Single Electricity Market

(SEM)

Capacity Market Code Further Consideration of Modification CMC_07_20 – Decision Paper

SEM-21-002

14 January 2021

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decision relating to the updated version of CMC_07_20, which was originally discussed at the Working Group held on 31 March 2020.

The decision within this paper follows on from the associated consultation (SEM-20-071[1]) which closed on 25 November 2020.

This paper considers the updated version of CMC_07_20 originally presented at WG12. The proposed modification relates to:

- **CMC_07_20 – Change in Technology Class for Awarded New Capacity**

  This modification proposal aims to allow for a change in Technology Class associated with Awarded New Capacity, where such a change has been accompanied by a new or modified connection agreement that reflects the change.

Ten responses were received to the Modification Consultation Paper, none of which were marked as confidential.

The purpose of the proposed modifications 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"):*

(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;*

(d) *to promote competition in the provision of electricity capacity to 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.*

[1] Capacity Market Code Further Consideration of Modification CMC_07_20 - Consultation Paper: https://www.semcommittee.com/sites/semc/files/media-files/SEM-020-071%20CMC_07_20%20Further%20Consideration%20Cons%20Paper.pdf

Summary of Key Decisions

Following consideration of the proposal and the responses received to the consultation the SEM Committee have decided:

Modification	Decision	Implementation Date
CMC_07_20 – Change in Technology Class for Awarded New Capacity	Approved	18/01/2021

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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 (3.0) is dated 31 July 2020. 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 is dated 29 April 2020. 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 this Modification

1.1.2. On 18 September 2020, the SEM Committee published their decision relating to CMC_07_20, which set out that this proposal would undertake further consideration.

1.1.3. The decision to undertake further consideration is in line with B.12.1.1 (c) of the CMC:

> *B.12.11.1* *Following the public consultation under paragraph B.12.8 in relation to a Modifications Proposal (or, in relation to a Modification Proposal that the Regulatory Authorities determine is Urgent, any alternative process determined by the Regulatory Authorities under paragraph B.12.9.5), the Regulatory Authorities shall decide whether to:*
>
> *(a) make a Modification;*
> *(b) not make a Modification; or*
> *(c) undertake further consideration in relation to the matters raised in the Modifications Proposal.*

1.1.4. Given that this proposal had been previously consulted upon, the SEM Committee deemed that it was would not require the SOs to convene a Working Group to discuss, instead the proposal was to proceed directly through a secondary consultation process.

Process and Timeline for this Modification

1.1.5. Upon publication of the consultation paper associated with this proposal (SEM-20-071), the SEM Committee, in Appendix A, determined the procedure that was to be applied to this proposal. An overview of the timetable is as follows:

i. The RAs will consult on the Proposed Modification, with a response time of 20 Working Days (as defined in the CMC), from the date of publication of the Consultation, 28 October 2020.

ii. As contemplated by B.12.11 the RAs will make their decision as soon as reasonably practicable following conclusion of the consultation.

1.1.6. The purpose of this decision paper is to set out the decision relating to modification proposal CMC_07_20 (v2) to either:

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

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

1.2. RESPONSES TO CONSULTATION

1.1.8. This paper includes a summary of the responses made to the *Capacity Market Code Further Consideration of Modification CMC_07_20 – Consultation Paper* (SEM-20-071) which was published on 28 October 2020.

1.1.9. A total of 10 responses were received by close of the consultation period and none were marked confidential. The respondents are outlined below and copies of each response can be obtained from the SEM Committee website.

- Powerhouse Generation (PHG)
- ESB GT
- SSE
- Crag Digital Ltd
- Demand Response Association of Ireland (DRAI)
- Electricity Exchange
- SONI / EirGrid
- BGE
- Energia
- Bord na Móna (BnM)

2. CMC_07_20 – CHANGE IN TECHNOLOGY CLASS FOR AWARDED NEW CAPACITY (V2)

2.1. CONSULTATION SUMMARY

2.1.1. CMC_07_20 was originally discussed at WG12, held on 31 March 2020, with the aim of the proposal to allow for a change in Technology Class associated with Awarded New Capacity, where such a change has been accompanied by a new or modified connection agreement that reflects the change.

