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| **MODIFICATION PROPOSAL FORM** | | | | | |
| **Proposer**  **CRU** | **Date of receipt**  *(assigned by Secretariat)* | | **Type of Proposal**  *(delete as appropriate)* | | **Modification Proposal ID**  *(assigned by Secretariat)* |
| **Regulatory Authorities** | **30/08/18** | | **Standard** | | **MOD\_29\_18** |
| **Contact Details for Modification Proposal Originator** | | | | | |
| **Name** | | **Telephone number** | | **Email address** | |
| **Thomas Quinn** | |  | | **tquinn@cru.ie** | |
| **Modification Proposal Title** | | | | | |
| **Part B Schedule Production Cost Definition** | | | | | |
| **Documents affected**  *(delete as appropriate)* | | **Section(s) Affected** | | **Version number of T&SC or AP used in Drafting** | |
| **T&SC Glossary Part B** | | **Definitions** | | **[/]** | |
| **Explanation of Proposed Change**  *(mandatory by originator)* | | | | | |
| On 15 September 2017, the CRU and Utility Regulatory issued decision papers, together with the required statutory notices, which made changes to generation and supply licences in order to implement aspects of I-SEM. Amongst the changes were a new condition to implement the Capacity Market Code, and an amendment to the existing condition (referred to here as the “Cost Reflective Bidding Licence Condition”) and a new condition (referred to here as the “Balancing Market Principles Code of Practice Licence Condition”) to replace the Bidding Code of Practice (BCOP) with the Balancing Market Principles Code of Practice (BMPCOP). Two licensees appealed the decision by the CRU, following which, in July 2018, an Appeals Panel, established pursuant to Section 29 of the Electricity Regulations Act 1999, directed that the licence changes to the appellants’ licences not be made.  On 19 October 2017, having received notice of the appeal, the CRU published, “Notice to Holders of Generation Licences and Supply Licences granted under Sections 14(1) (a), 14 (1) (b) and 14 (1) (h) of the Electricity Regulation Act, 1999”, to the effect that the CRU decision (CER/17/277), together with the licence modifications set out therein, were suspended pending the decision of the Appeal Panel. This suspension still stands.  In Northern Ireland, the Utility Regulator has made the licence changes but has yet to issue directions that are necessary for the changes to take effect.  The effect of these developments is that it is unlikely by cutover that, in generation and supply licences, either the existing Cost-Reflective Bidding Licence Condition will cease to have effect or the new Balancing Market Principles Code of Practice Licence Condition will take effect.  However, paragraph 2 of the existing Cost-Reflective Bidding Licence Condition, states,  “*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 each 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*”,  whilst paragraph 12 states,  “*’Schedule Production Cost’ has the meaning given to it in the Single Electricity Market Trading and Settlement Code*”.  Schedule Production Cost is defined in Part A of the TSC, as,  “*the implied cost incurred by a Generator Unit, as determined from the Accepted Price Quantity Pairs, No Load Costs and Start Up Costs and other relevant Commercial Offer Data and Technical Offer Data, of Output in accordance with the Market Schedule Quantity*”.  The term is not defined in Part B. Moreover, regardless of whether or not the Part A definition exists after cutover, neither Schedule Production Cost nor Market Schedule Quantity, on which it is based, will be calculated for Imbalance Settlement Periods after cutover.  Whilst one solution would be to modify the definition of Schedule Production Cost in the licences, it is possible that such changes could not be made before cutover. Hence, it is proposed that, instead, a new definition of Schedule Production Cost, not depending on Market Schedule Quantity, be incorporated in Part B.  Paragraph 3 of the Cost Reflective Bidding Licence Condition states,  “*For the purposes of paragraph 2, the Short Run Marginal Cost related to a generation [unit/set] 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/set] during that Trading Day if the generation set 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 set during that Trading Day if the generation set was not operating to generate electricity during that day,*  *the result of which calculation may be either a negative or a positive number*.”  The proposed definition is not required for any purpose in Part B of the TSC and is required solely for the purpose of the Cost Reflective Bidding Licence Condition. Thus, rather than relating the definition to a particular quantity in the TSC, i.e. some equivalent of Market Schedule Quantity, it is proposed that Schedule Production Cost refers to the quantity being contemplated by paragraph 3 of the Cost Reflective Bidding Licence Condition.  For licences granted in Ireland under the Electricity Regulation Act 1999, the Cost Reflective Bidding Licence Condition is:  Condition 15 of the Generation Licence granted under Section 14(1)(a);  Condition 17 of the Generation Licence granted to ESB under Section 14(1)(a);  Condition 19 of the Supply Licence granted under Section 14(1)(b); and  Condition 25 of the Public Electricity Supply Licence granted under Section 14(1)(h).  For licences granted in Northern Ireland under the Electricity (Northern Ireland) (Order)1992, the Cost Reflective Bidding Licence Condition is  Condition 17 of the Generation Licence granted under Article 10(1)(a); and  Condition 57 of the Supply Licence granted to Power NI under Article 10(1)(c).  The definition must recognise also that only Complex Bid Offer Data, and not Simple Bid Offer Data, is subject to control. | | | | | |
| **Legal Drafting Change**  *(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* | | | | | |
| Add to the table of Definitions in Part B Glossary,   |  |  | | --- | --- | | *“Schedule Production Cost”* | *means the cost, determined by reference to the Complex Bid-Offer Data submitted for a Generator Unit, that would be incurred in relation to that Generator Unit were it to generate any such output as may be contemplated by paragraph 3 of Cost-Reflective Bidding Licence Condition;* |   and   |  |  | | --- | --- | | *“Cost-Reflective Bidding Licence Condition”* | *means, in respect of each participant that holds a licence granted under Section 14(1)(a), (b) or (h) of the Electricity Regulation Act 1999 or under Article 10(1)(a) or (c) of the Electricity (Northern Ireland)(Order) 1992, as the case may be:*   1. *Condition 15 of the licence granted pursuant to Section 14(1)(a) of the Electricity Regulation Act 1999,* 2. *Condition 17 of the licence granted to* [ESB] *pursuant to Section 14(1)(a) of the Electricity Regulation Act 1999,* 3. *Condition 19 of the licence granted pursuant to Section 14(1)(b)of the Electricity Regulation Act 1999,* 4. *Condition 25 of the licence granted pursuant to* [ESB] *Section 14(1)(h) of the Electricity Regulation Act 1999,* 5. *Condition 17 of the licence granted under Article 10(1)(a) of the Electricity (Northern Ireland)(Order) 1992, or* 6. *Condition 57 of the licence granted to Power NI Energy Limited under Article 10(1)(c) of the Electricity (Northern Ireland)(Order) 1992;* | | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification)* | | | | | |
| The existing Cost-Reflective Bidding Licence Condition in Generation, Supply and PES licences will be frustrated by the fact that Schedule Production Cost, as defined in Part A, cannot be calculated after cutover. The proposed Modification is intended to make the minimum change necessary such that the existing Cost Reflective Bidding Licence Condition and the existing Bidding Code of Practice can continue to be effective. | | | | | |
| **Code Objectives Furthered**  *(State the Code Objectives the Proposal furthers, see Section 1.3 of T&SC for Code Objectives)* | | | | | |
| The Bidding Code of Practice “*aims to facilitate the efficient operation of the Single Electricity Market by ensuring that:*  *• in combination … generators are appropriately compensated for making available their generation sets or units (as appropriate) and for generating electricity in the Single Electricity Market;*  *• generators cannot exercise market power in the generation of electricity on the island of Ireland or any part thereof; and*  *• the Power Procurement Business cannot exercise market power by virtue of generation sets or units contracted to it under long term power purchases agreements in Northern Ireland, in respect of which it has been appointed an Intermediary*”.  Accordingly, the objectives of the TSC that are furthered by the proposed Modification are those objectives that are furthered by the Bidding Code of Practice, namely:  (d) to promote competition in the Single Electricity Market; and  (g) to promote the short-term and long-term interests of consumers of electricity on the island of Ireland with respect to price, quality, reliability, and security of supply of electricity.  Objective (d) is furthered by ensuring that complex data is cost-reflective and Objective (g) is furthered that costs borne by consumers of electricity are as low as possible subject to generators being able to cover their costs over the long term.  Moreover, without the proposed Modification, the meaning of the Cost Reflective Bidding Licence Condition is ambiguous. Hence the proposed Modification prevents this ambiguity and furthers the objective:  (c) to facilitate the participation of electricity undertakings engaged in the generation, supply or sale of electricity in the trading arrangements under the Single Electricity Market; | | | | | |
| **Implication of not implementing the Modification Proposal**  *(State the possible outcomes should the Modification Proposal not be implemented)* | | | | | |
| Paragraph 2 of the existing Cost-Reflective Bidding Licence condition will be ambiguous after cutover, as Schedule Production Cost will no longer be calculated. | | | | | |
| **Working Group**  *(State if Working Group considered necessary to develop proposal)* | | | **Impacts**  *(Indicate the impacts on systems, resources, processes and/or procedures; also indicate impacts on any other Market Code such as Capacity Marker Code, Grid Code, Exchange Rules etc.)* | | |
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| ***Please return this form to Secretariat by email to*** [***modifications@sem-o.com***](mailto:modifications@sem-o.com) | | | | | |

