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| **MODIFICATION PROPOSAL FORM** | | | | | |
| **Proposer**  *(Company)* | **Date of receipt** | | **Type of Proposal** | | **Modification Proposal ID** |
| Regulatory Authorities | 22 November 2011 | | Standard | | Mod\_18\_10\_v2 |
| **Contact Details for Modification Proposal Originator** | | | | | |
| **Name** | | **Telephone number** | | **Email address** | |
| Regulatory Authorities | | 01 4000800 | | srooney@cer.ie | |
| **Modification Proposal Title** | | | | | |
| SEM Intra-Day Trading | | | | | |
| **Documents affected**  *(delete as appropriate)* | | **Section(s) Affected** | | **Version number of T&SC or AP used in Drafting** | |
| T&SC  AP | | Sections 2, 3, 4, 5, 6  Appendices D, E, H, I, J, K, N, P  AP 1, 2, 4, 6, 9, 10, 11, 13, 17 | | 10.0 | |
| **Explanation of Proposed Change**  *(mandatory by originator)* | | | | | |
| Driver for Change Regulation 714/2009 of the European Parliament and Council sets out the general principles of congestion management (Article 16), together with guidelines on the management and allocation of available transfer capacity of interconnectors (Annex 1).  In order to ensure that the SEM rules comply with these guidelines, it will be necessary for the SEM to include:   * mechanisms for Intra-Day congestion management of Interconnector capacity, in order to maximise trade opportunities and cross border balancing; * allocation of available transmission capacity on D-1 and D after the issuing of the indicated or actual day-ahead production schedules for day D; and * implementation of firm transmission capacity rights for medium and long-term allocations subject to use-it-or-lose-it or use-it-or-sell-it principles at the time of nomination.  History SEM Committee Decision SEM-10-011 ‘SEM Regional Market Integration’ placed an obligation on the Regulatory Authorities to develop a Trading and Settlement Code Modification to facilitate SEM Intra-Day Trading, so as to maximise the use of existing and future Interconnectors’ within-day capacity and comply with the requirements of the Congestion Management Guidelines detailed in Regulation 714/2009.  In response, The Regulatory Authorities presented their ‘Intra-Day Trading’ Modification (Mod\_18\_10) to Meeting 29 of the Modifications Committee on 30 March 2010. This did not seek to be prescriptive in the rule changes to the TSC, but to provide a basis on which the Modifications Committee could develop robust trading rules for the intra-day use of cross border capacity.  As a result, a Modifications Committee Working Group on Intra Day Trading was established to develop the SEM Intra-Day Trading design and associated legal drafting. Its work consisted of two distinct phases:  **Phase I, Development of a High Level Design:** This was presented to Meeting 32 of the Modifications Committee on 25 November 2010. Subject to the SEM Committee’s views, the Modifications Committee determined to ask SEMO to proceed with developing the detailed design based on the High Level Design Summary.  The SEM Committee subsequently issued a Decision Letter on the 4th of March 2011, approving:   * The implementation of an intraday trading solution for SEM, as outlined in the High Level Design. * The Central Market System changes, which are required for Intra-Day Trading and which will commence in tandem with Modification Committee discussions on the required drafting changes to the TSC. * The timeframe for roll out of the intraday solution for SEM being mid 2012.   In its Decision Letter, the SEM Committee also noted that all changes to the TSC will be subject to a final Modifications Committee vote and subsequently approved or otherwise by SEMC, as is the normal process.   |  |  | | --- | --- | | **High Level Design** |  |   **Phase II, Development of legal drafting consistent with the High Level Design.** Following development by SEMO of the legal drafting on behalf of the Working Group and review/discussion at four Working Group meetings (WG8 to WG11), this final modification proposal is being presented at Meeting 39 of the Modifications Committee for its approval.  In order to facilitate the Working Group’s consideration of the proposed changes to the Code, the legal drafting was developed for each of three key functional groups, listed below. For each group, an accompanying “Plain English Document” was developed to provide a guide to the legal drafting.  The functional groupings in respect of SEM Intra-Day Trading are:   * **Functional Group 1** – Registration and Participant Submissions. * **Functional Group 2** – Other Data Transactions and MSP Software. * **Functional Group 3** – Settlement and Credit Risk Management.   