2.1.2. The proposal was submitted by the System Operators, who highlighted that Connection offers, and the associated works, were based on assumptions relating to the operating regime of a proposed generator based on its technology type and that whilst the Capacity Market Code considers all De-rated Capacity to be effectively equivalent, however in reality different technology classes can have a multitude of different impacts on the power system.

2.1.3. The proposal further stated that where a Participant secures a new or modified Connection agreement, in regards to Technology Class, this modification would ensure that all required conditions continue to be met.

2.1.4. In the original decision paper, SEM-020-064, the SEM Committee noted that there were a number of issues highlighted by respondents specifically relating to the original drafting of the proposal that it did not address.

2.1.5. The SEM Committee were however of the view that that there were sensible reasons to allow change of Technology Class and that allowing such a change would be of benefit to both Capacity Providers, in terms of reducing their delivery risk, and Suppliers, in terms of making it more likely that capacity will be delivered on-time.

2.1.6. The issues raised with the drafting of the Modification largely related to the interaction between the proposed Modification and other CMC processes, in particular the Exception Application process, and with the TSC.

2.1.7. While it is possible that the change to the Technology Class of a specific unit may change one of the assumptions used by the RAs in their determination of Unit Specific Price Caps (USPCs), the RAs considered this has a low probability given the fact that not all proposed New Capacity will be assumed to be constructed and that a broad view of the likely future plant mix is used.

2.1.8. To the extent that the change of Technology Class did directly impact one of the assumptions used by the RAs in determining USPCs, this is only one of many assumptions about the future that this determination includes.

2.1.9. A change to Technology Class is likely to change the nature of the investment being made and so will influence the investment cost per de-rated kW. This will impact any Exception Application being made under E.5.1.1 (a) for a Maximum Capacity Duration of more than one year.

As a result, the legal drafting has been extended to include a repeat of the test against the New Capacity Investment Rate Threshold (NCIRT) set out in E.5.1 within the new Modification. If the revised investment no longer reaches the NCIRT, the Maximum Capacity Duration will be reduced to one year.

2.1.10. The original Modification prevented a change in Technology Class from Clean capacity to capacity that would no longer be considered clean. This avoids a potential issue that could arise if in the original auction the tie-breaking, set out in F.8.4.6 (a)(iii) and (b)(iii), was used to choose between potential New Capacity. While this could occur, it is the last step of the algorithm to separate tied capacity and so would be expected to occur very infrequently.

2.1.11. Imposing the condition that a capacity award can only move from one Clean Technology Class to another is likely to dramatically curtail the benefits of being able to change Technology Class. On balance, the RAs believe it is more important to facilitate the timely delivery of New Capacity and the amended legal drafting allows switching to any Technology Class.

2.1.12. On changing Technology Class it is likely that both the Initial Capacity and De-Rating Factor of the revised investment will be different from that which Qualified and was Awarded Capacity and that the Substantial Financial Completion milestone (SFC) and, potentially some later milestones, may need to be repeated.

2.1.13. The potential change to Initial Capacity and need to repeat Substantial Financial Completion milestone can already occur under the CMC with a change to EPC as described under J.5.1.1. The proposed Modification uses the same approach as J.5.1.1 and does not formally require re-demonstration of SFC or place any additional limits on the permissible change to Initial Capacity.

2.1.14. Change of EPC Contractor does not lead to a change in the Gross De-Rating factor used for settlement under the TSC. By contrast, change of Technology Class will impact Gross- De-Rating Factor ($FDERATE_{\Omega}$) which has an impact on settlement under the TSC. The amended legal text makes clear that this value needs to be re-determined.

