



Single Electricity Market

(SEM)

Capacity Market Code Modifications

Workshop 37 Decision Paper

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| CMC_07_24: | Treatment of Capacity Contracts of Varying Duration in Constrained Auction Solution |
| CMC_08_24: | Widening of Longstop Extension Process to Awarded Capacity for 2023/24 Auction |
| CMC_09_24: | Amendments to J.5.7 and J.5.8 |

SEM-24-070

27 September 2024

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decisions relating to three proposed Modifications to the Capacity Market Code (CMC). The proposed Modifications were discussed at Workshop 37, held on 29 May 2024:

- **CMC_07_24:** Treatment of Capacity Contracts of Varying Duration in Constrained Auction Solution
- **CMC_08_24:** Widening of Longstop Extension Process to Awarded Capacity for 2023/24 Auction
- **CMC_09_24:** Amendments to J.5.7 and J.5.8

The decision within this paper follows on from the associated consultation ([SEM-24-047](#)) which closed on 02 August 2024.

Nine responses were received to the Capacity Market Code Modifications Workshop 37 Consultation Paper (SEM-24-047). Two were marked as confidential and one was marked as partially confidential.

Summary of Key Decisions

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

Modification	Decision	Implementation Date
CMC_07_24: Treatment of Capacity Contracts of Varying Duration in Constrained Auction Solution	Undertake further consideration in relation to the matters raised in the Modification Proposal	N/A
CMC_08_24: Widening of Longstop Extension Process to Awarded Capacity for 2023/24 Auction	Make a Modification	Effective on publication
CMC_09_24: Amendments to J.5.7 and J.5.8	Make a Modification	Effective on publication

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1. OVERVIEW

1.1. BACKGROUND

1.1.1. The SEM CRM detailed design and auction process has been developed through a series of consultation and decision papers, all of which are available on the SEM Committee's (SEMC) website. These decisions were translated into legal drafting of the market rules via an extensive consultative process leading to the publication of the Trading and Settlement Code (TSC) and the Capacity Market Code (CMC). Current versions of the CMC and the TSC are published on the SEMO website.

Process and Timeline for this Modification Proposal

1.1.2. On the 15 May 2024, Energia submitted one Urgent Modification Proposal (CMC_07_24) under the terms of B.12.9.1 of the CMC.

1.1.3. As per B.12.9.3 of the CMC, the Regulatory Authorities (RAs) assessed the Modification Proposal and did not consider it to be Urgent and therefore categorised the proposal as Standard.

1.1.4. On the 15 May 2024, Grange Backup Power Limited submitted one Modification Proposal (CMC_08_24) and on the 27 May 2024, the RAs submitted one Modification Proposal (CMC_09_24), under the terms of B.14 of the CMC. Both proposals were marked as Standard.

1.1.5. The RAs reviewed each of the three Modification Proposals and determined that none were spurious.

1.1.6. On the 11 June 2024, the RAs determined the procedure to apply to the Modification Proposals. An overview of the timetable is as follows:

- i. The System Operators convened Workshop 37 where the three Modification Proposals were considered on 29 May 2024, alongside one other Modification Proposal¹.
- ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, prepared a report² of the discussions which took place at the workshop, provided the report to the RAs and published it on the Modifications website promptly after the workshop.
- iii. The RAs then consulted on the Modification Proposals from the date of publication of the consultation until the closing date of Friday 02 August 2024.
- iv. As per B.12.11 the RAs shall make their decisions as soon as reasonably practicable following conclusion of the consultation and publish a report in respect of their decision. The purpose of this decision paper is to set out the decision relating to the three Modification Proposals discussed during Workshop 37 to:
 - a) Make a Modification;

¹ CMC_06_24 was also discussed at Workshop 37.

² [Capacity-Modifications-Workshop-37-Report-V1.0.pdf \(sem-o.com\)](#)

- b) Not make a Modification; or
- c) Undertake further consideration in relation to the matters raised in the Modification Proposals.

1.1.7. This decision paper provides a summary of the consultation proposals and sets out the SEM Committee's decisions with regard to CMC_07_24, CMC_08_24 and CMC_09_24 only.

