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COMMISSION OPINION

of 30.4.2020

**pursuant to Article 20(5) of Regulation (EC) No 2019/943 on the implementation plan of
the United Kingdom with respect to Northern Ireland**

(ONLY THE ENGLISH VERSION IS AUTHENTIC)

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I. PROCEDURE

On 10 March 2020 the Commission received an implementation plan from the United Kingdom with respect to Northern Ireland prepared pursuant to Article 20(3) of Regulation (EC) No 2019/943¹ (hereafter “Electricity Regulation”). The Commission received the same implementation plan on 20 December 2019 from the Department for the Economy of Northern Ireland. Article 20(3) of the Regulation requires Member States with adequacy concerns to set out measures to eliminate regulatory distortions or market failures on their markets in an implementation plan.

Pursuant to Article 20(5) of the Regulation, the Commission is required to issue an opinion on whether the proposed measures and the timeline for their adoption are sufficient to eliminate the regulatory distortions or market failures.

II. DESCRIPTION OF THE IMPLEMENTATION PLAN

In its implementation plan, Northern Ireland describes reforms and measures adopted under the Integrated Single Electricity Market program that led to the launch of the new Single Electricity Market (I-SEM) on 1 October 2018. Northern Ireland states that these reforms started already in 2013 and they brought the SEM in line with the requirements under the EU Target Model and in accordance with state aid rules.

The Commission understands that the competent authorities of Ireland and Northern Ireland jointly set the rules required for the operation of the SEM. Although Northern Ireland and Ireland have prepared separate implementation plans they are effectively measures for the same market but with certain jurisdictional differences. The Commission understands that Northern Ireland and Ireland have cooperated in preparation of their respective plans. The Commission has therefore considered both plans in parallel.

In the following, the Commission only describes measures from the implementation plan, which directly relate to the required actions as referred in Article 20(3) of the Electricity Regulation.

¹ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity, 14.06.2019, p.54, OJ, L 158.

1. General wholesale price conditions

Northern Ireland states that there are no price caps or regulated prices in relation to wholesale electricity in the Northern Irish market (I-SEM). Price caps reflect the EU wide technical price caps as set out in internal energy market legislation.

2. Balancing markets

DS3/ Competitive System Service procurement – According to the implementation plan the aim of the DS3 programme is to ensure that the power system will operate safely under increasing amounts of variable renewables. This will include new balancing products in order to manage challenges to the system, such as frequency oscillations, low electromagnetism and network congestions, which might arise in power systems with high shares of renewables.

The regulatory authority will recalculate the Value of Lost Load (VoLL) as part of the implementation of the Electricity Regulation². The regulatory authority in cooperation with the TSO will develop a conceptual approach to convert I-SEM bids into standard products for the EU balancing energy platforms (Q2/3 2020).

3. Demand side response

Northern Ireland states that demand side response (DSR) is eligible for participation in day-ahead, intraday as well as balancing markets and can be offered both individually and aggregated.

The Commission understands that Northern Ireland has only introduced smart meters on a small-scale, trial basis. Northern Ireland states that its strategy with regards to smart metering for the period 2020 to 2050 will be set out in its Energy Strategy which is currently under development. The implementation plan does not provide any commitment with regards to the roll out of smart meters.

4. Retail markets: regulated prices

At present, in Northern Ireland the percentage of total demand supplied under the regulated tariff regime is circa 20% and is only available to domestic customers. Power NI as a former incumbent supplier is providing regulated prices in the domestic market because of its dominant market position. Northern Ireland explains that the regulated tariff is above cost and is set on a cost plus margin basis and the scheme is not discriminatory against other suppliers. It is further explained that there is no direct cross-subsidization between customers supplied at free market prices and those supplied at regulated prices. At present, there is no timeline for price deregulation in Northern Ireland. Currently no social tariffs available in Northern Ireland for any domestic electricity consumer group.

² Article 23(6) of the Electricity Regulation requires Member States to set their VoLL based on a methodology which is proposed by ENTSO-e and approved by ACER

5. Interconnection

Northern Ireland has 450MW of interconnection capacity with Great Britain through the Moyle Interconnector. Northern Ireland has an existing interconnection with Ireland and is progressing with arrangements for a further interconnection by way of a 2nd tie-line which is currently under in planning (referred to as the North/South Interconnector). This project is a designated EU Project of Common Interest (PCI).

III. COMMENTS

On the basis of the present notification, the Commission has the following comments on the implementation plan. As a general consideration, the Commission reiterates that the thorough implementation of the rules proposed as part of the Clean energy for all Europeans package is essential to making sure that the transition to a climate neutral energy system takes place at least cost and that the security of supply is maintained during transition.

