;
“generating unit” means any plant or apparatus for the production of electricity; and
“installed capacity” means the normal full load kW capacity of any apparatus which produces electricity, as stated on their nameplates.

(2) In this Order
(a) A word or expression that is used in this Order and is also used in the Act has, unless the contrary intention appears, the same meaning in this Order as it has in the Act.
(b) Where a word or expression is given a meaning in the Act or in this order then, except where the context otherwise requires, any cognate word or expression used in this Order shall be construed accordingly.

(c) a reference to an Article or Schedule is to an Article of, or Schedule to, this Order, unless it is indicated that reference to some other order is intended, and

(d) a reference to a paragraph is a reference to a paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

4. Pursuant to section 14(1A) of the Act, the Commission is empowered to licence a person to generate electricity by means of any generating station approved by the Commission as being located within a current or prospective generator site with either:

(a) a related installed capacity of greater than 1MW and not exceeding 10MW, or

(b) a related installed capacity not exceeding 1MW.

5. (1) (a) A person with a class of generating station referred to in Article 4(a) shall apply to the Commission for approval to be duly licensed to generate electricity from such pursuant to this Order in accordance with the procedures determined and published by the Commission.

(b) A person proposing to generate electricity from a class of generating station referred to in Article 4(b) shall automatically stand duly licensed to generate electricity pursuant to this Order.

(2) Having considered a person’s application submitted in accordance with Article 5(1) (a), the Commission shall communicate to the person its decision to:

(a) grant the approval sought,
(b) request further information as the Commission deems necessary, or
(c) decline to grant the approval.

The decision shall be reasonable having regard to all the circumstances.

6. Pursuant to section 14(1B) of the Act, the Commission may by order amend or revoke this Order.

7. A person duly authorised to generate electricity pursuant to this Order shall be required to comply with the terms and conditions stated in the Schedule to this Order.
SCHEDULE
The terms and conditions referred to in Article 7 are as follows:

**Condition 1: General and Interpretation**
(1) This Order shall continue in force unless and until revoked by the Commission by Order, in accordance with the Act.

(2) In this Schedule:
"licensee" a person duly authorised to generate electricity pursuant to this Order
"Metering Code" means the metering code prepared by the Board and approved by the Commission, as from time to time revised, amended, supplemented or replaced with the approval of, or at the instance, of the Commission;
"modification" includes addition, omission, amendment and substitution, and cognate expressions shall be construed accordingly;
"representation" includes any objection or any other proposal made in writing;
"Single Electricity Market Trading and Settlement Code" means the Trading and Settlement Code provided for in Regulation 4 of the Single Market Regulations, as from time to time revised, amended, supplemented or replaced;
"Single Market Regulations" means the Electricity Regulation Act 1999 (Single Electricity Market) Regulations 2007 (S.I. 406 of 2007);
"system" shall, except where it appears in the context of the "transmission system" or "distribution system", mean the electric lines owned or operated by the licensee through which electricity is conveyed from generation units to the point of connection with the transmission system or the distribution system, as the case may be, and any other electric lines which the Commission may specify as forming part of the licensee's system and includes any electric plant owned or used by the licensee in connection therewith; and

**Condition 2: Compliance with Grid Code, Metering Code and, where applicable, Distribution Code**
(1) The licensee shall comply with the provisions of the Grid Code, Metering Code and Distribution Code insofar as applicable to it.

(2) The Commission may, following consultation with the Transmission System Operator (and, in the relevant circumstances, the Distribution System Operator), issue directions relieving a licensee of its obligation under paragraph 1 in respect of such parts of the Grid Code, Metering
Code (and, in the relevant circumstances, Distribution Code) and to such extent as may be specified in those directions.

**Condition 3: System planning**

(1) The licensee shall plan and develop each part of the licensee’s system in accordance with a standard not less than the relevant standard insofar as applicable to it or such other standard of planning as the licensee may, following consultation with the Transmission System Operator, the Distribution System Operator and such (if any) other electricity undertakings as the Commission shall consider appropriate and with the approval of the Commission, adopt from time to time.

(2) The Commission may (following consultation with the licensee, the Transmission System Operator, the Distribution System Operator and such (if any) other electricity undertakings as the Commission shall consider appropriate) issue directions relieving the licensee of its obligation under paragraph 1 in respect of such parts of the licensee’s system and to such extent as may be specified in the directions.

(3) In this condition:

"relevant standard" means the standard laid down in the Grid Code and the Distribution Code, if applicable.