1.2. RESPONSES RECEIVED TO CONSULTATION

1.2.1. This paper includes a summary of the responses made to Capacity Market Code Modifications Workshop 37 Consultation Paper ([SEM-24-047](#)) with regard to CMC_07_24, CMC_08_24 and CMC_09_24 only, which was published on 01 July 2024 and closed on 02 August 2024.

1.2.2. A total of nine responses were received to consultation SEM-24-047 with two being marked as confidential and one being marked as partially confidential. The non-confidential responses are from:

- Bord Gáis Energy
- Bord na Móna
- EirGrid and SONI
- Energia
- ESB Generation and Trading
- Shannon LNG
- SSE

2. CMC_07_24 – TREATMENT OF CAPACITY CONTRACTS OF VARYING DURATION IN CONSTRAINED AUCTION SOLUTION

2.1. CONSULTATION SUMMARY AS PRESENTED BY ENERGIA

2.1.1. This Modification Proposal seeks to amend how Exempt Price Quantity Pairs are treated in the resolution of constraints in an auction run.

2.1.2. The proposal was introduced in light of the introduction of Intermediate Length Contracts (ILCs) and contended that contracts up to five years in duration should take precedent over longer-term contracts.

- 2.1.3. Energia presented two potential ways to implement the proposal, initially giving preference to “Option 2” as the more suitable method of implementation. However, following feedback at the workshop and advice received from the System Operators, Energia drafted its Modification Proposal on the basis of “Option 1”. Option 1 was what was consulted on in SEM-24-047.
- 2.1.4. One difference between both options was that Option 2 sought to maintain the priority of one-year contracts to resolve constraints and extend this principle of shorter contracts being prioritised over longer term contracts by giving next preference to shorter duration contracts (defined as less than or equal to five years in duration) over longer duration contracts (defined as greater than five years in duration), whereas Option 1 sought to introduce a total Net Social Welfare calculation assigned for each offer, being the product of the requested price, quantity and contract duration, i.e., Price x Quantity x Contract Duration. Therefore, Option 1 would not maintain the condition that single-year bids always clear first, but Energia stated that the conditions for multi-year bids to clear above single-year bids seemed highly improbable.
- 2.1.5. Energia also stated that acceptance of this proposal would be in line with EU State aid approval.

2.2. RESPONSES

- 2.2.1. Responses to this Modification Proposal were varied.
- 2.2.2. Bord Gáis Energy (BGE) supported the proposal and stated that it extended the already existing principle in the CMC of giving priority to contracts with the shortest duration while respecting the economic basis for the auction solving algorithm to account for the introduction of ILCs.
- 2.2.3. BGE considered the proposed Modification as necessary to ensure the correct priority of allocation for shorter duration contracts remains true to the market design principles in the auction systems.
- 2.2.4. In BGE’s view, Option 1 is a simple yet effective way of determining priority of capacity market offers and it considers it to be sufficient to ensure the correct prioritisation of shorter duration Exempt Price Quantity Pairs, while also addressing the SEM Committee’s concerns.
- 2.2.5. In Bord na Móna’s (BnM) view, larger new projects seeking a 10-year Reliability Option (RO) will be less likely to participate in auctions due to the less inherent chance of being successful, if this Modification were to be approved and implemented.
- 2.2.6. BnM also considered larger and more lumpy projects to be required for system needs and stated that for the purposes of solving constraints, these projects should be cleared in priority over smaller ILC five-year projects.
- 2.2.7. EirGrid and SONI (the SOs) welcomed the revised approach to the Modification by Energia and highlighted that the original proposal presented very significant challenges in relation to complexity and implementation.