2.1.15. The original drafting did not cover the need to update the Registries (Qualification Capacity (Appendix E) and Capacity and Trade (Appendix F)) following the change to Technology Class. The amended legal text makes clear this needs to be done, especially in the case of changes to Gross De-Rating Factor or the Maximum Capacity Duration.

2.2. SUMMARY OF RESPONSES

2.2.1. A total of 10 responses were received to the consultation and in summary, with support for the modification being divided amongst the responses.

2.2.2. In their response, the DRAI (which was directly echoed by PHG and Electricity Exchange) stated they support the modification's intent and believe there is considerable merit in enabling a change Technology Class in certain circumstances when delivering Awarded New Capacity.

They elaborated that the proposed Modification would provide additional flexibility to ensure (de-rated) Awarded New Capacity is delivered, which is in the best interests of consumers and system security of supply.

2.2.3. Whilst the DRAI support the intent to provide additional flexibility in delivering Awarded New Capacity, they believe that drafting issues remain, particularly regarding equitable treatment of units which do not change Technology Class or Maximum On Time, including units which apply a DECTOL factor.

2.2.4. The DRAI state that taking into account the comments, which are outlined below, and in the worked example they provided within their response, they would be in a position to support the SEM Committee's 'minded to' intent to approve the modification. Within their response they highlighted the following areas:

- *Requirement for equitable treatment of all units:*

  The DRAI highlight that a key part of the CMC the proposed modifications seeks to amend is G.3.1.4A, which has already been modified by CMC_06_19. They believe the drafting of this part of the CMC needs to ensure fair and equitable treatment of different units when assessing the delivery of Awarded New Capacity. This included providing a number of scenarios, including, where a unit which has availed of a voluntary DECTOL factor and where a unit has done none of the above.

  However, it is the view of the DRAI that these scenarios are not appropriately treated. They believe it is important the same flexibility, provided for in CMC_06_19, is afforded to units which do not make such a change in order to be in line with the Code Objective to ensure no undue discrimination.

  They elaborated that, with the current drafting, this is not the case, and the modification would result in a perverse incentive for a unit to change Technology Class or Maximum On Time at the point of commissioning to circumvent the punitive impact of the Gross De-Rating Factor which would otherwise apply to determine Substantial Completion.

- *Major impact on units availing of a voluntary DECTOL factor:*

  The DRAI highlighted that CMC_06_19 recognised the reasons Awarded New Capacity may be less than the de-rated Initial Capacity (New), and intended to clarify the calculation of the Proportion of Delivered Capacity should be measured against the Awarded New Capacity secured in the auction, and de-linked from measurement against the Initial Capacity (New) qualified for the auction.

  However, they advise that a strong link to qualified values remains, particularly for units that have voluntarily de-rated their unit using a DECTOL factor. They elaborated that this places a different value on Delivered Capacity depending on how it was qualified.

- *Bidirectional flexibility to change Maximum On Time:*

  The DRAI note that CMC_07_20 v2 resolves a previous issue raised regarding the restricted "one way" flexibility currently available to Participants delivering capacity within the same Technology Class. While CMC_06_19 introduced flexibility to meet Awarded New Capacity obligations with a lower derating factor within the same Technology Class, it did not allow a unit to do so with a higher derating factor than envisaged at qualification. The DRAI believes providing bidirectional flexibility in this regard is highly important, particularly with regard to DSUs and storage technologies for which Maximum On Time is a key parameter in de-rating.

- *Ultimate focus on the delivery of (de-rated) Awarded Capacity:*

  The DRAI believe the delivery of (de-rated) Awarded Capacity is paramount and providing Participants maximum flexibility to do so is in the best interests of all parties. As the derating methodology ensures 1 MW of de-rated capacity is of the same value to the system, irrespective of Technology Class, Maximum Down Time, or how a unit was qualified, the DRAI recommends this equitability of treatment is reflected in the final drafting (in particular of G.3.1.4A) prior to it being approved.

