



**Single Electricity Market
(SEM)**

**Capacity Market Code Modifications –
Working Group 11 Decision Paper**

SEM-20-008

12 February 2020

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decisions relating to the Proposed Modification to the Capacity Market Code (CMC) discussed at the urgent Working Group held on 27 January 2020.

The decisions within this paper follow on from the associated consultation (SEM-20-005¹) which closed on 3 February 2020.

This paper considers the proposed Urgent modification presented at WG11. The proposed modification relates to:

➤ CMC_02_20 – Modification to the Required Timeframe for a T-4 Capacity Auction to take Place

Proposes to allow for an amendment to the Capacity Auction Timetable associated with the T-4 CY2023/24 Capacity Auction allowing for the auction to take place in April 2020. Under D.2.1.5 (d) of the Capacity Market Code, the Capacity Auction Run Start for a T-4 Auction shall fall in the period no less than forty-two and no more than fifty-four months prior to the start of the relevant Capacity Year. A Capacity Auction Run Start in April 2020 would fall forty-one months before the start of the 2023/24 Capacity Year.

The purpose of the modification is to introduce an Interim Arrangement that would allow the Capacity Auction Run Start for the CY2023/24 T-4 Capacity Auction to take place beyond the timescales described by D.2.1.5 (d). This modification is proposed in order to allow the Regulatory Authorities to approve the amended timetable. This is the only Capacity Auction for which this change would apply.

Three responses were received to the Capacity Market Code Working Group 11 Modification Consultation Paper by the end of the consultation period, none of which were marked as confidential.

Summary of Key Decisions

The purpose of the proposed modification was to further the Code Objectives within the CMC, specifically:

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;*

¹ Capacity Market Code Working Group 11 Modification Consultation Paper and Decision in regards to Immediate Milestones: <https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-005%20CMC%20WG11%20Consultation.pdf>

- 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;”*

At the time of consulting upon the proposal, the SEM Committee were minded to approve this Modification proposal.

Following consideration of the proposals and responses received to the consultation the SEM Committee have adopted the minded to position, and approve the proposed modification CMC_02_20.

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1. OVERVIEW

1.1 BACKGROUND

1.1.1 Decisions made during the development of the I-SEM CRM Detailed Design were translated into auction market rules to form the Capacity Market Code (CMC) (SEM-17-033) which was published in June 2017. The most recent version was published on 10 October 2019. The CMC sets out the arrangements whereby market participants can qualify for, and participate in, auctions for the award of capacity. The settlement arrangements for the Capacity Remuneration Mechanism (CRM) form part of the revised Trading and Settlement Code. The most recent version of the Trading and Settlement Code was published on 12 April 2019. Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the handling of proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

Process for modification of the CMC

1.1.2 Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the handling of proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

1.1.3 The purpose of the Modifications process is to allow for modifications to the CMC to be proposed, considered and, if appropriate, implemented with a view to better facilitating code objectives as set out in Section A.1.2 of the CMC. (B.12.1.2).

1.1.4 Modifications to the CMC can be proposed and submitted by any person, (B.12.4.1), at any time. Unless the modification is urgent modifications are subsequently discussed at a Working Group held on a bi-monthly basis. Each Working Group represents an opportunity for a modification proposer to present their proposal(s) and for this to be discussed by the workshop attendees.

1.1.5 For discussion at a Working Group, Modification proposals must be submitted to the System Operators at least 10 working days before a Working Group meeting is due to take place. If a proposal is received less than 10 working days before a Working Group and is not marked as urgent it is deferred for discussion to the next Working Group.

1.1.6 Following each Working Group, and as per section B.12.5.6 of the CMC, the RAs are required to publish a timetable for the consideration, consultation and decision relating to the Modification(s) proposed during a Working Group.

1.1.7 If a proposal is received and deemed to be contrary to the Capacity Market Code Objectives or does not further any of those objectives, the Regulatory Authorities (RAs) will reject the proposal on the grounds of being spurious, as set out in section B.12.6 of the CMC.

1.1.8 If a proposed modification is deemed urgent by the RAs, CMC Section B.12.9.5 will become active and the RAs will determine the procedure and timetable to be followed in the assessment of the Modification Proposal. The CMC states that the procedure and timetable may vary from the normal processes set out in the code, allowing for the modification to be fast-tracked.