**Condition 4: Security arrangements**

Where requested by the Commission, the licensee shall cooperate with the Commission in strategic contingency planning in respect of fuel stocks and procedures under the Grid Code during periods when the Commission deems necessary for reasons of security of supply.

**Condition 5: Connection to and use of a person’s system - requirement to offer terms**

(1) The licensee shall, subject to paragraphs 6 and 7:

(a) offer to enter into an agreement to provide a connection to the system of the licensee with any person who has applied for connection to the licensee’s system; and

(b) offer to enter into an agreement for the modification of a connection to the system of the licensee with any person who has applied for modification of a connection to the licensee’s system; and
(c) offer to enter into an agreement with any electricity undertaking or person who has applied for a licence under Section 14 of the Act or approval under Article 5 of this Order, and whose application has not been withdrawn or rejected, who has applied for use of to the licensee’s system:

i. to accept into the licensee’s system at such entry point and in such quantities as may be specified in the application, electricity to be provided by or for that person; and

ii. to deliver electricity equal in quantity to that accepted into the licensee’s system (less only any losses incurred in the course of transporting such electricity through the licensee’s system) from such exit points on the licensee’s system and in such quantities as may be specified in the application to such person as the person making the application may specify.

(2) The licensee shall, subject to paragraphs 6 and 7, offer terms for an agreement in accordance with paragraph 1 as soon as practicable and in any event not more than the relevant period specified in paragraph 8 after receipt by the licensee of an application from the person containing all such information as the licensee may reasonably require for the purposes of formulating the terms of its offer.

(3) Each offer made in accordance with paragraph 1 shall:

(a) make detailed provision regarding such of the following matters as are relevant for the purposes of the agreement:

i. the carrying out of works (if any) required for the construction or modification of the entry point to connect the system of the licensee to the transmission system or to the distribution system or in connection with the construction or modification of any exit points for the delivery of electricity as specified in the application, and for the obtaining of any consents necessary for such purpose;

ii. the carrying out of works (if any) for the provision of electric plant or for the extension or reinforcement of the system of the licensee which are required to be undertaken for the provision of connection to, or the making of a modification to a connection to the licensee’s system or for provision of use of the licensee’s system to the person making the application and for the obtaining of any consents necessary for such purposes;
iii. the installation of appropriate meters or other apparatus (if any) required to enable the licensee to measure electricity being accepted into the licensee’s system at the specified entry point and leaving such system at the specified exit points;

iv. the installation of such switchgear or other apparatus (if any) as may be required for interrupting the use of the licensee’s system should there be a failure by or for a person to provide electricity at its entry point on the licensee’s system for delivery to any person specified by the person making the application from the exit points on the system of the licensee;

v. the date by which any works required so as to permit access to the system of the licensee (including for this purpose any works for its extension or reinforcement) shall be completed and so that, unless otherwise agreed by the person making the application, a failure to complete such works by such date shall be a material breach of the agreement entitling the person to rescind such agreement;

vi. the charges to be paid by the person making the application for the provision of electric plant, for connections to or modification of connections to, or the extension or reinforcement of, the system of the licensee, for the installation of meters, switchgear or other apparatus and for their maintenance, for disconnection from the system of the licensee and the removal of electric plant, electric lines and meters following disconnection, and for use of the licensee’s system of the licensee which shall, unless manifestly inappropriate, be set in conformity with paragraph 4; and

(b) contain such other provisions as may be appropriate for the purposes of the agreement in the circumstances in which it is likely to be entered into.

(4) The charges referred to in paragraph 3 to be contained in every agreement the subject of an offer by the licensee shall be such that:
(a) charges for the provision of electric plant, connection charges, charges for modification of connections, charges for disconnection from the licensee’s system and the removal of electric plant, electric lines and meters following disconnection or any charges for extension or reinforcement of the licensee’s system or for use of the licensee’s system of the are set at a level which will enable the licensee to recover no more than:

i. the appropriate proportion (taking account of the factors referred to in paragraph 5) of the costs directly or indirectly incurred by the licensee; and
ii. a reasonable rate of return on the capital represented by such costs; and

(b) charges for the installation of meters, switchgear or other apparatus and for their maintenance shall not exceed the costs thereof and a reasonable rate of return on the capital represented by such costs.