- 2.2.8. The SOs advised that should the SEM Committee be minded to approve the Modification, an impact assessment will be required to assess the feasibility of implementation prior to the T-4 28/29 auction. They recommended a caveated decision to be published in this regard, e.g., approval in principle, subject to the SOs' impact assessment.
- 2.2.9. The SOs also stated that they would welcome engagement with the RAs in relation to prioritisation of system changes, including in relation to online qualification, secondary trading, pricing and ILCs.
- 2.2.10. Energia reiterated its view that to realise the full benefits of ILCs and avoid damaging, unintended consequences, it would be essential that its Modification Proposal is introduced prior to the T-4 28/29 auction. It also noted that its Modification Proposal makes no distinction between new and refurbishing units, but that priority is only based on the offered capacity duration for the contract.
- 2.2.11. Energia also considered the risk of New Capacity inefficiently displacing Existing Capacity that applied for an ILC in the constrained auction to be costly for consumers. It highlighted that after displacing the Existing Capacity, the New Capacity unit would bring far more delivery risk and increase the likelihood of the need for short-term emergency generation or an out-of-market contract extension for an existing unit.
- 2.2.12. While recognising that costs for refurbishment are lower than building New Capacity, Energia stated that it does not follow that a refurbishing unit will always be able to bid lower than New Capacity as New Capacity can spread its costs over 10 years, as opposed to five years for ILC capacity. Therefore, in Energia's view, it is possible that refurbishing units will have to bid close to the Auction Price Cap (APC) to fully recover refurbishing costs.
- 2.2.13. In response to the SEM Committee's minded to position in the consultation, Energia noted that under its proposal, the only way that a contract with a longer duration could be prioritised over a shorter duration contract would be if it had a far lower price and the total contract value was ultimately cheaper for consumers.
- 2.2.14. Energia also noted that its proposal sought to make no changes to qualification criteria or the application process for ILCs and stated that the proposal does not have an impact on how participants might subsequently behave when submitting final bids, and on auction results.
- 2.2.15. While agreeing with the rationale for the introduction of ILCs, ESB Generation and Trading (ESB GT) considered the Modification Proposal to be likely unnecessary, as the desired outcome, in its view, should already occur under existing CMC provisions as ILCs are expected to have lower bid prices than New Capacity.
- 2.2.16. ESB GT stated that the proposal does not consider that a project awarded an ILC for up to five years could continue to obtain one-year capacity contracts in future years which, in its view, should be considered if the Modification was to be progressed in order that all competing projects are assessed on an equal basis. It noted in this regard that those one-year contracts could be subject to a USPC, which adds to the total cost of the project over a specified time period.

- 2.2.17. ESB GT also stated that in assessing the Modification, the RAs should satisfy themselves that the use of total cost (Price x Quantity x Duration) as a deciding factor in clearing an auction is consistent with the State aid decision.
- 2.2.18. SSE supported the principle that contracts up to five years in duration should take precedence over longer-term contracts, so long as the relevant shorter-term contracts functionally solve locational constraints.
- 2.2.19. In SSE's view, the issue of capacity delivery for ILCs needs to also be considered to ensure that the principle of the Modification is realised. It stated that if the current CMC rules for capacity delivery continue to apply with no modifications for shorter ILC contracts, it may be overly optimistic to consider shorter term ILCs will always functionally resolve constraints sooner than ten-year contracted capacity.
- 2.2.20. SSE also requested clarity on the approach to Transmission Use of System (TUoS) charges for brownfield sites on an outage for refurbishment, as in its view, this may impact on the viability of an ILC. SSE stated that existing sites taking the financial risk of not running during refurbishment should not face continued TUoS charges and that this is a supplementary change that should be addressed to ensure that the principle of the Modification is realised for future ILC contracts.

2.3. SEM COMMITTEE DECISION

- 2.3.1. The SEM Committee welcomes the feedback provided by respondents both as part of the Workshop and through the consultation process.
- 2.3.2. The SEM Committee recognises the effort made by the proposer in developing the Modification.
- 2.3.3. The SEM Committee notes the support for the Modification amongst a number of respondents and the overall intention of the Modification which states that shorter duration contracts should be prioritised over longer duration contracts for the resolution of constraints. The SEM Committee agrees with this principle.
- 2.3.4. The SEM Committee also notes the concern of some respondents, particularly in regard to the comments from one respondent suggesting that approval of the Modification could disincentivise participation of larger and newer projects seeking 10-year ROs in the auction. The SEM Committee recognises this concern but notes that the principle behind giving shorter duration contracts priority over longer duration contracts for the purposes of solving constraints reflects the intention in the State aid approval for the CRM for these constraints to be resolved as soon as possible.
- 2.3.5. In this regard, the SEM Committee would also highlight that the Guidelines on State aid for climate, environmental protection and energy 2022 (CEEAG) include ensuring that new investments in gas-fired generation do not lock-in higher carbon emissions which are incompatible with 2030 and 2050 targets, and that aid is not granted to projects that provide a limited transitory benefit but lead to slower emissions reductions in the long-term by

