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| **MODIFICATION PROPOSAL FORM** | | | | | |
| **Proposer** | **Date of receipt** | | **Type of Proposal** | | **Modification Proposal ID** |
| Mutual Energy Ltd and EirGrid Interconnector Ltd | 06 November 2012 | | Standard | | Mod\_25\_12 |
| **Contact Details for Modification Proposal Originator** | | | | | |
| **Name** | | **Telephone number** | | **Email address** | |
| Paul McGuckin | | 02890 437 580 | | Paul.mcguckin@mutual-energy.com | |
| **Modification Proposal Title** | | | | | |
| **Suspension of Interconnector Unit on instruction of Interconnector Owner due to breach of Access Rules** | | | | | |
| **Documents affected**  *(delete as appropriate)* | | **Section(s) Affected** | | **Version number of T&SC or AP used in Drafting** | |
| T&SC | | 2 | | V10 | |
| **Explanation of Proposed Change**  *(mandatory by originator)* | | | | | |
| The TSC provides (section 2.97) that the Interconnector Administrator shall verify to the Market Operator whether or not the Party (or Applicant, as applicable) is an Interconnector User. At this stage the Interconnector Administrator is confirming that the Party has met the eligibility requirements for the interconnector. There is currently no mechanism whereby this “approval” can be revoked if the party no longer meets the eligibility requirements or is in breach of the access rules.  The purpose of this change is to allow the interconnector owner to request that the Market Operator suspends an interconnector unit if it no longer meets the eligibility requirements or is in breach of the interconnector access rules. | | | | | |
| **Legal Drafting Change**  *(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* | | | | | |
| 2.244 A Suspension Order issued under paragraph 2.243 or 2.246.1 to 2.246.13 shall be expressed to take effect no earlier than the date of the expiry of the Supplier Suspension Delay Period in respect of any Supplier Unit included in the Suspension Order and no earlier than the expiry of the Generator Suspension Delay Period in respect of any Generator Unit included in the Suspension Order. In respect of each Supplier Unit, the Suspension Order shall not take effect (i) until the Supplier Suspension Delay Period has expired and (ii) unless and until the relevant Regulatory Authority has directed that all demand represented by that Supplier Unit shall be met by a Supplier of Last Resort or until all relevant Meter Point Registration Numbers represented by the Supplier Unit to be suspended have been moved to other Supplier Units so that the Supplier Unit to be suspended no longer represents any Demand. During the period before the Suspension Order comes into effect in respect of a particular Unit, the Regulatory Authorities may instruct the Market Operator to issue a notice or notices amending or lifting the Suspension Order in respect of that Unit or any or all of the Units concerned.  2.245 A Suspension Order shall not be issued under paragraph 2.243 solely by reason of the failure of the Participant to have its Credit Cover in place under paragraph 2.243.2 during the 2 Working Days permitted for replenishment of Credit Cover under paragraph 6.170 or during the 10 Working Days permitted to acquire a new Credit Cover Provider under paragraph 6.165.  2.246 The Market Operator may, with the prior written approval of the Regulatory Authorities, issue a Suspension Order in respect of all or any of a Party’s Units where:   1. it becomes unlawful for a Party to comply with any of its obligations under the Code; 2. it becomes unlawful for a Party’s Credit Cover Provider to comply with any of its Credit Cover obligations; 3. a Legal Requirement necessary to enable a Party or its Credit Cover Provider to fulfil its obligations and functions under the Code is amended or revoked in whole or in part so as to prevent a Party or its Credit Cover Provider from fulfilling its obligations and functions under the Code; 4. a Party or its Credit Cover Provider suspends or ceases to carry on its business, or any part of its business which is relevant to its activities under the Code; 5. a Party’s Credit Cover Provider ceases to be eligible for the purposes of the Code to be able to provide the Credit Cover and the Party has not acquired a new Credit Cover Provider within 10 Working Days as required under paragraph 6.165; 6. a Party enters into or takes any action to enter into an arrangement or composition with its creditors (except in the case of a solvent and bona fide reconstruction or amalgamation); 7. a Party’s Credit Cover Provider enters into or takes any action to enter into an arrangement or composition with its creditors (except in the case of a solvent and bona fide reconstruction or amalgamation); 8. a receiver, manager, receiver and manager, administrative receiver, examiner or administrator is appointed in respect of a Party or its Credit Cover Provider or any of their respective assets, or a petition is presented for the appointment of an examiner or administrator, or a petition is presented or an order is made or a resolution is passed for the dissolution of, winding up of or appointment of a liquidator to a Party or its Credit Cover Provider, or a liquidator, trustee in bankruptcy or other