(5) For the purpose of determining an appropriate proportion of the costs directly or indirectly incurred in carrying out works, the licensee shall have regard to:

(a) the benefit (if any) to be obtained or likely in the future to be obtained by the licensee or any other person as a result of the carrying out of such works whether by virtue of the provision of electric plant, the reinforcement or extension of the licensee's system or the provision of additional entry or exit points on the system of the licensee or otherwise; and

(b) the ability or likely future ability of the licensee to recoup a proportion of such costs from other persons.

(6) A licensee shall not be obliged pursuant to this condition to offer to enter into any agreement where, by reason of the capacity of the licensee's system of the and the use made or reasonably expected to be made of it, a licensee would be required to expand or reinforce the capacity of the licensee’s system and where it would be unreasonable, having regard to all the circumstances, for a licensee to undertake such expansion or reinforcement.

(7) A licensee shall not enter into any agreement with any person if:
(a) to do so would be likely to involve the licensee in a breach of:
i. the Grid Code; or
ii. the Distribution Code; or
iii. the Act or any regulations made under the Act; or
iv. any other enactment relating to safety or standards applicable to the system of the licensee; or
(b) the other person does not undertake to be bound, insofar as applicable, by the Terms of the Codes referred to in subparagraphs (a)(i) and (a)(ii).

(8) For the purposes of paragraph 2, the period specified shall be:
(a) in the case of persons seeking use of the licensee’s system only, 28 days; and
(b) in the case of persons seeking connection or modification of an existing connection or seeking use of the licensee’s system in conjunction with connection, three months.

**Condition 6: Connection to and use of the system - functions of the Commission**

(1) If, after a period which appears to the Commission to be reasonable for the purpose, the licensee has failed to enter into an agreement with any person entitled or claiming to be entitled there to pursuant to an application in accordance with condition 5, the Commission shall, on the application of such person or the licensee, settle any terms of the agreement in dispute between the licensee and the person in question in such manner as appears to the Commission to be reasonable having (insofar as relevant) regard, in particular, to the following considerations:

(a) that the person should pay to the licensee the whole or an appropriate proportion (as determined in accordance with paragraph 5 of condition 5 of the costs directly or indirectly incurred by the licensee in the carrying out of any works or in providing or doing any other thing under the agreement in question calculated in accordance with the principles set out in paragraph 4 of condition 5 together with a reasonable rate of return on the capital represented by such costs;

(b) that the performance by the licensee of its obligations under the agreement should not cause it to be in breach of any other condition of this Order or any other statutory requirement;

(c) that any methods by which the licensee’s system is connected to the transmission system or distribution system accords with good engineering principles and practices;

(d) that the terms and conditions of agreements entered into by the licensee pursuant to an application in accordance with condition 5 should be, so far as circumstances allow, as similar in substance and form as is practicable.

(2) If the person wishes to proceed on the basis of the agreement as settled by the Commission, the licensee shall forthwith enter into and implement such agreement in accordance with its terms.

(3) If either party to an agreement for connection to, or modification of a connection to, the licensee’s system or for use of the licensee’s system entered into pursuant to condition 5 or this condition proposes to vary the contractual terms of such agreement in any manner
provided for under such agreement, the Commission shall, at the request of the licensee or other party to such agreement, settle any dispute relating to such variation in such manner as appears to the Commission to be reasonable having regard (insofar as relevant), in particular, to the considerations set out in sub-paragraphs (a) to (d) of paragraph 1.

**Condition 7: Provision of information to the Commission**

(1) The licensee shall furnish to the Commission, in such manner and at such times as the Commission may require, such information and shall procure and furnish to it such reports as the Commission may consider necessary in the light of the conditions or as it may require for the purpose of performing the functions assigned or transferred to it by or under the Act.

(2) The power of the Commission to request information under paragraph 1 is without prejudice to the power of the Commission to request information under or pursuant to any other condition of this Order, the Act, or any other enactment.

(3) In this condition:
"information" shall include any books, documents, records, accounts, estimates, returns or reports (whether or not prepared specifically at the request of the Commission) of any description and in any format specified by the Commission.

**Condition 8: Payment of levy**

(1) Where applicable, the licensee shall pay to the Commission any amounts specified in, or determined under a Levy Order, in accordance with the provisions of such Levy Order.

(2) In this condition:
"Levy Order" means an Order made by the Commission under paragraph 16 of the Schedule to the Act.

**Condition 9: Trading and Settlement Code**

(1) If the licensee is, at the coming into effect of this order, or subsequently chooses to become a party to the Single Electricity Market Trading and Settlement Code, then it shall comply with the Single Electricity Trading and Settlement Code insofar as applicable to it.