Urgent Modifications

- 1.1.9 This decision paper is concerned with an urgent modification proposal.
- 1.1.10 A proposer may choose to mark a Modification proposal as “Urgent”. (B.12.9.1). In this case, the RAs, as per section B.12.9.3 of the CMC, will assess whether or not the proposal should be treated as urgent. If the RAs deem a proposal to be urgent they have the power to fast-track the proposal.
- 1.1.11 In this regard B.12.9.5 provides:

“If the Regulatory Authorities determine that a Modification Proposal is Urgent, then:

- a) the Regulatory Authorities shall determine the procedure and timetable to be followed in assessing the Modification Proposal which may vary the normal processes provided for in this Code so as to fast-track the Modification Proposal; and*
- b) subject to sub-paragraph (a), the System Operators shall convene a Workshop.”*

- 1.1.12 The RAs may request the SOs to convene a Working Group to discuss the proposed Modification.

Process and Timeline for this Modification

- 1.1.13 On 16 January 2020 the SOs submitted a modification proposal (CMC_01_20) under the terms of B.12.4. The Modification Proposal was marked as Urgent.
- 1.1.14 On 16 January 2020 the Regulatory Authorities determined that the Modification Proposal was not spurious. The Regulatory Authorities also determined that the Modification Proposal was Urgent. This was because the Modification Proposal was proposed to deal with a matter that could reasonably be anticipated would imminently and unduly interfere with, disrupt, or threaten the proper operation of the Capacity Market. The Modification Proposal addresses the fact that the System Operators have not delivered the Provisional Qualification Results for the CY2023/24 T-4 capacity auction by the Provisional Qualification Results Date (as prescribed in the approved Capacity Auction Timetable) of 19 December 2019.
- 1.1.15 On 22 January 2020 the RAs submitted an updated version of the modification proposal CMC_01_20 to the System Operators under the terms of B.12.4. The Modification Proposal was also marked as Urgent.
- 1.1.16 On 22 January 2020 the RAs also submitted the updated Modification Proposal to the Market Operator and the proposal was subsequently published. This updated version supersedes CMC_01_20 and is listed as CMC_02_20.
- 1.1.17 On the 23 January 2020 the RAs determined the procedure to apply to the Modification Proposal. An overview of the timetable is as follows:
- i. The System Operators are to secure that the Modification Proposal is considered at a workshop no later than 27 January 2020.

- ii. The System Operators are to prepare a report of the discussions which took place at the workshop, provide the report to the RAs and publish it, promptly and in any event no later than two Working Days, (as defined in the CMC), after the workshop.
- iii. The RAs will then consult on the Proposed Modification, with a response time of five Working Days (as defined in the CMC), from the date of publication of the Consultation.
- iv. As contemplated by B.12.11 the RAs will endeavour to make their decision as soon as reasonably practicable following conclusion of the consultation and will publish a report in respect of their decision. Within the Capacity Market Code Urgent Modification – CMC_02_20 Timetable (SEM-20-002²), the RAs stated their intention to make their decision and inform Industry, by 10 February 2020.

1.1.18 The purpose of this decision paper is to set out the decision relating to the urgent Proposed Modification discussed during Working Group 10 to either:

- a) Implement a modification;
- b) Reject a modification; or
- c) Undertake further consideration in regards to matters raised in the modification proposal.

1.1.19 This decision paper sets out a summary of the consultation proposal and sets out the SEM Committee's decision.

1.2 RESPONSES TO CONSULTATION

1.2.1 This paper includes a summary of the responses made to the Capacity Market Code Modifications consultation paper (SEM-20-005) which was published on 3 February 2020.

1.2.2 A total of three responses were received by close of the consultation period. An additional response was received after the stipulated deadline for submissions in respect of the urgent consultation³. The respondents are listed below and copies of the responses received can be obtained from the SEM Committee website.

- SSE
- ESB
- Energia

² Capacity Market Code Urgent Modification – CMC_02_20 Timetable:
<https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-002%20WG11%20CMC%20Urgent%20Mod%20Timetable.pdf>

³ This response is not being treated as a formal valid submission in respect of the consultation. However, examination of this late response has determined that it makes similar representations to those contained within the three submissions received on time. Thus, there is no apparent disadvantage to the author of the late response in our decision not to treat it as a formal valid response to the urgent consultation.

