



**Single Electricity Market
(SEM)**

Capacity Market Code Workshop 30

Appendix A

Approved Modification Text Drafting

SEM-23-087

22 November 2023

J.5.5 Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review

J.5.5.1 Subject to the requirements of paragraph J.5.5.2, a Participant or an Enforcing Party (on behalf of a Participant) may apply to the System Operators to extend the date of Substantial Financial Completion and Long Stop Date associated with a Capacity Market Unit by a period equal to the Third Party Extension Period where that Capacity Market Unit is subject to an Article 17/18 Direction, Third Party Judicial Review or Third Party Planning Appeal.

J.5.5.2 The System Operators shall extend the date of Substantial Financial Completion and Long Stop Date under paragraph J.5.5.1 subject to the requirements of paragraph J.4.2.5 and the Participant submitting the following proofs to the System Operators:

(a) Documentary evidence confirming the commencement of the Article 17/18 Direction, Third Party Judicial Review or Third Party Planning Appeal, and

(b) a statutory declaration signed on behalf of the Participant by a Participant Director confirming that the Participant and/or anyone related to (either directly or through marriage) or otherwise connected to the Participant and/or any of its agents and/or its employees had no involvement in instigating the Article 17/18 Direction, Third Party Judicial Review or Third Party Planning Appeal.

J.5.6.7 The Regulatory Authorities may request that a Participant provide additional information or evidence in relation to a Third Party Extension Application.

J.5.6.8 If a Participant makes a Third Party Exception Application, then the Regulatory Authorities shall notify the Participant and the System Operators whether or not they approve the Third Party Exception Application and, if they do approve it the provisional value of the Capacity Quantity Extension Period to be applied to the Capacity Quantity End Date and Time

Third Party Extension Period means, in respect of date of Substantial Financial Completion and Long Stop Date extension under paragraph J.5.5.1, the period from the date on which the relevant Participant has either

i. in respect of Ireland, been served with an originating notice or, in respect of Northern Ireland, been served with an application for leave to apply for judicial review, in respect of the Third Party Judicial Review to the date on which the Third Party Judicial Review is concluded, either by order, direction or decision of the court (not appealed by the third party to the Third Party Judicial Review), or otherwise;

or

ii. received a copy of the Third Party Planning Appeal to the date of the determination by An Bord Pleanála in respect of the Third Party Planning Appeal;

or

iii. in respect of Northern Ireland, received notification that the Local Planning Authority has received an Article 17/18 Direction by the Department, to the date of determination of the planning application by the Local Planning Authority or the Department as the case may be.

Add the following definition to the Glossary:

Article 17/18 Direction means a direction from the Department to the Local Planning Authority under Article 17 and/or 18 of the Planning (General Development Procedure) Order (Northern Ireland) 2015 (or equivalent provision), requiring that Local Planning Authority to notify the Department when it reaches a recommendation in relation to the planning application, such that the Department may consider whether or not to issue a direction to call in the application for determination under Section 29 of the Planning Act (Northern Ireland) 2011 (or any equivalent provision) or a direction to the Local Planning Authority preventing a Local Planning Authority from granting planning permission indefinitely or for a specified period in respect of any development or any class of development.

Local Planning Authority means a council in Northern Ireland with powers to determine planning applications under the Planning Act (Northern Ireland) 2011 (or any equivalent provision).

Department means the Department for Infrastructure in Northern Ireland or its successor department.