(2) Where a licensee wishes to procure the registration of any of its generation units under the Single Electricity Market Trading and Settlement Code, and the Commission has consented to the registration of such generation units by an Intermediary, the licensee shall ensure that
the Intermediary shall be party to and shall comply with the Single Electricity Market Trading and Settlement Code insofar as applicable to the Intermediary in respect of such generation units.

(3) In this condition:
"Intermediary" has the meaning given to it in the Single Electricity Market Trading and Settlement Code.

Condition 10: Cost-Reflective Bidding in the Single Electricity Market

(1) Where any generation unit of a licensee is registered under the Single Electricity Market Trading and Settlement Code, such person shall ensure that the price components of all Commercial Offer Data submitted to the Single Market Operation Business under the Single Electricity Market Trading and Settlement Code in relation to such generation unit, whether by the licensee or by any person acting on its behalf in relation to that generation, are cost-reflective.

(2) For the purposes of this condition, the price component of any Commercial Offer Data shall be treated as cost-reflective only if, in relation to the relevant generation unit, the Schedule Production Cost related to that generation unit in respect of the Trading Day to which the Commercial Offer Data submitted by or on behalf of the licensee apply is equal to the Short Run Marginal Cost related to that generation unit in respect of that Trading Day.

(3) For the purposes of paragraph 2, the Short Run Marginal Cost related to a generation unit in respect of a Trading Day is to be calculated as:
(a) the total costs that would be attributable to the ownership, operation and maintenance of that generation unit during that Trading Day if the generation unit were operating to generate electricity during that day; minus

(b) the total costs that would be attributable to the ownership, operation and maintenance of that generation unit during that Trading Day if the generation unit was not operating to generate electricity during that day, the result of which calculation may be either a negative or a positive number.

(4) For the purposes of paragraph 3, the costs attributable to the ownership, operation and maintenance of a generation unit shall be deemed, in respect of each relevant cost-item, to be the Opportunity Cost of that cost-item in relation to the relevant Trading Day.
(5) The Commission may publish and, following consultation with the holders of Generation Licences and such other persons as the Commission considers appropriate, from time to time by direction amend, a document to be known as the Bidding Code of Practice, which shall have the purposes of:

(a) defining the term Opportunity Cost;
(b) making provision, in respect of the calculation by the licensee and other generators of the Opportunity Cost of specified cost-items, for the treatment of:
   (i) the costs of fuel used by generators in the generation of electricity;
   (ii) the value to be attributed to credits issued under the Emissions Trading Scheme established by the European Commission;
   (iii) variable operational and maintenance costs;
   (iv) start-up and no load costs; and
   (v) any other costs attributable to the generation of electricity; and
(c) setting out such other principles of good market behaviour as, in the opinion of the Commission, should be observed by the licensee and other generators in carrying out the activity to which paragraph 1 refers.

(6) The licensee shall, in carrying out the activity to which paragraph 1 refers, act so as to ensure its compliance with the requirements of the Bidding Code of Practice.

(7) The Commission may issue directions to the licensee for the purposes of securing that the licensee, in carrying out the activity to which paragraph 1 refers, complies with this Order and with the Bidding Code of Practice, and the licensee shall comply with such directions.

(8) A licensee shall retain each set of Commercial Offer Data, and all of its supporting data relevant to the calculation of the price component of that Commercial Offer Data, for a period of at least four years commencing on the date on which the Commercial Offer Data is submitted to the Single Market Operation Business.

(9) The licensee shall, if requested to do so by the Commission, provide the Commission with:
   (a) a reasoned explanation of its calculations in relation to any Commercial Offer Data submitted to the Single Market Operation Business in relation to any of its generation units; and
(b) supporting evidence sufficient to establish the consistency of that data with the obligations of the licensee under this condition.

(10) In any case in which Commercial Offer Data are submitted to the Single Market Operation Business which are not consistent with the obligation of the licensee under paragraph 1 of this condition, the licensee shall immediately inform the Commission and provide to the Commission a statement of its reasons for the Commercial Offer Data submitted.

(11) This condition shall cease to have any effect from the date determined by the Commission subject to any transitional arrangements which the Commission may direct and without prejudice to the continuing enforceability of any rights or obligations which may have accrued or otherwise fallen due to performance prior to this date (including any requirements to comply with the direction of the Commission issued prior to that date).

