OFFICE OF FAIR TRADING

Completed acquisition by AES Ballylumford Holdings Limited of Premier Power Limited

ME/4688/10

The OFT's decision on reference under section 22(1) given on 24 November 2010. Full text of decision published 14 January 2011.

Please note that the square brackets indicate figures or text which have been deleted or replaced in ranges at the request of the parties or third parties for reasons of commercial confidentiality.

PARTIES

1. **AES Ballylumford Holdings Limited** (ABHL) is wholly owned by the AES Corporation (AES), a global power company. AES controls AES Kilroot Power Limited (KPL) which operates the Kilroot power station in Northern Ireland. KPL's turnover in 2009 was £[ ]million.

2. **Premier Power Limited** (PPL) owns the gas-fired Ballylumford power station in County Antrim, Northern Ireland. PPL's UK turnover in the financial year to 31 December 2009 was £[ ] million.

TRANSACTION

3. The acquisition by ABHL of PPL was completed on 11 August 2010 for a total consideration of £102 million.

4. Completion of the transaction was conditional on the receipt of comfort letters from the Northern Ireland Authority for Utility Regulation ('the Utility Regulator') and the Department of Enterprise, Trade and Investment (DETI). These comfort letters essentially confirmed that 'change of control' provisions were not going to trigger the use of revocation powers under relevant generation licences.

5. The administrative and statutory deadlines for the OFT to make a decision on this transaction expire on 24 November and 10 December respectively.

JURISDICTION

6. As a result of this transaction ABHL and PPL have ceased to be distinct. The UK turnover of PPL exceeds £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is satisfied. Therefore, the OFT believes that it is or may be the case that a relevant merger situation has been created.

RATIONALE FOR THE MERGER

7. ABHL submitted that the rationale for the transaction is part of AES's corporate strategy to increase its presence in electricity generation in the all-island market of Ireland.

MARKET DEFINITION

Background

The Single Electricity Market (SEM)

8. The SEM was created in 2007 and is the all-island electricity market for the Republic of Ireland and Northern Ireland, administered by the SEM Operator (SEMO).[1]

9. The SEM includes a centralised gross pool market, in which electricity is bought and sold through a market clearing mechanism. Generators bid[2] in their Short Run Marginal Cost (SRMC)[3] and receive the System Marginal Price (SMP) for each trading period for their scheduled dispatch. Suppliers purchasing energy from the pool pay the SMP along with capacity costs and system charges as illustrated in the diagram below.

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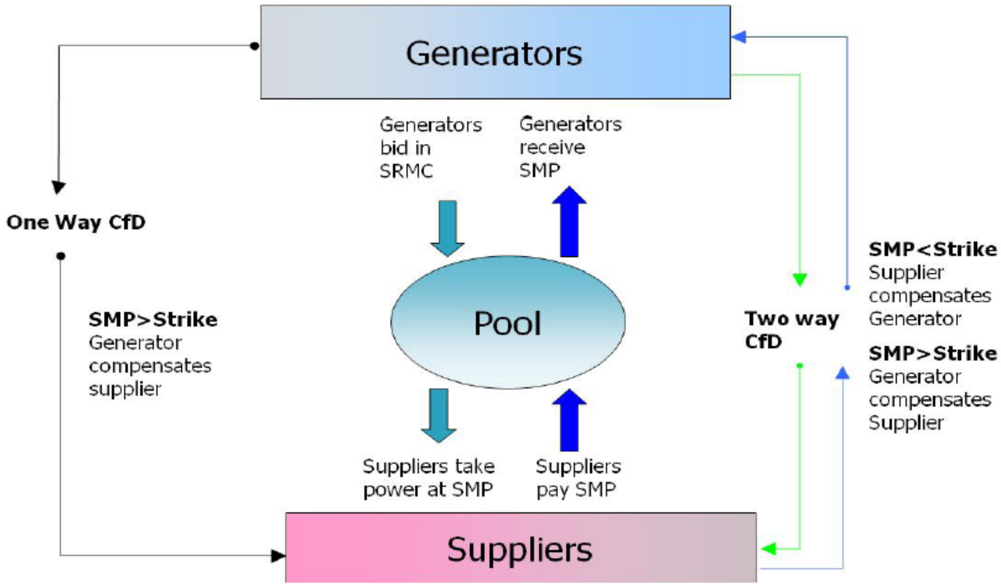
[1] SEMO is a joint venture between EirGrid and SONI, the system operators in the Republic of Ireland and Northern Ireland respectively.