disincentivising cleaner technologies. This was one of the key reasons why the SEM Committee decided to introduce ILCs into the CRM ahead of the T-4 28/29 auction.

- 2.3.6. The SEM Committee also notes the comment from one respondent that the Modification Proposal does not consider instances where a project awarded a five-year contract could continue to obtain one-year contracts in future years, that are subject to USPC, which could add to the total cost of the project. The SEM Committee would highlight that in the context of a T-4 auction, the principle behind giving shorter duration contracts priority over longer duration contracts reflects the intention, as outlined in the State aid decision, for locational constraints to be addressed and resolved. Locking-in to longer duration capacity, where constraints should be alleviated, would also be undesirable in the context of the CEEAG (2022) and climate targets.
- 2.3.7. The SEM Committee also recognises the comments from respondents on implementing the Modification ahead of the T-4 28/29 auction.
- 2.3.8. Following receipt of the SOs' response to the consultation, the RAs have sought additional feedback from the SOs on the feasibility of implementing the proposed Modification and making the necessary auction algorithm changes in time for the auction given that the SOs' response to the consultation stated that an impact assessment was required and did not commit to delivering the changes required prior to the T-4 2028/29 auction. The SOs have advised the RAs that the implementation of complex algorithm changes of the nature of those set out in CMC_07_24 requires a minimum of six months or, more prudently, nine months to ensure changes are implemented to the necessary standard required for Capacity Market operation. The SOs also noted that the prioritisation of this work alongside the development of other changes, such as secondary trading, would need to be considered. On this basis, the SEM Committee understands that despite the efforts of the proposer to develop an alternative option to implement this modification, its implementation is not feasible ahead of the upcoming auction.
- 2.3.9. As stated, the SEM Committee supports the principle of prioritising shorter duration contracts in the resolution of constraints and requests that the SOs assess the solution and provide an impact assessment to give effect to this Modification. The SEM Committee will then consider the proposed solution, assess any unintended consequences that might arise and progress the appropriate legal drafting.
- 2.3.10. In developing its Modification Proposal, Energia has considered different ways to achieve its objective. Given that the implementation of this Modification Proposal is not feasible in time for the upcoming auction, the SEM Committee would prefer that the solution developed would maintain the primacy of one-year offers for the purposes of solving constraints. This better reflects the intention of the State aid decision, for locational constraints to be addressed and resolved, and ties in with targets for decarbonisation.
- 2.3.11. On the basis of the reasons outlined above, the SEM Committee is content to approve the principle of prioritising shorter duration contracts in the resolution of constraints subject to consideration of the impact assessment on the system solution and any associated unintended consequences. To ensure the final legal drafting can facilitate the final algorithmic solution agreed to implement this Modification Proposal, the SEM Committee is not approving the legal drafting proposed in the Modification Proposal form for CMC_07_24 but will undertake further

consideration regarding the final legal drafting following the review of the SOs' impact assessment.

3. CMC_08_24 – WIDENING OF LONGSTOP EXTENSION PROCESS TO AWARDED CAPACITY FOR 2023/24 AUCTION

3.1. CONSULTATION SUMMARY AS PRESENTED BY GRANGE BACKUP POWER LIMITED

- 3.1.1. This Modification Proposal seeks to extend the principles of J.5.8 in SEM-23-101 to all projects which were awarded New Capacity for all Capacity Years and have achieved Substantial Financial Completion.
- 3.1.2. The Proposal seeks to do this by amending J.5.8.1 of the CMC to allow projects which were awarded multi-year New Capacity contracts in auctions for delivery in the Capacity Year beginning 1 October 2023 to avail of extensions to the Long Stop Date and Capacity Quantity End Date and Time.