The drafting relating to each Functional Group was developed and considered incrementally. Each set of legal drafting has been reviewed by Participants and the Regulatory Authorities. Following a well defined process, all comments received have been addressed by SEMO, which has published responses and discussed matters arising at subsequent Working Group meetings.  In addition, McCann Fitzgerald, as the Modifications Committee’s appointed legal advisors, has undertaken a full legal review of the legal drafting of the Intra-Day Trading Modification, which has resulted in a number of non-material changes to the legal drafting. A report summarising the legal review and the resulting opinion of McCann Fitzgerald is attached below.   |  |  | | --- | --- | | **Legal Review Report** |  | | **Legal Review Schedule 2** |  | | **Legal Review Schedule 3** |  |  Proposed Change The changes to the Code documents associated with SEM Intra-Day Trading are substantial, comprising changes to more than 500 paragraphs/sections in the main body of the Code, Appendices, Glossary and Agreed Procedures.  The legal drafting changes include:   * Bidding to multiple Gate Windows (EA1, EA2 and WD1) for the relevant Trading Day. * Restriction of Interconnector Unit bidding in the EA1 Gate Window to Capacity Holders. * Reallocation of unused Interconnector Capacity to any Interconnector Unit (with no requirement to be a Capacity Holder) in EA2 and WD1 MSP Software Runs. * Different lengths of Trading Window for each Ex-Ante MSP Software Run:   + EA1: entire Trading Day   + EA2: entire Trading Day   + WD1: second portion of the Trading Day * Fixing of Interconnector Unit capacity allocations from EA1 MSP Software Run (MIUNs) in the EA2 and WD1 MSP Software Runs. * Fixing of Interconnector Unit capacity allocations from EA1 MSP Software Run (MIUNs) in the EA2 and WD1 MSP Software Runs. * Changes to Credit Cover arrangements to ensure that the SEM remains as collateralised as possible. * Inclusion of Contingency Data provisions. | | | | | |
| **Legal Drafting Change**  *(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* | | | | | |
| The Modification comprises legal drafting changes to the following documents:   1. TSC Main Body 2. TSC Appendices 3. TSC Glossary 4. Agreed Procedure 1 5. Agreed Procedure 2 6. Agreed Procedure 4 7. Agreed Procedure 6 8. Agreed Procedure 9 9. Agreed Procedure 10 10. Agreed Procedure 11 11. Agreed Procedure 13 12. Agreed Procedure 17   The resulting individual change-marked legal documents are as detailed in the embedded Zip file, below:    All changes to v10 of the Code and associated Agreed Procedures are shown in the above documents, marked as Tracked Changes. Coloured highlighting of the changes indicates to which Functional Group the particular change belongs (FG1: yellow; FG2: no highlighting; and FG3: cyan). This highlighting has been included to assist with review of the legal drafting when using the accompanying Plain English Documents (PEDs). These reference documents summarise all of the changes relating to a particular Functional Group and are included to assist the Modifications Committee in understanding and reviewing the legal drafting.  *Note: The coloured highlighting is not part of the Modification and will be removed. It has only been included to assist with review of the legal drafting using the associated PED.*  The PEDs are attached below:   |  |  |  | | --- | --- | --- | | **Functional Group 1: Registration and Participant Submissions** | **Functional Group 2: Other Data Transactions and MSP Software Operation** | **Functional Group 3: Settlement and Credit Risk Management** | |  |  |  | | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification)* | | | | | |
| As previously discussed and agreed when considering the original Modification Proposal MOD\_18\_10 (March 2010), this Modification is required in order to ensure the SEM’s future compliance with the EU’s Congestion Management Guidelines for Cross Border Trade. It is designed to ensure that the SEM rules comply with the Congestion Management Guidelines set out in Regulation 714/2009 of the European Council and Parliament, which require that:   * Mechanisms for the intra-day congestion management of interconnector capacity shall be established in a coordinated way and under secure operational conditions, in order to maximise opportunities for trade and to provide for cross border balancing (section 1.9); * Successive intra-day allocations of available transmission capacity for day D shall take place on day D-1 and D, after the issuing of the indicated or actual day-ahead production schedules; and * The access rights for long and medium-term allocations shall be firm transmission capacity rights, which shall be subjected the use-it-or-lose-it or use-it-or-sell-it principles at the time of nomination.   