(12) In this condition:

"Bidding Code of Practice" means the document of that title published by the Commission in accordance with paragraph 5, as it may be amended from time to time;

"Commercial Offer Data" has the meaning given to it in the Single Electricity Market Trading and Settlement Code;

"Generation Licence" means a licence granted under section 14(1) (a) of the Act;

"Opportunity Cost" shall have the meaning set out in, and the value calculated in accordance with, the terms of the Bidding Code of Practice;

"Schedule Production Cost" has the meaning given to it in the Single Electricity Market Trading and Settlement Code;

"Short Run Marginal Cost" means certain costs attributable to the ownership, operation and maintenance of a generation unit, as calculated in accordance with paragraph 3 of this condition;

"Single Market Operation Business" has the meaning given to it in the licence granted pursuant to section 14(1)(j) of the Act; and

"Trading Day" has the meaning given to it in the Single Electricity Market Trading and Settlement Code.

**Condition 10a Balancing Market Principles Code of Practice**

1. The Licensee shall ensure that, in formulating and submitting Commercial Offer Data to the Single Market Operation Business in the Balancing Market under the Single Electricity Market Trading and Settlement Code (whether by the Licensee itself or by any person acting...
on its behalf in relation to a generation unit for which the Licensee is the licensed generator), it acts so as to ensure its compliance with the Balancing Market Principles Code of Practice.

2. The Commission shall publish and, following consultation with the holders of Generation Licences and such other persons as the Commission considers appropriate, from time to time by direction amend, a document to be known as the Balancing Market Principles Code of Practice, which:
   (a) shall apply to such categories of Commercial Offer Data submitted into the Balancing Market as may be specified in the Code of Practice from time to time;
   (b) shall make such provision as appears requisite to the Commission for the purpose of securing that such Commercial Offer Data are cost-reflective and the Commission may elect to perform the functions conferred by this paragraph jointly with the Northern Ireland Authority for Utility Regulation.

3. The Commission may issue directions to the Licensee for the purposes of securing that the Licensee, in carrying out the activity to which paragraph 1 refers, complies with this Condition and with the Code of Practice, and the Licensee shall comply with such directions.

4. The Licensee shall retain records of each set of relevant Commercial Offer Data, and all of its supporting data relevant to the calculation of the components of such relevant Commercial Offer Data, for a period of at least four years commencing on the date on which the relevant Commercial Offer Data are submitted to the Single Market Operation Business.

5. The Licensee shall, if requested to do so by the Commission, provide the Commission with:
   (a) a reasoned explanation of its calculations in relation to any relevant Commercial Offer Data; and
   (b) supporting evidence sufficient to establish the consistency of those relevant Commercial Offer Data with the obligations of the Licensee under this Condition and the Code of Practice.

6. In any case in which relevant Commercial Offer Data are submitted to the Single Market Operation Business which are not consistent with the Licensee’s obligation under paragraph 1 of this Condition, the Licensee shall immediately inform the Commission and provide to the Commission a statement of its reasons for the relevant Commercial Offer Data submitted.
7. The Licensee shall by 1 June in each year submit to the Commission a certificate, signed by at least one director on behalf of the board of directors of the Licensee, to confirm that during the period of twelve months ending on the preceding 31 March:
(a) it has acted independently in relation to all submissions of Relevant Commercial Offer Data that have been submitted, by it or on its behalf, under the Single Electricity Market Trading and Settlement Code; and
(b) no such submissions made by it or on its behalf have been co-ordinated with any other submissions made by or on behalf of another party to the Single Electricity Market Trading and Settlement Code.

8. The provisions of this Condition (other than those of this paragraph which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Commission may by direction appoint. Different days may be so appointed for different provisions and for different purposes.

9. In this Condition:

"Balancing Market" has the meaning given to it in Part B of the Single Electricity Market Trading and Settlement Code

Balancing Market Principles Code of Practice or "Code of Practice" means the document of that title published by the Commission in accordance with paragraph 2, as it may be amended from time to time in accordance with the provisions of that paragraph.

Commercial Offer Data has the meaning given to it in the Single Electricity Market Trading and Settlement Code as it may be amended from time to time;

Demand Side Unit has the meaning given to it in the Single Electricity Market Code as it may be amended from time to time;

Generation Licence means licenses granted under Section 14 (1) (a) of the Act

Relevant Commercial Offer Data means Commercial Offer Data falling within the category specified in the Code of Practice;
Relevant Commercial Offer Data means Commercial Offer Data falling within the category specified in the Code of Practice;

Single Market Operation Business has the meaning given to it in the licence granted pursuant to Section 14 (1) (j) of the Act

**Condition 11: Assignment of approval and transfer of Generation Business**

(1) The licensee shall not, without the prior written consent of the Commission, assign an approval issued under Article 5(1)(a) of this Order.