[2] Generators submit their bids to the market operator by 10am on the day before the trading day.

[3] The requirement for generators to submit bids that reflect their SRMC is enshrined in both the Generator Licences and the Bidding Code of Practice. The Code is a legally binding document.



Source: SEM Market Power & Liquidity (SEM-1—057) 23 August 2010

10. Scheduling of generators' bids and pricing is calculated by the SEMO on an ex-post unconstrained [4] basis. Following the derivation of the unconstrained schedule, which governs SMP payments, further despatch instructions are issued to resolve network constraints. The transmission system operators (SONI in Northern Ireland and EirGrid in the Republic of Ireland) despatch generators within the trading day on a real time basis taking into consideration all relevant system constraints. Payments are made to 'constrained on' or 'constrained off' generating units based on the same set of bids used to derive the unconstrained schedule.

11. The Northern Ireland Utility Regulator and the Commission for Energy Regulation (CER) in the Republic of Ireland jointly regulate the SEM and operate a Market Monitoring Unit (MMU). The chief focus of the MMU is testing, checking, investigation and enforcement of compliance by generators with the Bidding Code of Practice. The MMU tests for compliance by ranking commercial offer data against its own internal costing models. A combination of this analysis and complaints or queries from competitors has enabled the unit to detect discrepancies relatively quickly.[5]

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[4] Assumes there are no constraints on the transmission system that would impede the system operating based solely on the lowest bids in the merit order.
[5] [ ]

The parties' generation in Northern Ireland

12. Ballylumford Power Station is a gas-fired generation facility with an effective operating capacity of 1,213 MW. It is the largest electricity generation site on the island of Ireland, and consists of three power stations.[6] Kilroot Power Station is principally a coal-fired power station, with an effective capacity of 618 MW.

13. A significant proportion of output from these sites is currently contracted to NIE Energy (NIEE). NIEE via its Power Procurement Business (PPB) currently has Power Procurement Agreements (PPAs) with PPL for five generating units at Ballylumford with a generating capacity of 896 MW. PPB also has contracts for four generating units with AES Kilroot with total capacity of 578 MW.

Product scope

14. The European Commission ('the Commission') and the OFT have examined various mergers relating to the generation and wholesale supply of electricity in Great Britain, and the transmission of electricity in Northern Ireland.[7] Previous cases have generally defined a single market for both electricity generation and wholesale supply, encompassing both the production of electricity at power stations and electricity physically imported through interconnectors. In EDF/British Energy the Commission[8] left open whether 'ancillary services'[9] constitute separate product markets in themselves, distinct from wholesale supply.

15. Ancillary services are additional services purchased by the system operator from market participants to maintain effective operation – for example, reactive power and operating reserve. The analysis in this case is not affected whether ancillary services are considered separate or part of wider electricity generation and wholesale supply.

[6] One combined cycle gas turbine (CCGT) plant; one conventional thermal plant run on gas or heavy fuel oil; and one open cycle gas turbine (OCGT) plant.
[7] COMP/M.5224 EDF/British Energy; ME/4133/09 Anticipated acquisition by Centrica of 20 per cent of Lake Acquisitions August 2009; ME/4628/10 Anticipated acquisition by ESBNI Limited of NIE plc, NIE Powerteam and PES October 2010.
[8] COMP/M.5224 EDF/British Energy Paragraph 19
[9] In this case purchased by the National Grid to manage electricity supply and demand in the network.