2. CMC_02_20 – MODIFICATION TO THE TIMEFRAME FOR A T-4 CAPACITY AUCTION TO TAKE PLACE

2.1 CONSULTATION SUMMARY

- 2.1.1 This Modification was submitted by the Regulatory Authorities on 22 January 2020 and marked as Urgent. The proposal was required following confirmation from the System Operator of being unable to deliver the Provisional Qualification Results for the CY2023/24 T-4 Capacity Auction by the Provisional Qualification Results Date of 19 December 2019.
- 2.1.2 The System Operators proposed an amended Capacity Auction Timetable, under which the Capacity Auction Run Start would move to 20 April 2020.
- 2.1.3 Under D.2.1.5 (d) of the Capacity Market Code, the Capacity Auction Run Start for a T-4 Auction shall fall in the period no less than forty-two and no more than fifty-four months prior to the start of the relevant Capacity Year. A Capacity Auction Run Start in April 2020 would fall forty-one months before the start of the 2023/24 Capacity Year.
- 2.1.4 The purpose of the modification is to introduce an Interim Arrangement that would allow the Capacity Auction Run Start for the 2023/24 T-4 Capacity Auction to take place beyond the timescales described by D.2.1.5 (d). This is the only Capacity Auction for which this change would apply.
- 2.1.5 This proposed modification would also allow the Regulatory Authorities to approve an amendment to the Capacity Auction Timetable under D.2.10.

2.2 SUMMARY OF RESPONSES

- 2.2.1 The majority of respondents to the consultation acknowledged the requirement of the proposal as a result of the requirement to amend the Capacity Auction Timetable.
- 2.2.2 SSE acknowledged that the approach taken is the most practical solution to this issue, whilst allowing the RA's to be able to approve this change, by utilising the facility provided under Chapter M: Interim Arrangements. They further elaborated stating they are supportive of the intent to limit this to only the T-4 2023/24 Capacity Auction.

However, they referred to their response to the proposed modification CMC_07_19, whereby they raised concerns around running concurrent auctions, highlighting their belief that the issue surrounding this T-4 Capacity Auction could have been avoided.

- 2.2.3 Energia mirrored the other respondents, in that they acknowledge the requirement to amend the CMC as proposed in circumstances where the original Auction timetable cannot be met. However, they have noted that the proposal is seeking to allow flexibility to amend the Auction Timetable for this auction, however it does not deal with the approval of the Auction Timetable itself.

They referred to their comments made both before, and during WG 11 in regards to the proposed Auction Timetable for the T-4 2023/24 auction. They elaborated advising that they have significant concerns in relation to the 'Capacity Auction Submission Commencement' being moved to 14 April 2020 with the subsequent 'Capacity Auction Submission End' date falling on the 20 April 2020.

- 2.2.4 The concerns raised by Energia directly related to the fact that the proposed 'Capacity Auction Submission Commencement' falling on Easter Tuesday. They stated that many businesses in Northern Ireland are closed on Easter Tuesday and in addition staff based in NI who enter and oversee the bid submissions do not work on this day.

Given that the change to the Auction Timetable would result in an overlap with the Easter period, many key staff will be on leave during Easter week (reflecting the closure dates of schools) which will have an impact on both the internal approval processes for bidding and the bid submission processes for market participants.

- 2.2.5 These comments were also made by SSE, who stated within their response, that the draft dates included in the original proposal, and discussed at WG11, did not inspire confidence, given that the period between submitting bids and the Capacity Auction Run Start Date overlaps with the Easter period. They are also concerned that there is a possibility that the date of the auction could be further delayed.

SSE have stated their belief that the delay to the auction and the requirement for this modification to be raised highlight that there are issues with how the process is run. They have also stated that this is not the first time they have experienced a delay in an auction process. With this in mind they have queried whether limiting this modification to this process only would be advisable. Given that they believe there is a probability of subsequent auction processes experiencing issues.

- 2.2.6 Energia have suggested that as the proposed amendment to the timetable is as a result of a delay to the Provisional Qualification Results by approximately 5 ½ weeks, that each of the milestones in the timetable are also pushed out by the same duration to maintain the overall timeframe for the processes involved. Such an adjustment would address the significant concerns raised above of the auction taking place over the Easter holiday period. This amendment would result in the Capacity Auction Submission Commencement date being revised to 22 April 2020 and the Capacity Auction Submission End date being revised to 28 April 2020 which would comply with the amended timeframe proposed in the Modification proposal.

- 2.2.7 They do state however, that they welcome confirmation from the RAs in the consultation paper which stated in paragraph 2.1.12 "...that the timetable will also be reviewed to take on board concerns around the proximity to the Easter break.". Energia advised they are supportive of the Modification proposal on the understanding that the approved Auction timetable will be amended to reflect the above concerns.

- 2.2.8 ESB highlighted that the potential to squeeze the construction timeframe, from 42 months to 40 months, for successful new capacity units could affect the risk profile for new entrants and promotion of competition in the provision of capacity to the SEM (objective (d)).