In addition, this Modification is necessary in order to fulfil:   * the obligations placed on the Regulatory Authorities by the SEM Committee Decision on Intra Day Trading (reference SEM-10-011) to develop a Trading and Settlement Code Modification to facilitate Intra Day Trading; and * the 4th of March 2011 decision of the SEM Committee to implement an intraday trading solution for SEM, consistent with that outlined in the High Level Design. | | | | | |
| **Code Objectives Furthered**  *(State the Code Objectives the Proposal furthers, see Section 1.3 of T&SC for Code Objectives)* | | | | | |
| This Modification meets the following Trading and Settlement Code Objectives:   * **Code Objective 3:** *“to facilitate the participation of electricity undertakings engaged in the generation, supply or sale of electricity in the trading arrangements under the Single Electricity Market”.*   The SEM Intra-Day Trading arrangements developed by the Modifications Committee Working Group provide additional opportunities on both D-1 and D for Participants in the SEM and GB market to access the SEM for the purpose of importing and exporting. As a result, this Modification Proposal facilitates enhanced participation in the SEM, thereby furthering Code Objective 3.   * **Code Objective 4:** *“to promote competition in the single electricity wholesale market on the island of Ireland”.*   In furtherance of Code Objective 4, the provision of Intra-Day Trading arrangements in the Code should serve to facilitate increased competition in the SEM, through greater access to prices in neighbouring markets, and also by permitting registered Interconnector Users to respond to changing conditions, such as wind forecasts, plant outages and demand expectations, post Gate Closure.   * **Code Objective 7:** *“to promote the short-term and long-term interests of consumers of electricity on the island of Ireland with respect to price, quality, reliability, and security of supply of electricity”*.   This Modification Proposal aims to ensure that all Interconnectors in the SEM are more efficiently utilised, by allowing unused capacity to be reallocated after each Gate Window Closure. Intra-Day Trading therefore promotes the interests of customers through the creation of a more liquid, competitive market with increasing security of supply and in so doing furthers Code Objective 7. | | | | | |
| **Implication of not implementing the Modification Proposal**  *(State the possible outcomes should the Modification Proposal not be implemented)* | | | | | |
| The implications of not developing this Modification Proposal would be the following:   1. Non compliance with legal requirements of European Regulation 714/2009 and the Congestion Management Guidelines contained therein. 2. Failure to implement the SEM Committee’s Decision SEM-10-011 and that in its associated Decision Letter of the 4th of March 2011. 3. Failure to address the more efficient use of Interconnector capacity, through provision of Intra-Day Trading opportunities. 4. Failure to increase arbitrage opportunities for Interconnector trades and higher costs for all-island consumers due to failure to utilise unused interconnector capacity. 5. Failure to develop rules on cross border Intra-Day Trading that may serve as a barrier to competition in the SEM. 6. Potential failure to provide a complement to increased intermittent generation through efficient within day interconnector usage – which could lead to increased costs in the SEM. | | | | | |
| **Working Group**  *(State if Working Group considered necessary to develop proposal)* | | | **Impacts**  *(Indicate the impacts on systems, resources, processes and/or procedures)* | | |
| The Intra-Day Trading Working Group has met on eleven occasions and has conducted eight additional conference calls to develop the High Level Design and the resulting legal drafting. | | | The impacts and associated resource requirements have been previously considered and approved by the SEM Committee. | | |
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| ***Please return this form to Secretariat by email to*** [***modifications@sem-o.com***](mailto: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. **to the Market Operator and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;**
  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;**
  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.**