16. AES submits that the relevant market is that for the generation and wholesale supply of electricity in the island of Ireland's SEM. This is supported by third parties contacted by OFT.

17. The provision of 'constrained generation', for which only a subset of generating units are suitable, has been identified as potentially relevant in this case. Demand for constrained generation, for example in Northern Ireland, arises in part as a consequence of capacity constraints on relevant interconnectors. However, constrained generation could also be regarded as simply one aspect of electricity generation activity, and the suitability of different plants to provide it may best be treated as a type of product and/or geographic differentiation. (See below for a further discussion under Geographic scope).

Geographic scope

18. In EDF/British Energy the Commission[10] considered that the relevant geographic market comprised the whole of Great Britain, since 'this area is regulated by BETTA[11] and therefore subject to the same conditions of competition.' AES submits that the relevant geographic market in this case is the island of Ireland for analogous reasons.

19. Despite the existence of the SEM, it is necessary to consider whether a narrower geographic market may be appropriate. The merging assets are both located in Northern Ireland, which is linked to the electricity transmission network in the rest of Ireland by an interconnector. However the interconnector is subject to a capacity constraint (of approximately 400MW). This contributes to a situation where a certain volume of generation capacity in Northern Ireland is typically 'constrained on' – that is, required to run regardless of their position in the merit order. There is provision for 'constraint payments' from the system operator (SONI) to generators which assist with system stability in this way.

20. The system operator, SONI, in Northern Ireland maintains three of the large generator units on at all times to provide system stability. The existence of system constraints, and in particular that relating to the North-South interconnector, imply that a hypothetical monopolist of electricity

[10] COMP/M.5224 EDF/British Energy Paragraph 20.
[11] British Electricity Trading and Transmission Arrangements.

generation capacity in Northern Ireland may have the potential ability to increase constraint payments due to the limited competition from other locations.

21. AES submitted a note prepared by Oxera Consulting in June 2010, assessing potential competition concerns from the transaction.[12] The Oxera paper noted that,

'... concentration within a more narrow geographic market could be relevant in the assessment of local market power where plant face limited competition from elsewhere, such as constraint management services and other ancillary services.'

22. Whilst third parties generally recognised that the unconstrained wholesale electricity market operates and delivers a single price on an 'all-island' basis, some noted that the existence of physical limitations in the transmission network between Northern Ireland and the Republic provide a basis to consider the structure of generation in Northern Ireland as relevant.

23. It appears appropriate to consider whether the merger could have an impact specifically in relation to Northern Ireland generation capacity. Aspects of this discussion are clearly also relevant to the competition assessment of this transaction.

Conclusion

24. Given the OFT's conclusions in this case, it has not been necessary to conclude on market definition but for the purposes of the competitive assessment, the transaction has been considered on both a SEM basis and on a more cautious basis, the provision of 'constrained generation' in Northern Ireland.

[12] Oxera: Assessment of potential competition concerns related to AES's proposed acquisition of Ballylumford Power Station – Note prepared for AES; 21 June 2010.

HORIZONTAL ISSUES

Market shares[13]

SEM basis

25. In terms of overall generating capacity, AES submits that its post-merger share of SEM for 2011 will be [15-20] per cent (with an increment of [five-10] per cent).[14] AES estimates that the leading generator ESB will have a share of approximately 35-40 per cent.

26. The Utility Regulator provided a document containing 2012 forecast capacity shares in the SEM which are set out below including the share accounted for by the parties' uncontracted capacity which is below 10 per cent.

Ownership group	Per cent
AES + PPL (Of which: - uncontracted - contracted to PPB)	**[15-20]** [5-10] [5-10]
ESBPG	[30-35]
ESBI	[5-10]
Endesa	[5-10]
GB Interconnector	[5-10]
VPE	[5-10]
Bord Gais	[5-10]
Tynagh	[0-5]
Others	[5-10]

Source: the Utility Regulator October 2010

[13] It should be noted that overall market shares of capacity (or output) in electricity markets are not necessarily all that meaningful. Market participants' ability to set or influence the market clearing price often depends more on the make-up of their generating portfolio than their overall capacity or production.
[14] Based on a market size forecast of 12,451 MW.

