



Trading and Settlement Code Modifications Committee
c/o Esther Touhey
SEMO Modifications Committee Secretariat
The Oval
160 Shelbourne Rd
Dublin 4

29 October 2020

Our Ref: F/21691

SEM Committee Decision for the Regulatory Authorities in relation to Mod_08_20 (Referral Mod_08_20)

Dear Esther,

This Modification was raised by ElectroRoute on 9 July 2020. Following detailed discussion of the matter at Modifications Committee Meetings 100 and 100B, a vote was taken on Mod_08_20 with four votes to reject the Modification, four votes to approve and two abstentions. This resulted in no determination and no recommendation being made by the Modifications Committee to the Regulatory Authorities.

On 9 October, the Modifications Committee submitted its referral to the RAs with regard to Modification Proposal Mod_08_20 'Imbalance Prices to Reflect the Real Time Value of Energy' in accordance with Paragraph B.17.19.1 of Part B of the SEM Trading and Settlement Code (TSC).

Under the Trading and Settlement Code, section B.17.20.2., in the event that the Modifications Committee is unable to make a determination and a Modification Proposal is referred to the

Regulatory Authorities, the Regulatory Authorities shall decide whether to direct a Modification '*in accordance with the Modification Proposal or any alternative Modification Proposal or otherwise or reject the Modification Proposal*'.

While the Regulatory Authorities disagree with the explanation and justification for the proposals provided in Mod_08_20, it is acknowledged that the issues it raises, as discussed at Committee Meetings 100 and 100B, are highly complex market design issues which cut across ongoing or soon to begin consultation processes. Further, the Regulatory Authorities understand that as part of recent discussions at Meetings 100 and 100B, many Members of the Modifications Committee noted the difficulty of voting on this Modification Proposal due to the level of technical detail at issue. The Regulatory Authorities also note that a significant number of Members stated their concerns regarding the relative incompleteness of information available to proceed to a vote in the context of the ongoing Consultation processes on Electricity Balancing Guideline (Regulation (EU) 2017/2195) (EBGL) compliance and the Clean Energy Package, in particular Regulation (EU) 2019/943. A number of requests were made by Committee Members to postpone implementation of Mod_10_19 until these related processes are complete.

The Regulatory Authorities wish to reiterate the point that the SEM Committee's Building Blocks Decision Paper (SEM-15-064) explicitly stated that priority dispatch generation should not be able to set the imbalance price and the current provisions under the Trading and Settlement Code do not reflect this decision, by omission rather than by design. Mod_10_19 was not raised in order to change a policy decision of the SEM Committee but to ensure that the SEM design is correctly implemented in the Trading and Settlement Code. Throughout the finalisation of the detailed design, consideration was given to the latest drafts of the EBGL to ensure that the Detailed Design decisions were consistent with the direction of travel of the emerging new requirements. In the decision on the Trading and Settlement Code, SEM-17-024, the RAs continued to follow the development and finalisation of the EBGL to ensure that it was as aligned as possible with the new requirements.

The operation of the market in this respect, until Mod_10_19 is implemented, does not reflect the SEM Committee's Decision, and further, in the Regulatory Authorities' view, does not fully reflect the requirements of applicable legislation. At the time Mod_10_19 was being discussed, the Regulatory Authorities agreed that a longer term solution to implement this where such prices are removed from the pricing calculation rather than applying a price of 0 €/MWh to the bids of such

units for Imbalance Pricing would be preferable and this is something that may be considered further.

Based on the matters outlined above, discussions at the Modifications Committee and the arguments set out as part of this process, the Regulatory Authorities do not think it is appropriate or in line with the Objectives of the Trading and Settlement Code to approve this Modification Proposal as drafted.

However, on the basis of the discussions at the Modifications Committee and the fact that this issue materially affects all market participants and energy consumers, the Regulatory Authorities consider that it would be appropriate to defer implementation by the Market Operator of Mod_10_19 until, at least, the following public consultation and decision-making processes are complete, expected in Q1 2021:

1. As previously indicated to stakeholders, the Regulatory Authorities will issue a consultation on the SEM's compliance with the requirements of the EBGL, following a detailed review of the EBGL and agreed Methodologies between National Regulatory Authorities and ACER which were finalised in 2020. This consultation will be published in December 2020, with a decision expected in early 2021. The consultation will include the Regulatory Authorities' minded-to position on a range of areas of compliance with the EBGL and stakeholder feedback will be invited on these positions.
2. The Regulatory Authorities will publish a Proposed Decision on dispatch and redispatch in the SEM under Articles 12 and 13 of the Electricity Regulation and on compensation for redispatch under Article 13(7), following the Consultation in SEM-20-28 and subsequent notices to industry. This will include consideration of dispatch and redispatch actions on priority dispatch units which is of relevance to this discussion. The Regulatory Authorities will take on board feedback from stakeholders in coming to a final decision in this area.