2.2.5. ESB GT supported greater flexibility in the CMC, especially a modification like CMC_07_20 that provides participants with flexibility to meet their obligations in light of other aspects that may be out of their control. They also stated their view that the modification does facilitate objective (c) of the CMC.

2.2.6. They took this opportunity to advise that it may be prudent to include a timeframe for the Regulatory Authorities to respond to the Exception Application under the proposed J.5.4.6.

2.2.7. ESB GT have also suggested a further modification to the proposals drafting, stating:

> *J.5.4.6 If a Participant makes an Exception Application, then the Regulatory Authorities shall notify the Participant and the System Operators whether or not they approve the Exception Application within XX Working Days of the submission and, if they do approve it that the Maximum Capacity Duration approved by the Regulatory Authorities for the New Capacity (which must be 10 Capacity Years).*

2.2.8. In their response, SSE advised they appreciate the overall focus on proposing this modification will be to provide flexibility. They noted that the request from the last consultation for further explanation and detail has been provided to some extent in this consultation. However, they did wish to raise a number of concerns.

2.2.9. They stated it is their belief that the explanation has not gone far enough in providing clarity as to how specific potential unintended consequences/ambiguities will be addressed. Potential consequences arising from this modification need clarification and/or should have formed part of legal drafting to the relevant clause or other impacted clauses in the CMC.

2.2.10. SSE advised they are still not convinced that there is great value in this modification and are concerned that especially regarding the clean to non-clean technology, elaborating that this could encourage abuse of the mechanism.

SSE stated the proposal is not clear on how this flexibility may actually be achieved in practice given that changes in technology would impact planning consent and connection agreements for instance. If the concern is that certain difficult projects cannot be delivered because of specific administrative challenges for instance, then SSE expect the administrative challenges should be addressed; not that the technology should be changed to something easier to deliver, if it is not what the market, emissions targets or the Climate Action Plan would encourage or need.

2.2.11. SSE believe this modification would benefit from a specific timeframe in which a change in technology can be submitted. They note the only time provision relates to use of the Exception Application process for awards of greater than 1 year. However, they advise this may be too long a timeframe to ensure that other milestones are not affected. Though they note that this could provide updated information for the calculation of the capacity requirement for future auctions that is not clear. What is not clear also is what occurs if there is non-delivery even after change of technology. If there is a non-delivery as a result of change of technology, this could lead to under delivery across several auctions, rather than simply the one that the project was awarded under. Therefore, simply indicating submission during the Exception Application period may not be suitable.

2.2.12. SSE stated that in their view, the process for amendment and consultation of this modification leaves much to be desired. Given the modification was previously considered for rejection, they advise this should have triggered a new modification, or at the least another working group to develop and discuss version 2.

2.2.13. SSE have advised of a number of ambiguities they believe still need to be covered within the proposal. They highlighted the following areas of ambiguity:

- *Use of the provision*

  SSE state it is not clear as to the frequency to which this modification will be used. In their view, this provision is to manage rare instances that are clearly defined; i.e. to meet specific unforeseen non-delivery. They note that certain circumstances are indicated in version 2 of the drafting and supporting evidence is needed and would recommend that there needs to be specific clarity on the evidence required, to avoid delay or confusion which could have an impact on project milestones.

- *Change of technology from clean to non-clean*

  SSE highlighted the consultation indicates that a change in technology could be from clean to any other technology, which could include non-clean. However they elaborated that the rationale from the RAs is otherwise; that it could curtail the use of the provision.

  SSE are unclear as to why the SEMC would want to encourage the frequent use of this provision and we would welcome clarity in that regard. Furthermore they stated that all units and projects are bound by EU requirements regarding emissions limits. Therefore, there must be an explicit expectation in the legal drafting that the specific emissions limits undertaken for a project must still be those that are met by the new change in technology delivered at the site.

- *Project milestones*

  SSE consider that project milestones would likely be affected by a change in technology and there is no clarity on how these could be facilitated.