Northern Ireland basis

27. The Utility Regulator estimated that AES, post-merger, now owns 64 per cent of Northern Ireland generation capacity. However, as explained in paragraph 13, about half of that capacity is contracted to PPB which bids this generation into the SEM. The remaining generation in Northern Ireland consists of the Coolkeeragh power station which is owned by ESB International and wind generation.

28. Consistent with its share of capacity AES now owns and operates the majority of the Northern Ireland generating units which are suitable for being constrained on as required by the system operator to deal with transmission constraints.

Unilateral effects

29. Under the competitive assessment, the OFT considered the SEM wholesale market, and Northern Ireland generation (specifically relating to constraint management) in turn and whether AES has any ability or incentive to raise prices independently of the existing regulatory arrangements which are considered separately.

Supply of wholesale electricity to SEM

30. As noted by the parties, a risk associated with a consolidation of generating capacity is the ability to withhold capacity of flexible plant in the wholesale market to enable other plant in the merged entity's portfolio (typically baseload) to benefit from a higher wholesale price. Both Kilroot and Ballylumford contain 'peaking' plant units, hence they may both be the price setting plant at certain times of high peak demand.

31. The parties submit that the contracted position of much of the merged entity's baseload plant would restrict the extent to which it would benefit from (and hence incentives to engage in) capacity withholding, since its revenue is determined by an agreement with PPB. AES also submits that the largely contracted position of PPL reduces the ability of AES to influence the market since contracted units are not bid into the SEM by AES but by PPB.

32. AES Kilroot's June 2010 Business Plan states that, 'The main competitors continue to be the two incumbent utilities, ESB and Viridian. Other competitors with a smaller stake in the market are Premier Power (contracted to Viridian), Endesa, Bord Gais (Republic of Ireland state owned gas utility) and Airtricity (renewable entity owned by Scottish and Southern Energy).' It therefore appears from the information provided that AES does not consider PPL to be as close a competitor as ESB or Viridian within the SEM.

33. Generally, few concerns were raised by third parties about the impact of the merger on the SEM. The amount and structure of competing generation capacity in other hands and available to the SEM was regarded as sufficient to prevent the merger having a detrimental impact on the unconstrained SEM schedule and the consequent SMP.

34. No third parties raised the prospect that the merged entity's combined mix of baseload and price setting plant would enhance its ability to manipulate the merit order, typically by withholding price-setting plant, to set a higher SMP.

35. One third party raised a possible concern that AES could manage its portfolio so as to maximise revenue from independent (non-contracted) plants while still receiving contract payments under the PPAs. For contracted plant, AES has obligations under both its licence conditions and under contract to provide elements of the commercial offers PPB makes when it bids into the SEM. The suggestion was that AES could manipulate technical and/or commercial offer data to disadvantage the contracted units in the SEM, resulting in lower SEM revenues for PPB and a requirement to fund any shortfall in PPB revenues from consumers in Northern Ireland. The third party confirmed that the Bidding Code of Practice ought to prevent manipulation of the contracted plants' offer bids in this way, but suggested that there might be some scope for latitude.

36. In response to this specific concern, AES submitted that the structure and contracted profile of AES's generation portfolio is such that it would lack the ability or incentive to withhold any of its units. AES submitted that in respect of contracted units, it is required to make these available to NIEE and so cannot influence whether their availability or output is reduced without incurring liability towards NIEE. AES maintains that there is a significant deterrent to declaring contracted plant unavailable (for example

to attempt to skew generation volumes in favour of uncontracted plant) due to the availability payments that would be foregone.

