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MODIFICATION PROPOSAL FORM			
Proposer <i>(Company)</i>	Date of receipt <i>(assigned by System Operator)</i>	Type of Proposal <i>(delete as appropriate)</i>	Modification Proposal ID <i>(assigned by System Operator)</i>
DRAI	5 th May 2020	Urgent	CMC_09_20
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Jon Sedgwick		Jonathan.sedgwick@veolia.com	
Modification Proposal Title			
Modification to the Long Stop Date for the CY2020/21 T-1 Capacity Auction			
Documents affected <i>(delete as appropriate)</i>	Section(s) Affected	Version number of CMC used in Drafting	
Capacity Market Code	M. Interim Arrangements	3.0	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>The restrictions implemented due to the ongoing Covid-19 pandemic are having a particularly significant negative impact on the 28 CMUs which secured Awarded New Capacity (in total 155.5 MW) for CY 2020/21 in the T-1 auction held during November 2019.</p> <p>With the exception of one CMU which secured 10.954 MW Awarded New Capacity with a 10 year capacity duration (and therefore is subject to a Long Stop Date which is 18 months after the start of the Capacity Year), all of the Awarded New Capacity in the 2020/21 T-1 auction secured a capacity duration of 1 year. It is also highlighted that the majority (138.2 MW / approximately 89%) of the 155.5 MW of Awarded New Capacity from the 2020/21 T-1 auction was secured by DSUs/AGUs. While all of this 138.2 MW of DSU/AGU capacity was 'New Capacity' (i.e. was not registered on the DSU/AGU's Operational Certificate) at the time of qualification for the 2020/21 T-1 auction, which was during June 2019, it is likely that a significant portion of this capacity has been delivered in the interim period, for example to participate in the 2019/20 Capacity Year. Therefore, the volume of capacity at risk of non-delivery due to the ongoing Covid-19 crisis is likely to be less than 100 MW.</p> <p>The ongoing Covid-19 restrictions are preventing Participants from completing construction works to install and commission equipment and also from completing the required testing with Eirgrid / SONI. This is especially the case preventing Participants from achieving Minimum / Substantial Completion at many of the industrial / manufacturing sites where DSUs/AGUs have contracted to commission New Capacity.</p> <p>If a CMU is, due to Covid-19 restrictions, unable to achieve Substantial Completion prior to the Long Stop Date (31st October 2020 for Awarded New Capacity with capacity duration 1 year successful in the 2020/21 T-1 auction), this would result in the CMU's Awarded New Capacity being terminated by the System Operators, and the CMU incurring the Termination Charge (currently 30,000 €/MW, rising to 40,000 €/MW from 1st October 2020).</p> <p>This purpose of this urgent modification is to introduce an Interim Arrangement that adjusts the Long Stop Date to 31st December 2020 for Awarded New Capacity with a capacity duration of</p>			

one year which was secured in the 2020/21 T-1 auction (with provision for a further extension by the RAs if deemed appropriate).

The DRAI believe this is reasonable and justified by the significant nature of the Covid-19 restrictions and the fact these were neither within the control of nor foreseeable by Participants which secured Awarded New Capacity for the upcoming Capacity Year.

The DRAI believes this adjustment will significantly reduce the risk for new capacity providers caused by the Covid-19 restrictions, without material impact on security of supply and the value of the CRM hedge to consumers (due to the limited volumes of capacity impacted by the modification, less than 100 MW in total).

The DRAI believes the most beneficial outcome for security of supply and for consumers to have as much as possible of the impacted capacity delivered, as early as possible, rather than (as would happen if any of the capacity was delayed in achieving Substantial Completion past the Long Stop Date of 31st Oct 2020, without this modification in place) this capacity being terminated and therefore not delivered at all.

Participants caused to exceed the current Long Stop Date due to Covid-19 will not receive Capacity Payments which, under F.17 of the TSC are calculated based on the Commissioned Capacity Quantity in the Capacity and Trade Register (which is 0 for New Capacity which has not achieved Minimum or Substantial Completion). This provides a strong incentive to such Participants to achieve Minimum / Substantial Completion as soon as possible. Impacted Participants will also bear the financial impact of any delay in recovering the Performance Bonds that have been posted, caused by the proposed extension of the Long Stop Date.

The impact of the delivery risk arising due to the interaction of the Covid-19 restrictions and the Long Stop Date for the 2020/21 Capacity Year is highly concentrated, with 8 small Participants (all DSU/AGU aggregators) accounting for 89% of the Awarded New Capacity impacted.