3.2. RESPONSES

- 3.2.1. Responses to this proposal were varied.
- 3.2.2. BGE did not support the proposed Modification and stated that the premise on which it is based is weak. In its view, the justification for the Proposal, that because the RAs didn't give a rationale as to why its Modification excluded the T-1 and T-4 2023/24 auctions, and therefore these auctions should be included, is not sufficient justification for a Capacity Market Code Modification.
- 3.2.3. BGE further noted that contrary to what the Modification Proposal stated, the decision (SEM-23-101) was published on 30th of November 2023, not 30th of September 2023.
- 3.2.4. Notwithstanding the issue of the Modification proposing a change within the Capacity Year, BGE stated it strongly disagreed with the principle that Longstop Extension should ever apply to a T-1 auction, stating that this would lead to speculative bidding in the T-1 auction, increasing risk of non-delivery of capacity at a crucial stage for the system and consumer.
- 3.2.5. The SOs reiterated their previously expressed concern in relation to broader remedial actions and a more permissive approach to delays.
- 3.2.6. However, the SOs stated that given this facility has already been introduced for one cohort, it is reasonable that this is made available more broadly.

- 3.2.7. The SOs further reiterated that the CMC should apply as universally as possible and not be targeted to specific auctions, to maintain transparency in the application of the Code and avoid the introduction of parallel Codes.
- 3.2.8. Energia noted that it opposed the original combined Modification presented in SEM-23-080 based on its view that the proposals were retrospective and contrary to best practice in terms of incentivising New Capacity to deliver on time.
- 3.2.9. Energia further noted that nothing has changed since its original consultation response to SEM-23-080 to change its view and therefore, it does not support the extension of the original changes as proposed in this Modification.
- 3.2.10. ESB GT supported the Proposal as in its view, it ensures equitable treatment for all projects which had cleared in their respective Capacity Auctions prior to the publication of the SEM-23-101.
- 3.2.11. ESB GT noted that in the decision (SEM-23-101), the RAs did not consider the changes to the CMC to be retrospective and as such, agreed that the current Proposal should not be considered retrospective, even where the Capacity Year has already started as the relevant date, the Long Stop Date, remains in the future.
- 3.2.12. ESB GT considered it to be ill-advised for the RAs to overlook this Proposal where projects may be forced to terminate or become unable to deliver by the relevant Long Stop Date.
- 3.2.13. SSE supported this Proposal to ensure that the principle is not limited to certain auctions.

3.3. SEM COMMITTEE DECISION

- 3.3.1. The SEM Committee welcomes the feedback provided by participants both as part of the Workshop and through the consultation process.
- 3.3.2. The SEM Committee notes the arguments in support of the Modification Proposal, particularly those in favour of applying the CMC more universally and not limited to specific auctions only. The SEM Committee notes that the proposal aims to do this by extending the principles of SEM-23-101 to all projects which were awarded New Capacity for all Capacity Years, which includes the 23/24 Capacity Year.
- 3.3.3. The proposal seeks to only amend J.5.8 of the CMC, which was introduced to mitigate risks that appear post-Substantial Financial Completion, by providing a mechanism for investors to apply to the RAs to obtain extensions to the Long Stop Date and/or the Capacity Quantity End Date and Time, after Substantial Financial Completion is achieved. The SEM Committee acknowledges that Substantial Financial Completion is an important milestone in the development of a project, achievement of which reduces the risk of termination.
- 3.3.4. Under this proposal, the SEM Committee accepts that the pertinent date would be the Long Stop Date, i.e., the last point at which the Awarded New Capacity is to be provided, and not the start

of the 23/24 Capacity Year. The SEM Committee notes that as per the Final Auction Information Pack for the T-4 23/24 auction³, the Long Stop Date for multi-year New Capacity is 27 April 2025.

