**image001**

**T&SC Modifications Committee**

Final Recommendation Report (FRR)

Mod\_19\_11:

*Modifications Committee Representation*

Version 1.0

22 August 2011

1. **Background**

This Modification Proposal was proposed by Endesa Ireland on 26 May 2011 and presented at Meeting 36 of the Modifications Committee on 09 June 2011, where it was Recommended for Rejection by the Committee.

1. **Purpose of Proposed Modification**

**2a. Justification for Modification**

As the membership of the Modification Committee is limited, each company in the market does not have the opportunity to be a member of the Committee, represent Suppliers or Generators and exercise voting rights.

In order to ensure the widest industry representation on the panel and to limit market power, companies should not have more than one seat representing either suppliers or generators.

**2b. Impact of not implementing a solution**

If this Modification is not implemented representation on the Modification Committee will be skewed in favour of more established market participants, which is potentially discriminatory to new entrants, helping to maintain dominant positions.

1. **Impact on Code Objectives**

This Modification Proposal furthers the following Code Objectives:

3. 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

5. to provide transparency in the operation of the Single Electricity Market

6. to ensure no undue discrimination between persons who are parties to the code

1. **Development Process**

The proposal proposes changes to Section 2.151 and introduces and the addition of a new clause 2.151A. The Modification was presented by Endesa Ireland at Meeting 36 of the Modifications Committee on 09 June 2011.

1. **Assessment of Alternatives**

No Alternatives assessed.

1. **Working Group and/or Consultation**

Working Group/Consultation not considered necessary by the Modifications Committee.

1. **Impact on other Codes/Documents**

No impact on other codes or documents identified.

1. **Impact on Systems and Resources**

No impact on Systems or Resources identified by the Committee.

1. **Modifications Committee views**

The proposer explained that the changes proposed are to ensure widest possible representation and diversity on the Modifications Committee. The Committee noted a clarification to the number referencing of the changes. It was acknowledged by Endesa that the numbering reference in the new clause is incorrect.

Organisations’ ring fencing arrangements were discussed; the Committee questioned the proposer’s perception of the ring fencing arrangements. The proposer confirmed that the proposal is not intended to criticise or question any ring fencing arrangement in place but rather to expand the representation on the Committee. Members noted that ring fenced organisations operate with varied motivations and outlooks and used an example of vote cast on Mod\_12\_11 earlier in the Meeting where two ring fenced organisations voted for opposite outcomes.

The ESB Electric Ireland representative informed the panel that the various ESB groups are completely ring fenced from each other and therefore it would not be viable for one ESB Member to represent the concerns of both organisations. Similar situation in place for NIE where two ring fenced organisations hold positions on the Committee, namely, Viridian Power & Energy and NIE Energy Supply.

Attention was drawn by a Supplier and a RA Member to the remit of Members to represent the relevant Generation or Supply Participant view rather than that of any specific company. An Activation Energy representative agreed that the existing arrangements provide the opportunity for observers to attend Meetings and represent their views without holding a seat on the Committee.

The turnout of just over half of the electorate for the 2010 Generator Election was noted and there was a suggestion that a solution may be that Nominees actively lobby their constituents. Concern was voiced that new entrants may not be aware of the process for the annual elections. Secretariat agreed to expand awareness of elections process via the SEMO website.

The Chair questioned if the level of expertise in the industry is reflected in the Modifications Committee. It was noted that there is diverse representation ranging from policy to technical knowledge bases. A Generator Member further added that restricting a particular company could limit the type of units represented. Any change to the representation should take consideration of the industry sectors represented. Observers are welcome at Meetings and have the opportunity to input to Meetings.

There was agreement among panel Members that the Committee works well and process is transparent. An RA Member added that the views of Participants are welcome regarding whether the RAs should use their power to increase representation from 15 Members to 17 Members.

**Recommendation**

This Modification Proposal was ‘**Recommended for Rejection**’ by the Modifications Committee by unanimous vote as follows:

Ian Luney – Generator Member

Grainne O’Shea– Generator Member

Niamh Quinn – Generator Alternate

Kevin Hannafin – Generator Member

Iain Wright – Supplier Member

Jill Murray – Supplier Alternate

Killian Morgan - Supplier Member

William Steele – Supplier Member

1. **Proposed Legal Drafting**

None proposed.

**Legal Review**

Complete

1. **Implementation Timescale, Costs and Resources**

It is proposed that this Modification is not implemented.

**Appendix 1 – Modification Proposal**

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| **MODIFICATION PROPOSAL FORM** | | | | | | |
| **Proposal Submitted by:** | **Date Proposal received by Secretariat:**  *(to be assigned by Secretariat)* | | **Type of Proposal**  *(please delete as appropriate)* | | | **Number:**  *(to be assigned by Secretariat)* |
| Endesa Ireland | 26 May 2011 | | **Standard** | | | Mod\_19\_11 |
| **Contact Details for Modification Proposal Originator** | | | | | | |
| **Name:**  **Marian Troy** | | **Telephone number:**  01 5228343/ 5228300 | | **e-mail address:**  marian.troy@endesaireland,ie | | |
| **Modification Proposal Title:** Modification Committee Representation | | | | | | |
| **Trading and Settlement Code and/or Agreed Procedure change?** | | | | | Trading and Settlement Code Change | |
| **Section(s) affected by Modification Proposal:** | | | | | Section 2.151 (insert new section 2.151a) | |
| **Version Number of the Code/Agreed Procedure used in Modification drafting:** | | | | | Version 9.0 | |
| **Modification Proposal Description**  *(Clearly show proposed code change using* ***tracked changes*** *& include any necessary explanatory information)* | | | | | | |
| |  |  | | --- | --- | | 2.151a | Only one member employed by each Party, or a related Party with a common parent company, may be elected either under paragraph 2.150.2(b) or 2.150.2(c) to represent Generation Participants or Supply Participants. | | | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification & how it furthers the Code Objectives)* | | | | | | |
| As the membership of the Modification Committee is limited, each company in the market does not have the opportunity to be a member of the Committee, represent Suppliers or Generators and exercise voting rights.  In order to ensure the widest industry representation on the panel and to limit market power, companies should not have more than one seat representing either suppliers or generators.  This Modification Proposal furthers Code objectives 3, 5 and 6 in ensuring a wider representation in the Modifications Committee:  3. 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  5. to provide transparency in the operation of the Single Electricity Market  6. to ensure no undue discrimination between persons who are parties to the code | | | | | | |
| **Implication of not implementing the Modification**  *(Clearly state the possible outcomes should the Modification not be made , or how the Code Objectives would not be met)* | | | | | | |
| If this Modification is not implemented representation on the Modification Committee will be skewed in favour of more established market participants, which is potentially discriminatory to new entrants, helping to maintain dominant positions. | | | | | | |
| ***Please return this form to Secretariat by e-mail 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.**
4. **For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:**

**Code: means the Trading and Settlement Code for the Single Electricity Market**

**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 the Code (and 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.**