- *Derating factors*

  It is SSE's view that a change in technology could have an impact on overall size of award or size of the project when considering the derating factors for different technologies. They elaborated that a project with a different derating factor resulting from a change in technology would likely mean an upsize or downsize of a specific project to meet the same overall MW. This could either impact the overall award value and otherwise could impact the MEC for the site as codified in the project's connection agreement. If it is intended that these should not be affected or change—this also should be made explicit under the code change. We are otherwise not clear how a change of technology will not have an effect on the overall awarded capacity of an already awarded project.

2.2.14. SSE advised it is their view that these factors give rise to concern that the modification is not as fully developed as it could be.

2.2.15. Crag Digital Limited stated that, in principle, they are in support of this change and recognised the work of the regulators in preparing a version 2 of the proposal. Elaborating they advised they feel that this revised version delivers additional benefits over the original.

2.2.16. They have welcomed the changes in this version 2 and in particular is supportive of the changes which allow for technology class to change from Clean to a non-Clean technology noting the regulators point that this is unlikely in practice to have any significant adverse impact but that it will deliver greater flexibility of participants to deliver capacity. Other elements such as the updates to the capacity register are prudent inclusions.

2.2.17. They concluded that they are in support of the regulators minded to position to approve this version 2 of CMC_07_20.

2.2.18. They did highlight that it is important to capacity market participants to be able to apply for a change in technology class in order to better manage the risk of contracts awarded, especially in T-4 auctions which have a higher level of uncertainty about project development. They stated that failure to allow for a change in technology class would increase the risk to project developers and have an adverse effect the ability to efficiently deliver capacity.

2.2.19. Crag Digital took this opportunity to note that the existing de-rating methodology accounts for differing levels of risk/availability of different classes of technology such that 1MW of de-rated capacity is fungible and that as long as the same de-rated capacity is delivered any change which promotes the efficiency of delivery of this de-rated capacity is a positive change.

2.2.20. EirGrid and SONI supported the intent of the proposed changes which they advised will benefit the Code objectives by providing flexibility for the provision of adequate Capacity, promote competition and ensure no undue discrimination to participate in the Capacity Market.

They elaborated that they recognise that new capacity might require a change of Technology Class as the project approaches completion, which could reduce risks of non-delivery and would therefore benefit the Market as a whole.

2.2.21. They advised that the proposed changes to the original proposal in respect of Clean Status in their view are pragmatic considering the intention of the proposed change i.e. to provide flexibility to deliver on Awarded New Capacity obligations where a project is encountering difficulties and is at risk of not delivering.

2.2.22. They highlighted that, under J.5.4.6, the proposed drafting is not clear. Elaborating they stated that it would appear to suggest that if any resubmitted Exception Application is approved that the Maximum Capacity Duration is set to 10 years.

SONI/EirGrid advised they would like to draw the distinction between Maximum Capacity Duration and the duration of the Awarded New Capacity under F.9.1.1(a)(iii), which may be less than the Maximum Capacity Duration depending on the offer submitted by the Participant. They suggested that the Regulatory Authorities may intend that any revised value be set to 10 years; however, they consider that the proposed text would benefit from further clarity in this regard.

2.2.23. Regarding the definition of FDERATE proposed, SONI/EirGrid suggest that care is taken with the updating of this value to ensure that there are no unintended consequences.

They highlighted that the Gross De-Rating Factor is based on the qualified Gross De-Rated Capacity and Initial Capacity associated with the original technology class and, further, where there is an approval of a technology class change, de-rated Grid Code Commissioned Capacity will be based on the de-rating factor applicable from the relevant Initial Auction Information Pack.

SONI/EirGrid advised that the revision of FDERATE draws on some of the elements of this calculation in respect of substituting the Grid Code Commission Capacity for the Initial Capacity however does not provide for the fact that the Awarded New Capacity could be less than the Gross De-Rated Capacity (New). They advise this would result in FDERATE being different from the derating factor used to assess Substantial Completion. We would recommend that further consideration is given to ensure that the proposed text captures the intended outcome.