similar person is appointed in respect of a Party or its Credit Cover Provider, or any steps are taken to do any of the foregoing or any event analogous to any of the foregoing happens in any jurisdiction; 9. a Party or its Credit Cover Provider is dissolved or struck off; 10. a Party or its Credit Cover Provider is unable to pay its debts for the purposes of section 214 of the Companies Act, 1963 (Ireland), Article 103 (1) or (2) of the Insolvency Order (Northern Ireland) 1989, or Section 123 (1) or (2) of the Insolvency Act 1986 (Great Britain) (as applicable) or if any voluntary arrangement is proposed in relation under Article 14 of the Insolvency Order (Northern Ireland) 1989, or section 1 of the Insolvency Act 1986 (Great Britain)(as applicable), or for the purpose of any similar or analogous legislation under the laws of any jurisdiction. For the purposes of this paragraph 2.246.10, Section 213 of the Companies Act, 1963 shall have effect as if for “£60,000” there was substituted “€100,000” and Article 103 of the Insolvency Order (Northern Ireland) and section 123 of the Insolvency Act, 1986 (Great Britain) shall have effect as if for “£750” there was substituted “£60,000” or such higher figure as the Market Operator may specify from time to time; 11. a Party which is required to be licensed in respect of any or all of its roles under the Code has its Licence revoked in whole or in part or amended, so as to prevent the Party from fulfilling its obligations and functions under the Code; 12. a Party has committed 3 Defaults within a period of 20 Working Days; or 13. a Party has committed a Default and has failed for a period of 20 consecutive days, or such longer period as may be set out in the relevant Default Notice, to comply with the terms of such Default Notice. 14. In the case of an Interconnector Unit, the relevant Interconnector Owner has instructed the Market Operator that such unit should be suspended. In this case the Suspension Order will take effect within one working day. | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification)* | | | | | |
| Both the Moyle and East West interconnector Access Rules contain provisions to allow action to be taken where an interconnector user does not abide by the rules (e.g. failure to put credit cover in place or pay invoices). This allows the interconnector owner to suspend the interconnector user on the Auction Management Platform and prevent them from nominating explicitly acquired capacity or participating in explicit auctions to acquire additional capacity.  With the introduction of intra-day trading there is a possibility that an interconnector unit could continue to participate in implicit intra-day auctions in SEM (even if suspended by the interconnector owner) as there is no mechanism under the current rules for the interconnector owner to request suspension of an interconnector unit by the Market Operator in SEM. There is potential that an interconnector user who has been suspended for non-payment could continue to incur further liabilities to the Interconnector Owner (and in turn other interconnector users by way of the intraday use-it-or-sell-it mechanism) indefinitely by participating in IDT. The aim of this modification is to prevent such a situation occurring. | | | | | |
| **Code Objectives Furthered**  *(State the Code Objectives the Proposal furthers, see Section 1.3 of T&SC for Code Objectives)* | | | | | |
| * to facilitate the efficient, economic and coordinated operation, administration and development of the Single Electricity Market in a financially secure manner; * to ensure no undue discrimination between persons who are parties to the Code; and * 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.   This modification would help protect the financial interests of interconnector owners and users in the SEM (which in turn protects the interests of consumers who ultimately underwrite the interconnectors) and ensures that interconnector units trading on the interconnectors through IDT are subject to enforcement of the same rules as other interconnector units. | | | | | |
| **Implication of not implementing the Modification Proposal**  *(State the possible outcomes should the Modification Proposal not be implemented)* | | | | | |
| The interconnector owners and users would be exposed to traders using interconnector capacity acquired implicitly through IDT and failing to abide by the interconnector access rules – the interconnector owner would be unable to take any action to correct such a situation. An interconnector user could therefore continue to incur liabilities indefinitely. | | | | | |
| **Working Group**  *(State if Working Group considered necessary to develop proposal)* | | | **Impacts**  *(Indicate the impacts on systems, resources, processes and/or procedures)* | | |
| No | | | No major impacts. Would need to establish a protocol for the interconnector owner to communicate a suspension request to the market operator. TSC already provides for suspension by Market Operator so would not expect any systems changes to be necessary. | | |
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| ***Please return this form to Secretariat by email to*** [***modifications@sem-o.com***](mailto:modifications@sem-o.com) | | | | | |