37. Analysis provided by the parties indicates that most of the Ballylumford plant under contract operates as baseload (winter) or mid-merit (summer) capacity. This suggests that any offer data manipulation intended to move such capacity out of the merit order (in favour of AES uncontracted plant) would need to be substantial, and therefore particularly visible to PPB and the Utility Regulator's market monitoring unit. AES also argued that it would be in breach of its generation licence and grid code requirements if it withheld capacity from the system operator that was technically available for dispatch.

38. On the basis of the information available, together with the lack of third party concerns, the OFT considers that the merger is therefore unlikely to result in a substantial lessening of competition in the overall SEM market.

Supply of constrained generation in Northern Ireland

39. The SEM market price is set on the basis of an unconstrained merit order. It takes no account of interconnector constraints, needs for reserve capacity, nor of spreading generation geographically to optimize system performance. SONI, the system operator, constrains plant on or off to meet these specific additional requirements, and makes constraint payments to relevant plant accordingly. Plant which is constrained on receives its (SRMC) bid price. Plant constrained off is paid the SMP minus its bid price (which equates to foregone profit). Constraint payments are funded by SONI through system charges.[15]

40. The OFT understands that some Northern Ireland transmission constraints are specific to certain generating units, and cannot therefore be subject to a merger effect. Other constraints can be resolved by any of the generators in Northern Ireland, and are generally dispatched on a least cost basis. In particular, SONI requires that at least three large generator units are on at all times to provide system stability.

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[15] AES estimates that SEM capacity payments to generators (for plant availability) and constraint payments (for constraint management and ancillary services) in 2009 were worth €596 million and €96 million respectively, compared with €1,778 million paid in energy payments.

41. The Utility Regulator noted a potential increase in local market power in relation to constrained generation in Northern Ireland. Of the five large generating units in Northern Ireland, post-merger AES now owns four (compared with two pre-merger). This raises the concern that AES may be a residual monopolist in constrained generation, and hence able to take advantage in its bidding of situations where some of its plant may be guaranteed to be constrained on, to raise its level of constraint payments received.

42. AES submitted that a key limitation on its (or any party's) ability to manipulate the level of constraint payments received is the fact that bids must be submitted ahead of time and on an unconstrained basis. The bids and payments reflect the same commercial offer data that must be submitted a day in advance for participation in the wholesale market. Hence any attempt to increase the levels of expected payments for constraint management is likely to decrease wholesale revenues.

43. AES provided data showing that the main generating units at Ballylumford were scheduled to run (in the merit order) significantly more frequently than they were constrained on. Whilst the reverse is the case for the main Kilroot units, AES submits that this is likely to reflect that Kilroot has a plant-specific transmission constraint role due to its close proximity to Belfast, and which is not affected by the merger.

44. SONI also explained that a generator attempting to move plant out of the market (merit order) through bid manipulation would be subject to the risk of losing availability payments. SONI emphasized that generators' offers are made for generation; they do not make a separate offer for constrained generation or constraint payments. It agreed that the structure and nature of competition in the SEM wholesale market should mitigate concerns about the exercise of local market power.

SEM regulatory arrangements

45. AES submits that the SEM has been designed specifically to mitigate market power, and as such is highly regulated. It asserts that the Bidding Code of Practice in particular obliges generators to bid their units at their short-run marginal costs irrespective of local transmission constraints, thus preventing ability to profit from geographic and transmission constraints.

46. The parties' submissions also point to regulatory controls as limiting the scope to exercise the potential market power identified. Specifically, it identifies regulated prices imposed by SONI for ancillary services, and the SEM bidding principles (obligation to bid at SRMC on all generators), which are argued to limit the combined entity's ability to increase constraint payments.

47. The OFT asked AES about the visibility to the regulator of factors which might cause generators to alter their offer bids over time. AES explained that the cost component which generators submit as part of their bid mostly comprise commodity costs based on pricing indices, heat rate (thermal efficiency of the plant) and variable operations and maintenance (O&M). The last component is the most plant specific, but comprises only a small component of the overall bid (five per cent or less). AES submitted that any attempt by a generator to vary the level of its bid via variable O&M costs would result in disproportionately large percentage changes in these bid variables, which would be clearly visible to the regulator.