1. General wholesale market considerations

The Commission welcomes that there are no price caps or regulated prices in the Northern Irish wholesale electricity market (I-SEM). The Commission invites Northern Ireland to maintain its commitment not to intervene in price formation other than applying harmonised maximum and minimum clearing prices for single day-ahead and intraday coupling in accordance with Article 41(1) and 54(1) of Commission Regulation (EU) 2015/1222³.

2. Balancing markets

The Commission understands that Northern Ireland does not apply price caps or regulated prices in its balancing market. The Commission invites Northern Ireland to maintain its commitment not to intervene in price formation.

The Commission takes good note of Northern Ireland's commitment to adjust its balancing market to the requirements of Commission Regulation (EU) 2017/2195 (hereinafter "Balancing Guideline"). The Commission understands that Northern Ireland plans to join the EU platforms for Replacement Reserve and for manually activated Frequency Restoration Reserve in accordance with Articles 19 and 20 of the Balancing Guideline. The Commission considers that Northern Ireland should join the EU platforms as soon as the Island of Ireland becomes interconnected with the integrated electricity market of the EU.

Article 20(3)(c) of the Electricity Regulation requires Member States to consider the implementation of a shortage pricing function. In the implementation plan, Northern Ireland describes the administrative scarcity pricing mechanism as applied in I-SEM.

In the Commission's view, it is important that this mechanism is well designed so that it does not only provide incentives for short term flexibility but also sends appropriate signals for investments to maintain system adequacy. In this context, the Commission invites Northern

³ Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management, 25.7.2015, OJ, L 197, p.24

Ireland to consider whether the price adder which the referred function creates in times of scarcity should apply not only to balance responsible parties but also to balance service providers which provide balancing energy to the TSO.

The Commission understands that the shortage pricing function is designed as a price floor, which requires that when the system runs out of reserves, the imbalance settlement price reaches a level of at least 25% of VoLL, i.e. 2,994.89 EUR/MWh⁴. The Commission also understands that in the context of determining the volume of capacities procured under its capacity mechanism, Northern Ireland applies the VoLL which is currently set at 11,979.57 €/MWh for the 2023/24 capacity year. While the Northern Irish balancing regime allows for prices to increase above 25% of VoLL it is unclear why the value applied in the shortage pricing function (i.e. short term adequacy) should be different from the value applied in the capacity mechanism (i.e. long term adequacy). Therefore the Commission invites Northern Ireland to consider harmonising the two values as soon as possible and no later than 1 January 2022.

3. Demand-side response

The Commission recommends that Northern Ireland closely monitors the costs and benefits of rolling out smart metering systems with functionalities that would enable the uptake of price-based demand response. This would help to reduce peak loads.

4. Retail markets: regulated prices

The Commission notes that Northern Ireland has a regulated tariff regime to address the dominant position of the former incumbent electricity supplier. In respect to this intervention, the Commission recommends that Northern Ireland respects the principles set out in Article 5 and Article 9 of Directive (EU) 2019/944⁵.

Given that market concentration would appear to justify this intervention, the Commission invites Northern Ireland to examine measures to encourage retail market entry. In any event, the Commission encourages Northern Ireland to continue to closely monitor the regulated tariff regime's necessity and proportionality, as well as its effects on competition and consumer engagement.

⁴ <https://www.semcommittee.com/sites/semc/files/media-files/2024-25%20T-4%20Parameters%20Consultation.pdf>

⁵ Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU, 14.6.2019, OJ, L 158, p.125

5. Interconnection

Given Northern Ireland's wholesale power market is integrated with the Irish wholesale power market within I-SEM, the Commission invites Northern Ireland to continue implementing the North/South Interconnector project.

6. Capacity mechanism

The Commission invites Northern Ireland to make sure that the design of its capacity mechanism complies with the requirements of the Electricity Regulation and to adapt its mechanism, where necessary, as required by Article 22(5) of the Electricity Regulation.

IV. CONCLUSION

Pursuant to Article 20(5) of the Electricity Regulation, the Commission invites Northern Ireland to amend its implementation plan to take utmost account of the above comments of the Commission. Northern Ireland is invited to publish its amended plan within three months and inform the Commission.

Pursuant to Article 20(6) of the Electricity Regulation, Northern Ireland shall monitor the application of its implementation plan and shall publish the results of the monitoring in an annual report and submit that report to the Commission. In this report, Northern Ireland is invited to explain whether and to what extent the market reforms have been implemented according to the planned timeline, and if not explain the reasons why.

The Commission's position on this particular notification is without prejudice to any position it may take on the compatibility of any national implementing measure with EU law.

The Commission will publish this document on its website. The Commission does not consider the information contained therein to be confidential. Northern Ireland is invited to inform the Commission within ten working days following receipt whether and why they consider that, in accordance with EU and national rules on business confidentiality, this document contains confidential information which they wish to have deleted prior to such publication.

Done at Brussels, 30.4.2020

For the Commission
Kadri Simson
Member of the Commission