**Notes on completing Modification Proposal Form:**

1. **If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.**
2. **Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Modifications Committee.**
3. **Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.**
4. **For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:**

**Agreed Procedure(s): means the detailed procedures to be followed by Parties in performing their obligations and functions under the Code as listed in either Part A or Part B Appendix D “List of Agreed Procedures”. The Proposer will need to specify whether the Agreed Procedure to modify refers to Part A, Part B or both.**

**T&SC / Code: means the Trading and Settlement Code for the Single Electricity Market. The Proposer will also need to specify whether all Part A, Part B, Part C of the Code or a subset of these, are affected by the proposed Modification;**

**Modification Proposal: means the proposal to modify the Code as set out in the attached form**

**Derivative Work: means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal**

**The terms “Market Operator”, “Modifications Committee” and “Regulatory Authorities” shall have the meanings assigned to those terms in the Code.**

**In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section 2 of Part A or Chapter B of Part B of the Code (and Part A Agreed Procedure 12 or Part B Agreed Procedure 12) , which I have read and understand, I agree as follows:**

**1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:**

* 1. **to the Market Operator and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;**
  2. **to the Regulatory Authorities, the Modifications Committee and each member of the Modifications Committee to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;**
  3. **to the Market Operator and the Regulatory Authorities to incorporate the Modification Proposal into the Code;**

**1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.**

**2. The licences set out in clause 1 shall equally apply to any Derivative Works.**

**3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.**

**4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.**

**5. I hereby acknowledge that the Modification Proposal may be rejected by the Modifications Committee and/or the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.**