- 3.3.5. The SEM Committee recognises that the Modification Proposal stated that the SEM-23-101 decision was published on 30th September 2023, before the beginning of the 2023/24 Capacity Year. The SEM Committee would like to clarify that the decision was published on 30th November 2023 and the implementing Modification was introduced on 21 December 2023, with an effective date of 1 January 2024. However, as stated earlier, the SEM Committee considers the pertinent date with regard to this Modification to be the Long Stop Date for the T-4 23/24 auction.
- 3.3.6. With regard to the T-1 23/24 auction, the SEM Committee notes the concern of one respondent over the implications of the Modification Proposal as drafted and that it could lead to speculative bidding in the T-1 auction. The SEM Committee agrees with this assessment and notes that this would be undesirable. Furthermore, the SEM Committee is unsure why this change was included in the legal drafting given that all contracts awarded in the T-1 23/24 were one-year contracts, which are not eligible to apply for an extension. The SEM Committee has amended the legal drafting so that the T-1 23/24 is not referenced.
- 3.3.7. The SEM Committee notes that it considers applications for extension requests made under J.5.8 on a case-by-case basis and grants extensions only where consistent with the objectives of the CMC, when the market participant has justified the request with robust evidence and where the extension would otherwise be consistent with the SEM Committee's statutory duties.
- 3.3.8. Furthermore, the SEM Committee would like to highlight that in assessing any extension requests made under J.5.8, the Regulatory Authorities would require sufficient evidence, and as per J.5.8.5, may request further information on the Awarded New Capacity to be provided by the relevant Participant or System Operators, as deemed appropriate, including in relation to the cause of delay and commitment to delivery.
- 3.3.9. On the basis of the reasons outlined above, the SEM Committee approves Modification Proposal CMC_08_24, with amended legal drafting as contained in Appendix A.

4. CMC_09_24 – AMENDMENTS TO J.5.7 AND J.5.8

4.1. CONSULTATION SUMMARY AS PRESENTED BY THE RAS

- 4.1.1. This Modification Proposal seeks to amend the legal drafting of J.5.7 and J.5.8 to allow market participants to apply for an extension to either their Long Stop Date and/or Capacity Quantity End Date and Time.
- 4.1.2. The Proposal also seeks to delete part of J.5.8.2 to allow multi-year New Capacity to apply for an extension to their Long Stop Date and/or Capacity Quantity End Date and Time even if it expects to achieve Minimum Completion by the Long Stop Date.

³ [Final-Auction-Information-Pack_FAIP2324T-4.pdf \(sem-o.com\)](#)

- 4.1.3. The basis for this change is to amend the legal drafting to better reflect the intentions of SEM-23-101.

4.2. RESPONSES

- 4.2.1. BGE supported the Modification and stated that this amends a simple gap in the logic and will allow generators to apply for an extension post Substantial Financial Completion, without seeking a change in the Long Stop Date.
- 4.2.2. The SOs noted that there remained “and” logic between (i) and (ii) in paragraph J.5.8.2.
- 4.2.3. ESB GT supported the Modification and considered the proposed substantive change to promote fairness in the application of J.5.8 where projects who are facing delay but are still expected to meet Minimum Completion by their Long Stop Date, should have the same recourse to apply for an extension to their Capacity Quantity End Date and Time as other market participants facing delay.
- 4.2.4. SSE supported the Proposal, and the corrections highlighted in the Modification.

4.3. SEM COMMITTEE DECISION

- 4.3.1. The SEM Committee welcomes the feedback provided by participants both as part of the Workshop and through the consultation process.
- 4.3.2. The SEM Committee notes the support for this Proposal and recognises that the proposed change is an amendment to the legal drafting to fully reflect the decision set out in SEM-23-101.
- 4.3.3. The SEM Committee also welcomes the comment from one respondent highlighting that there remained “and” logic in the drafting and has amended the drafting to address this.
- 4.3.4. On the basis of the reasons outlined above, the SEM Committee approves Modification Proposal CMC_09_24, with amended legal drafting as contained in Appendix A.

5. NEXT STEPS

- 5.1.1. The SEM Committee will make proposed Modifications CMC_08_24 and CMC_09_24 using the approved legal text accompanying this Decision Paper.
- 5.1.2. All SEM Committee decisions are published on the SEM Committee website: www.semcommittee.com.