In the view of the Regulatory Authorities, a deferral to the implementation of Mod_10_19 while these processes are undertaken will provide stakeholders with an opportunity to engage with the

Regulatory Authorities on the wider EU regulatory context within which implementation will take place.

It should also be noted that ElectroRoute, on 15 October 2020, initiated judicial review proceedings in respect of decisions taken in relation to Mod_10_19 and has been granted a number of injunctive orders the effect of which is to restrain the taking of any steps in respect of the implementation of Mod_10_19, subject to a number of provisos. Therefore, the implementation of Mod_10_19 may also be dependent upon the outcome of those judicial review proceedings and currently is prohibited pending the determination of those proceedings unless the associated injunctions are lifted.

The Regulatory Authorities have therefore decided to direct a Modification to the Trading and Settlement Code in accordance with Paragraph B.17.20.2, to make a temporary amendment to Sections D.4.4.12 and F.3.2.1 of the Code (as modified by Mod_10_19) via Section H 'Interim Arrangements' in order to defer implementation of Mod_10_19 until a revised date that is the 'Mod_10_19 Deployment Date'. That revised date is to be specified by the Regulatory Authorities via a decision letter following the conclusion of the above consultation processes, in circumstances where any such implementation is not prohibited by the current injunctions. It is intended that such a decision letter will set out the date for implementation of Mod_10_19, which will be no less than 3 weeks from the date on which the Regulatory Authorities' decision letter is published on SEMO's website.

As part of the SEM Committee's Decision to approve Mod_10_19, it was stated that '*the Modification should go live as soon as practicable once the associated system implementation is delivered in the next available system release*'. The deployment date for Release F, which includes the system functionality for Mod_10_19, is 3 November 2020 which is the date the modifications made to Sections D.4.4.12 and F.3.2.1 of the Code will become effective. The Modification that the Regulatory Authorities are now directing will become effective from the current effective date of Mod_10_19, i.e. 3 November 2020. The legal drafting changes to give effect to this are included in an Appendix to this Decision. Based on this Decision, the functionality for Mod_10_19 will also be turned off in systems and will not come into operation before the new Mod_10_19 Deployment Date. This stipulation as to the deployment of Release F, but with the

Mod_10_19 functionality turned off within the Release, complies with the terms of the injunctive orders that are now in place.

Yours sincerely,

Grainne Black
Manager
Wholesale Electricity Markets
Commission for Regulation of Utilities
Sent by email with no signature

Leigh Greer
Manager
Wholesale Electricity Markets
Utility Regulator
Sent by email with no signature

Appendix 1 – Legal Drafting

These legal drafting changes will be added to Section H ‘Interim Arrangements’ with effect from the current effective date of Mod_10_19, i.e. 3 November 2020. This has the effect of operationally turning off the functionality implementing Mod_10_19 until a revised date, which is the ‘Mod_10_19 Deployment Date’, which is to be defined in the TSC Glossary.

The following will be inserted after section H.13:

“H.14 PROVISION FOR TEMPORARY DEFERRAL TO IMPLEMENTATION OF MODIFICATIONS MADE BY MOD_10_19

H.14.1 Until the date that is the Mod_10_19 Deployment Date:

- (a) paragraph D.4.4.12 shall be replaced with:
“D.4.4.12 Intentionally blank”; and
- (b) the words, “paragraphs D.4.4.6, D.4.4.7 and D.4.4.12”, in paragraph F.3.2.1 shall be replaced with the words, ““paragraphs D.4.4.6 and D.4.4.7”.

The following definition will be added to the Glossary Section of the Trading and Settlement Code;

Mod_10_19 Deployment Date	means the date directed by the Regulatory Authorities for the purpose of H.14, such a date to be published on the Market Operator web site at least three weeks in advance of the date concerned.
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