48. The Utility Regulator noted that although some of the parties' units required for constraint management (specifically the Ballylumford CCGT units) are contracted to (and therefore bid into the SEM by) PPB, they would all now be under the operational control of AES. As a result, the Utility Regulator considered that the merger would increase local market power in the Northern Ireland constrained market, but that generators' conduct in this context would fall under the existing SEM market power mitigation measures in place.

49. This was confirmed by SONI who considered that the risk of market distortion from the merger is adequately addressed by the regulatory framework, including the licensing regime, disclosure requirements and the transparency of the SEM bidding model. It noted that while the merger reduced competition within thermal (non-renewable) generation in Northern Ireland from three to two players, they are required to compete with generators across the island in the wholesale market.

50. Other third parties also placed confidence in the requirements for generators to submit regulated bids into the SEM in accordance with the Bidding Code of Practice, and subject to scrutiny by the independent MMU.

51. In placing weight on regulatory constraints on merging parties' behaviour, the OFT considers it reasonable to place more weight on specific ex ante regulation of pricing/bidding conduct such as the Bidding Code of Practice, applicable in this case, than on general ex post regulatory oversight. Accordingly, in light of the above information, the OFT considers that on balance the merger does not appear likely to result in an substantial lessening of competition in relation to constrained generation in Northern Ireland.

Supply of ancillary services in Northern Ireland

52. AES submitted that ancillary services represent a very small part of the market and are in any event subject to regulated prices which will not be affected by the merger.

53. This was confirmed by third parties who did not appear particularly concerned about ancillary services, even on a Northern Ireland basis. One third party said that such services are provided by the generators and PPB on standard terms. The third party explained that there is little or no sense in which market participants compete to provide these services. SONI, which negotiated these standard terms with all industry participants, was also unconcerned.

54. On the basis of the information provided, the OFT therefore considers that the merger is unlikely to result in a substantial lessening of competition in relation to the supply of ancillary services in Northern Ireland.

Coordinated effects

55. The OFT is not aware of previous or existing coordination within the electricity wholesale sector in Ireland or Northern Ireland. The impact of the transaction on the ownership structure within the SEM wholesale market is relatively limited, and would not appear to significantly increase the likelihood, effectiveness or stability of coordination between market participants.

56. To the extent that Northern Ireland is specifically affected, there are a small number of main generators (pre- and post-merger) who may recognize their interdependence in certain areas of activity. However, the SEM bidding arrangements, contractual arrangements, and active regulatory oversight

discussed above, should serve to mitigate risks of coordination arising within Northern Ireland in relation to constrained generation.

57. No third parties raised the prospect of coordinated effects.

BARRIERS TO ENTRY AND EXPANSION

58. AES made no specific submission on entry conditions. Third party views on entry conditions and prospects for new entry were mixed.

59. There are clearly significant fixed and sunk costs involved in building thermal power stations. One third party indicated that much of market entry in thermal generation has been via acquisition of existing plants rather than new build.

60. Market participants anticipate continued expansion of wind turbine capacity in Northern Ireland. Several also noted the impact of planned new interconnectors - a second north/south interconnector between Northern Ireland and the Republic of Ireland, and an 'East-West' interconnector between the Republic and Wales - which will lessen existing transmission constraints on the system and increase the capacity margin.

61. Whilst the OFT decision does not rely on new entry to overcome prospective competition concerns, the arrival of new interconnector capacity could be particularly relevant in reducing the transmission constraint which exist between Northern Ireland and other generator locations.

BUYER POWER

62. Electricity suppliers, as price takers for wholesale electricity from the pool mechanism, are not expected to have buyer power. However, it is common for suppliers to enter into contracts for differences in order to hedge any volatility risk in wholesale electricity prices.