While the Force Majeure provisions of the CMC would cover this situation, this would require individual Participants to claim relief separately (likely to be a significant administrative burden for both the Participants and the System Operators) and the complexity of the mechanics of how this would actually be applied would be very difficult to manage. Therefore, the DRAI has proposed this modification to avoid this requirement.

The proposed modification is in line with the intent shown by the CRU in its recent letter to all Generation Licence holders (dated 22nd April) providing an element of flexibility for Generators regarding their regulatory obligations where issues arise due to the current Covid-10 crisis. It is also noted that ESB-Networks is currently (as per the recent "Covid-19 Customer Update" on its website) only carrying out essential works and has put all other services on hold, which could potentially pose an additional challenge to Participants trying to commission New Capacity.

The legal changes proposed in this modification are drafted similarly to those recently approved by the RAs in CMC_02_20 and CMC-03-20 which adjusted the Long Stop Date for the CY2023/24 T-4 auction.

Legal Drafting Change

*(Clearly show proposed code change using **tracked** changes, if proposer fails to identify changes, please indicate best estimate of potential changes)*

In version 3.0 of the CMC (as modified by recently approved Modifications including CMC_02_20 which introduces a new clause M.10, and CMC_03_20 which adds a further sub clause into M.10) it is proposed to add a new section, M.11 as shown below.

M.11. PROVISIONS APPLICABLE TO THE T-1 CAPACITY AUCTION FOR CAPACITY YEAR 2020/21 ONLY

M.11.1 The provisions of this section M.11 apply only to the T-1 Auction for Capacity Year 2020/21, (the **T-1 2020/21 Auction**).

M.11.2 Paragraph J.6.1.1(b)(ii) shall be replaced with “in the case of a Capacity Award with a capacity duration of one year or less, the last day of the **third** full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided, or such later date as may be determined by the Regulatory Authorities, due to restrictions implemented in response to Covid-19, and notified to the System Operators.

M.11.3 In the event of any inconsistency or conflict between a provision of this section M.11 and any other provision of this Code, the provision of this section M.11 shall prevail to the extent of the inconsistency or conflict. Save as expressly amended by this section M.11 the Capacity Market Code shall continue to apply to the T-1 2020/21 Auction in accordance with its terms.

Modification Proposal Justification

(Clearly state the reason for the Modification)

To balance the risk impact of capacity commissioning delays caused by restrictions implemented in response to Covid-19 on consumers and the affected new capacity providers.

Code Objectives Furthered

(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)

The relevant Capacity Market Code objectives are set out below.

“A.1.2 Capacity Market Code Objectives

A.1.2.1 *This Code is designed to facilitate achievement of the following objectives (the “Capacity Market Code Objectives”):*

- a) *to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to the Capacity Market;*
- b) ***to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity Market and the provision of adequate future capacity in a financially secure manner;***
- c) *to facilitate the participation of undertakings including electricity undertakings engaged or seeking to be engaged in the provision of electricity capacity in the Capacity Market;*
- d) *to promote competition in the provision of electricity capacity to the SEM;*
- e) *to provide transparency in the operation of the SEM;*
- f) *to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and*
- g) *through the development of the Capacity Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.”*

Objective (b). Efficient, economic and coordinated operation, administration and development of the Capacity Market and the provision of adequate future capacity...

Helps to manage the delivery risk on new capacity providers without materially impacting security of supply or the value of the CRM hedge to consumers.

Implication of not implementing the Modification Proposal

(State the possible outcomes should the Modification Proposal not be implemented)

The impact would be a high risk of non-delivery for new capacity projects by the Long Stop Date due to Covid-19 restrictions. This risk is highly concentrated, disproportionately impacting a small number of Participants (predominantly DSUs/AGUs) which secured Awarded New Capacity with a one year capacity duration in the 2020/21 T-1 auction. This would also be likely to result in a high administrative burden (for affected Participants and the System Operators) associated with managing individual claims for relief under the CMC Force Majeure provisions.

Impacts

(Indicate the impacts on systems, resources, processes and/or procedures)

No material impact to systems, resources and processes/procedures.

Please return this form to the System Operators by email to 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 unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.
4. For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:

Agreed Procedure(s): means the detailed procedures to be followed by Parties in performing their obligations and functions under the Code as listed in Appendix D "List of Agreed Procedures".

T&SC / 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:
 - 1.1 to the Market Operator and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
 - 1.2 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;
 - 1.3 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.