

Kilshane Energy Ltd

CMC_01_24 – Amendment to criteria to achieving
Substantial Financial Completion Milestone

CAPACITY WORKSHOP 35 – TUESDAY 23RD JANUARY 2024

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Explanation of Proposed Change

Under J.2.1.1(a)(v) of the CMC, Substantial Financial Completion (SFC) is achieved when, inter alia;

“(v) all necessary consents, licences, authorisations and permits in respect of the construction, commissioning, repowering or refurbishment works for each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity (including any necessary planning consents, licences, authorisations and permits) have been obtained.”

Kilshane Energy Ltd (KEL) propose that it **should not** be necessary to have obtained any consents, licenses, authorisations or permits for the **commissioning** of any new or refurbished Generator Unit or Interconnector. KEL propose removing this from the current drafting.

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Justification for Proposed Change

- SFC is required to be achieved 18 months post an auction award.
- Under the current T-4 timelines for awarded new capacity, this will be several years before the commissioning of new Generator Unit is likely to occur.
- KEL believe it is unreasonable to request that all licenses and consents required for the **commissioning** of a new unit are obtained so far in advance of when it would logically be required.
- There are sufficient necessary consents, licences, authorisations and permits in respect of the construction, repowering or refurbishment works for each new or refurbished Generator Unit or Interconnector that need to be obtained to evidence the significant commitment required to achieve SFC.
- If CMC_01_24 is accepted, a generator unit will still have to obtain the following to achieve SFC;
 - Major Contracts signed (incl EPC if any)
 - Finance Documents signed
 - Sufficient financial resources available
 - Director approval
 - CRU authorisation to construct
 - CRU license to generate
 - Final planning grant

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Implications of not implementing the proposed modification

- Failing to achieve SFC before the SFC Period can result in contract termination.
- Some of the consents, licenses etc... are interlinked and sequential.
- You cannot obtain some without first obtaining others.
 - For example, you cannot be issued an IED license from the EPA without a final planning grant.
- Commissioning of a new unit naturally occurs at the end of the project schedule and so requiring all consents, licenses etc... at SFC is illogical.
- Having an IED License at SFC can be seen as false sense of security as it is unknown if a generating unit can meet their license conditions until commissioning stage.
- The requirement of having an EPA License to achieve SFC only increases the risk of a project not being able to reach SFC on time.

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Legal Drafting Change

- It is proposed that the modification amends Section J.2.1.1(a)(v) as below;
- “(v) all necessary consents, licences, authorisations and permits in respect of the construction, ~~commissioning~~, repowering or refurbishment works for each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity (including any necessary planning consents, licences, authorisations and permits) have been obtained.”

Impacts

- Reduces risk of failing to achieving SFC on time
- May reduce the need for extensions to be sought to Milestones
- Positive impacts expected on systems or resources due to the above