63. In terms of constraint management and ancillary services, SONI, as sole purchaser, appears to be in strong position with respect to generators in that it implements standardised terms for the relevant services.

64. Given that the OFT has no concerns that a substantial lessening of competition will arise as a result of the merger, it has not been necessary to conclude on buyer power.

VERTICAL ISSUES

65. No vertical issues were identified.

THIRD PARTY VIEWS

66. Generally, few concerns were raised by third parties about the impact of the merger on the SEM. No third parties raised the prospect that the merged entity's combined mix of baseload and price setting plant would enhance its ability to manipulate the merit order, typically by withholding price-setting plant, to set a higher SMP.

67. One third party raised a concern that AES could manage its portfolio so as to maximise revenue from independent (non-contracted) plants while still receiving contract payments under the PPAs. This concern has been discussed above.

68. On the whole, third parties took the view that although the merger would increase concentration in Northern Ireland generation, the market power mitigation measures operated by the regulator would be sufficient to prevent harmful consequences.

ASSESSMENT

69. The parties overlap in the generation and wholesale supply of electricity from power stations located in Northern Ireland. The OFT assessed the completed merger on both a SEM basis and on a more cautious basis of the provision of constrained generation in Northern Ireland.

70. The OFT considered whether AES post-merger has the ability and incentive to raise the marginal price in the SEM or manage its portfolio to maximise revenue by withholding capacity on its contracted plant. The parties provided analysis that indicated that the size and composition of the combined entity's generating portfolio would be unlikely to incentivise any withholding of capacity due to the loss of availability payments and the relatively small capacity that would benefit from an energy price increase.

In addition, the contracted position of much of the merged entity's baseload plant would restrict the extent to which it would benefit from capacity withholding, since its revenue is determined by an agreement with PPB.

71. Further, the market mitigation measures that are in place, specifically the Bidding Code of Practice, are considered sufficient in preventing the merged party from raising prices in the SEM.

72. The OFT also considered the ability and incentive AES has post merger to increase constraint payments. However, the party's ability to manipulate the level of constraint payments it receives is limited as bids must be submitted ahead of time and on an unconstrained basis. Any attempt to increase the levels of expected payment for constraint management is likely to decrease wholesale revenues and whereas constrained-on payments result in generators being paid their bids (which reflect SRMC), the SEM offers an opportunity to earn revenues in excess of their bids (SMP less a generators SRMC). This provides an incentive to bid at a level to benefit from energy revenues rather than constraint payments.

73. Finally, the OFT considered whether post merger, AES would be in a position to raise the price of ancillary services in Northern Ireland. The OFT understands that the price for these services is regulated and hence will not be affected by the merger.

74. Consequently, the OFT does not believe that it is or may be the case that the merger has resulted or may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

75. This merger will therefore **not be referred** to the Competition Commission under section 22(1) of the Act.

ENDNOTES

1. In respect of paragraph 4, the parties clarified that the comfort letters relate to PPL's Gas Supply and Generation Licences.

2. In respect of paragraph 13, the parties clarified that NIEE via its Power Procurement Business (PPB) currently has Power Procurement Agreements (PPAs) with PPL for six (of the eight) generating units at Ballylumford with a generating capacity of 896 MW. PPB also has contracts for four generating units at Kilroot with total capacity of 534 MW. The parties also clarified that contracts for two of the AES Kilroot units (with combined capacity of 476 MW) were subsequently cancelled on 1 November 2010. This clarification does not impact on the OFT's conclusions in this case.

3. In respect of paragraphs 19 and 39, the parties clarified that it is SEMO that makes the constraint payments to generators.

4. With respect to paragraph 41, the parties clarified that there are six large generating units in Northern Ireland and that post-merger AES now owns five. This clarification does not impact on the OFT's conclusions in this case as the additional unit is relatively modest in size at 100 MW.

5. With respect to paragraph 44, SONI clarified that a generator attempting to move plant out of the market (merit order) through bid manipulation would be subject to the risk of losing **energy** payments not availability payments.