2.2.9 ESB have advised they believe that further clarity is required on the timelines for new capacity post the new auction timetable. They refer to the current Initial Auction Information Pack (IAIP) where there is an implementation progress reporting schedule (2.19) and it is unclear what impact this modification will have on the schedule. They have also requested clarity in regards to confirmation that there is no change to the other milestones such as Substantial Financial Completion.

They also stated they believe the current wording of the modification has left participants unclear of the proposed timetable. They advise that it appears that the auction could be delayed up to 40 months prior to the start of the capacity year. They highlight this would subsequently reduce the available construction time for new capacity from 42 months to 40 months. Considering the short consultation period, it is unclear what impact the compressed timeline could have on new build units that will have to construct as per the same rules as the CY2022/23 new capacity units.

2.2.10 This was also covered within the response submitted by SSE, whereby they referred to comments made during WG11 regarding the fact that the delivery date has not been changed as a result of this delay. They stated that if the auction runs within 40 months of the delivery date of 1st October 2023, participants are effectively facing a loss of two project planning months for a project. They highlighted that this must be acknowledged.

2.3 SEM COMMITTEE DECISIONS

2.3.1 The SEM Committee welcome the feedback received from all respondents and recognise that there are a number of areas whereby participants have concerns.

The SEM Committee recognise that the delay to the T-4 CY2023/24 Capacity Auction beyond the original date of 20 March 2020, as requested by the System Operator, is problematic and unfortunate. The SEM Committee however do not anticipate these issues to be a recurring event going forward. With this being the case, the proposal had placed additional text within the "Interim Measures" of the CMC. This position has not changed and therefore this modification would only be applicable to the T-4 CY2023/24 Capacity Auction.

2.3.2 Several of the responses to the consultation raised concerns in regards to the dates associated with the amended Capacity Auction Timetable. During WG11 the RAs advised that the purpose of the modification is to allow the RAs to review any amendments to the Capacity Auction Timetable and does not constitute approval of any proposed amendments that have currently been put forward.

Following implementation of the proposal, the RAs will subsequently review any proposed amendments to the timetable and, as per section D.2.1.10 of the CMC, they will form a decision in regards to the approval of the amendments.

Whilst the modification does not directly deal with approval of amendments to the Auction Timetable, the SEM Committee accept that comments made in regards to the proposed 'Capacity Auction Submission Commencement' being moved to 14 April 2020 and subsequent 'Capacity Auction Submission End' date falling on the 20 April 2020 are valid.

The SEM Committee would also consider whether it is appropriate to move any of the Implementation Progress Reports required of New Awarded Capacity under sub-section J.4.2.

These concerns will be taken into account when reviewing the amendments to the timetable and reflected in the final timetable. It should be noted that the System Operator has also been made aware of the concerns presented by respondents. The SEM Committee anticipate this will result in the movement of the following milestones by one week:

- Capacity Auction Submission Commencement;
- Capacity Auction Submission End;
- Capacity Auction Run Start;
- Capacity Auction Completion Date;
- Capacity Auction Provisional Results Date; and
- Capacity Auction Provisional Results Publication Date.

2.3.3 Several respondents raised concerns around the effect delaying the auction may possibly have in regards to losing time related to project planning and construction. The current drafting of the proposed modification to the CMC directly deals with allowing the RAs to assess, review, and if appropriate, approve changes to the CY2023/24 T-4 Capacity Auction Timetable. The SEM Committee are of the opinion that, whilst the above comments are valid, this currently doesn't form part of the proposal and therefore further modifying the proposal to cover these points would be unfair to industry without allowing for comments to be provided.

Given the comments in regards to this issue that have been received, the SEM Committee deem it appropriate for a further Urgent Modification to the CMC be raised. This proposal would directly deal with the comments provided by respondents in regards to any additional steps that may be required as well as changes to the Long Stop Date. This would allow industry to provide feedback on any changes that could be applied.

2.3.4 An Urgent modification will be proposed and submitted by the RAs following the publication of this decision paper.

2.3.5 Following consideration of the proposal and responses received to the consultation, the SEM Committee have adopted the minded to position, and approve CMC_02_20, as per the drafting set out in Appendix A.

3. NEXT STEPS

- 3.1.1 Given that the Proposed Urgent Modification approved within this decision paper is required to allow the RAs to review and amend the Capacity Auction Timetable associated with the upcoming T-4 CY2023/24 Capacity Auction, the SEM Committee require that the SOs incorporate the approved Modification contained within this paper into the CMC via an appropriate version control process and the Modification is to become effective by no later than 12 February 2020.
- 3.1.2 All SEM Committee decisions are published on the SEM Committee website: www.semcommittee.com