



23 February 2009

Our Ref: 38176

Trading and Settlement Code Modifications Committee
C/O Marie-Therese Campbell
SMO Modifications Committee Secretariat
The Oval
160 Shelbourne Rd
Dublin 4

**SEM Committee Decision for the Regulatory Authorities in relation to Mod_02_09
(Recommendation Report FRR_02_09)**

Dear Marie-Therese,

On 18th February 2009, the Modifications Committee submitted its Modification Recommendation Report with regard to a Modification Proposal, Mod_02_09 (Further Extension of Section 7 Clauses for calculation of Eligible Availability for Energy Limited Units), in accordance with paragraph 2.231 of the SEM Trading and Settlement Code (the Code).

This Modification Proposal, raised by the Market Operator (MO), seeks to extend the period of application of four Section 7 paragraphs in the Code which provide for an interim method of calculation of Eligible Availability for Energy Limited Generator Units. These Section 7 provisions were put in place by an Urgent Modification Proposal (Mod_82_07) with effect from 1st December 2007. The Modifications Committee report to the Regulatory Authorities (RAs) with respect to Mod_82_07 (FRR_82_07, 19th November 2007) stated that the proposal was to put the Modification into the Code as an Interim Provision so that the results could be monitored and reexamined at a later date. That Modifications Committee Report also recorded a step for further action "a later Modification to be raised prior to the expiry of 12 months, to ensure the prevailing Code is amended to reflect an agreed methodology".

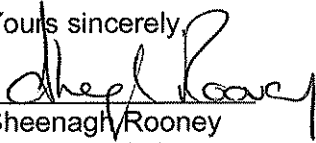
The SEM Committee notes the Modifications Committee's unhappiness with the process that led to this Modification Proposal, which the MO stated to be the result of other issues deflecting the necessary resource. The SEM Committee also notes the Modification's Committee's request for notice of such events in the future.

The SEM Committee is concerned to be put in the position where, if it does not approve this Modification Proposal for implementation by the end of February 2009, it will leave the Market Operation in breach of the Code. The SEM Committee therefore directs the Market Operator to publish a report to the Modifications Committee and the RAs on a monthly basis starting in March 2009 setting out its plans and progress on the analysis required to reach a final resolution of this issue and to put that resolution in place through the Modifications process by the end of August 2009.

The SEM Committee notes that the Modifications Committee voted unanimously to recommend this proposal to the RAs and that it should be implemented on a Settlement Day basis on the next Working Day after the day on which the RA's decision is made.

Considering the above, and in accordance with paragraph 2.218 of the Code, the SEM Committee decides that a modification be made in accordance with the Final Recommendation Report of the Modifications Committee (FRR_02_09), for the avoidance of doubt, based upon the legal drafting set out in Appendix 1 of that report. The Regulatory Authorities therefore direct that the modification, as set out in FRR_02_09, be made on a Settlement Day basis with effect from the next Working Day after the date of this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sheenagh Rooney', written over a horizontal line.

Sheenagh Rooney
Manager – Wholesale Electricity Market