2.2.24. Regarding the drafting of the proposed change, SONI/EirGrid stated that there are a number of changes to the text which have been introduced with tracked changes against the original modification proposal and others which have not been tracked (e.g. J.5.4.9 and J.5.4.10). They have requested that the approved modification be attached to the final decision in the form of a new modification proposal in doc format where the changes are tracked against the current Capacity Market Code including where applicable any modifications effective on the baseline version. This greatly assists in the updating of the Capacity Market Code and ensures that there is clarity around the changes that have been approved by the Regulatory Authorities.

2.2.25. In their response, BGE supported the flexibility the proposal offers to meeting the requirements of the capacity market as contracted and which facilitates the achievement of the Capacity Market Code Objectives.

However, they stated it is their view that any change in technology class should enable participants to overcome any unforeseen risk of non-delivery they may experience in bringing new capacity to market to meet their contracted capacity volumes as awarded.

2.2.26. They have set out a number of areas, which they believe required further consideration prior to any implementation of this proposal, highlighting the following:

- The timelines associated with notifications of Technology Class changes need to be clarified with any intent to change the Technology Class of the unit being advised to the SOs at the earliest possible occasion such as at the time of the application to modify the connection agreement.
- The original Capacity Award timelines must be met by the newly configured unit to avoid delayed delivery.
- Participant remuneration under the Awarded New Capacity contract should not increase due to any change in technology class.
- They expect that Capacity Auction Qualification commitments remain fully effective for the newly configured unit, especially as they relate to CO_2 limits.
- Where Clean Technology has been a deciding factor in the awards from capacity auctions, this requirement cannot be changed when looking to change Technology Class.
- The SO must proactively inform Capacity Market participants of any agreed changes in technology class in an Information Note to be emailed to all subscribed members within 5 working days of the technology class change being agreed.
- Transparent reporting on all units delivering Awarded New Capacity is to be maintained, including newly configured units.

2.2.27. BGE have highlighted that the draft text contained within the proposal, there are several amendment that should be considered, this includes the correction of several typographical errors as well as amendments to the text to ensure additional clarity is provided.

2.2.28. BGE highlighted an error in the numerical label references within 'J.5.4 Technology Class Change' which was also highlighted by BnM in their response.

2.2.29. Energia stated they do not support the proposed modification to facilitate a change in Technology Class for Awarded New Capacity, advising that it seeks to address a hypothetical problem that, in their view, is unlikely to arise and is highly likely to have negative consequences and is contrary to the objectives of the Capacity Market Code.

2.2.30. Energia have advised that it is difficult to envisage a scenario where a developer would need or want to change Technology Class after the award of a capacity contract given that a Connection Offer is required to qualify for the auction and Technology Classes are already broadly defined in the CMC.

2.2.31. In their view, they believe the proposed modification will undermine the qualification process and market transparency as it implies a change to qualification data after the auction has taken place. They state it could give rise to speculative participation in future auctions with all the negative consequences associated with that, including market distortion and increased delivery risk.

2.2.32. Energia were concerned that the original modification prevented a change in Technology Class from Clean capacity to capacity no longer considered to be Clean and the Consultation Paper now states that the modification proposal should allow for a change between any Technology Class, including from Clean capacity to capacity no longer considered to be Clean. They stated this is not acceptable where Clean status is used in a tie-break situation. Energia advised the proposal appears to disregard any change in CO_2 emissions as a result of a change in Technology Class, and there does not seem to be any consideration of compliance with the emissions limits in the Clean Energy Package which should be assessed during qualification and thereafter.

2.2.33. They stated it is unclear as to whether the proposed modification will allow for a change in Awarded New Capacity resulting from a change in Technology Class. If so, they advise this would have a distortive effect on auction outcomes including a possible impact on the auction clearing price.