(2) The licensee shall not, without the prior written consent of the Commission, transfer to another person (the "transferee") all or any part of the Generation Business carried out under an approval issued under Article 5(1)(a) of this Order.

(3) Any consent of the Commission to any assignment of an approval under Article 5(1) (a) of this Order or transfer of the Generation Business of the licensee shall be subject to the Commission being satisfied that the assignee or transferee, as the case may be, will have the technical and financial capability to comply with the conditions of this Order and, in the case of a transfer only, the transferee being granted an approval under Article 5(1) (a) of this Order, and may be subject to compliance by the assignee or transferee, as the case may be, with any other matters determined by the Commission to be necessary including the modification of an approval issued pursuant to Article 5(1) (a) of this Order.

(4) Nothing in this condition shall prevent the licensee transferring its Generation Business to an assignee where the Commission has consented to such assignment provided that such transfer is effected as soon as practicable after such consent has been given.

**Condition 12: Change in control**

The licensee shall notify the Commission of a change in control of the licensee as soon as is practicable after such a change in control occurs.

**Condition 13: Capacity Market Code**

1. The Licensee shall be party to, and shall comply with the Capacity Market Code insofar as applicable to it.
2. Where the Commission has consented to the registration of any of the licensee’s generation units by an Intermediary, the licensee shall not be obliged to be a party to the Capacity Market Code in respect of such generation units but shall ensure that the Intermediary shall be party to and shall comply with the Capacity Market Code insofar as applicable to the Intermediary in respect of such generation units.

3. The provisions of this Condition (other than those of this paragraph and paragraph 4 below which shall come into immediate effect) shall come into effect on such day, and subject to such transitional arrangements, as the Commission may be direction appoint. Different days may be so appointed for different provisions and for different purpose.

4. Where the Commission has consented to the registration of any of the licensee’s generation units by an Intermediary, the licensee shall not be obliged to be party to the Capacity market Code in respect of such generation units but shall ensure that the Intermediary shall be party to and shall comply with the Capacity Market Code insofar as applicable to the Intermediary in respect of such generation units.

5. In this Condition:
"Capacity Market Code" has the meaning given to that term in the Transmission System Operator licence; and

Intermediary has the meaning given to that term in the Capacity Market Code.
Condition 143: Right of Commission to revoke approval

(1) The Commission may revoke approval issued under this Order, by not less than thirty days notice in writing to the licensee in any of the following circumstances:

(a) if the licensee agrees in writing with the Commission that the approval should be revoked;

(b) where applicable, if any amount payable under a Levy Order is unpaid 30 days after it has become due and remains unpaid for a period of 14 days after the Commission has given the licensee notice in writing that the payment is overdue. Provided that no such notice shall be given earlier than the 16th day after the day on which the amount payable became due;

(c) if the licensee fails to comply with a direction under section 24 of the Act, a determination under section 25 of the Act or an order under section 26 of the Act and which (in respect of any of these cases) has been made in respect of a contravention or apprehended contravention of any of the conditions of this Order and (in respect of any of these cases) such failure is not rectified to the satisfaction of the Commission within three months, or such other period as the Commission may determine, after the Commission has given notice of such failure to the licensee. Provided that in respect of a direction under section 24 of the Act, no such notice shall be given by the Commission before the expiration of the period within which representations or objections under section 24 of the Act could be made questioning a direction under section 24 of the Act or before the proceedings relating to any such representations or objections are finally determined;

(d) if the licensee:

i. is unable to pay its debts (within the meaning of section 214 of the Companies Act 1963) or if it enters into any scheme of arrangement (other than for the purpose of reconstruction or amalgamation upon terms and within such period as may previously have been approved in writing by the Commission); or

ii. has a receiver or an examiner within the meaning of section 1 of the Companies (Amendment) Act 1990, of the whole or any material part of its assets or undertaking appointed; or

iii. passes any resolution for winding up other than a resolution previously approved in writing by the Commission; or
iv. becomes subject to an order for winding up by a court of competent jurisdiction; or
v. is dissolved, declared bankrupt or being of unsound mind.

(2)(a) For the purposes of paragraph 1(d)(i) of this condition, section 214 of the Companies Act, 1963 shall have effect as if for "€1,000" there was substituted "€50,000" or such higher figure as the Commission may from time to time determine by notice in writing to the licensee.

Sealed with the common seal of the Commission for Energy Regulation on (insert date).