2.3. SEM COMMITTEE DECISIONS

2.3.1. The SEM Committee notes the response from DRAI (and others) seeking to expand the scope of the Modification and make further changes to sub-section G.3 of the CMC to increase or modify the delivery flexibility for DSUs and AGUs. Given that such changes did not form part of either the original Modification proposal or either of the consultations, they will not be considered further in this Decision. However, there is always scope for any participant to raise a new Modification proposal seeking to create such flexibility.

2.3.2. The SEM Committee notes the concerns around over-use or abuse of the flexibility being proposed in the Modification. We would note that the drafting is based on the existing provision given in J.5.1 to change EPC Contractor. There has been no evidence of excessive use or abuse of these existing provisions and we are content that the same drafting should be robust for change of Technology Class. However, the RAs will monitor use of this provisions and would consider a further Modification if issues are seen to arise.

2.3.3. The same reasoning applies to changes of Milestones, the timeframe for making a change and codifying a response time from the RAs: the proposed Modification uses the same approach as the existing change to EPC Contractor. As above, no issues have arisen with J.5.1 in this context and the SEM Committee believes the drafting of the Modification should be robust but will monitor the situation.

2.3.4. In terms of the Capacity to be delivered, the Modification as drafted for the most recent consultation does not allow change of Technology Class to change the Awarded Capacity that the Participant is obligated to deliver.

Should the revised capacity be capable of delivering more than the Awarded Capacity, then the Participant would be free to offer this additional capacity in a later auction. Should the revised capacity be capable of delivering less than the Awarded Capacity, then the Participant is likely to become liable for Termination Fees if the delivered capacity does not meet the requirements of the Substantial Completion milestone.

2.3.5. The SEM Committee agree with the BGE feedback that a change of Technology Class does not affect the requirement to comply with the CO_2 Limits and the legal drafting of J.5.4.9 has been amended to include this requirement.

2.3.6. The SEM Committee also agree that it would be appropriate for the SOs to re-publish the Qualification Results, originally published under sub-section E.9.5, to take account of any change in Technology Class.

2.3.7. The SEM Committee note the concerns that change of Technology Class may replace a unit that was Clean with one that is not and that, had the Clean status been used as the final tie-breaker level in the auction, this had an impact on the original auction results. The SEM Committee believe that the benefits of the increased flexibility for delivery of Awarded Capacity *on time* outweigh the issues which may be perceived to arise from a change from Clean to not Clean technology. Given that changes of Technology Class should be rare events, the probability of such a change relating to capacity awarded on the basis of a tie-break where Clean technology was decisive should be very rare indeed. Any potential for abuse in this area is already covered by the existing market manipulation provisions of the CMC.

2.3.8. The SEM Committee further note that there is the potential risk that the additional flexibility could allow more speculative applications to the Qualification Process.

However, it should be noted that existing penalties for non-delivery continue to apply and this should continue to act as a dis-incentive to may application in respect of capacity that cannot be delivered.

2.3.9. The SEM Committee also notes that concerns from the SOs about the re-determination of FDERATE. It should be noted that FDERATE is used in the TSC as a multiplier of Commissioned Capacity. Given that a change to Technology Class is likely to change the Commissioned Capacity, the value of FDERATE also needs to be updated to reflect the change to ensure that the cap on Obligated Capacity in F.18.2.4/5 functions correctly, e.g. consider the situation where without the updated to FDERATE the TSC applies a solar de-rating factor to capacity which is now being delivered by a gas engine (or vice versa). In consequence, we are satisfied that the consulted drafting implements the correct intent.

2.3.10. In conclusion, the SEM Committee approves the proposed Modification with the amended drafting given in Appendix C.

3. NEXT STEPS

3.1.1. Given that the Proposed Modifications approved within this decision paper do not have any immediate systems implications, the SEM Committee require that the SOs incorporate the approved Modification, CMC_07_20 (v2), contained within this paper into the CMC via an appropriate version control process.

3.1.2. The SEM Committee has decided that CMC_07_20 (v2) is to be implemented and effective by no later than 18 January 2021.

3.1.3. All SEM Committee decisions are published on the SEM Committee website: www.semcommittee.com