

MODIFICATION PROPOSAL FORM			
<b>Proposer</b> <i>(Company)</i>	<b>Date of receipt</b> <i>(assigned by System Operator)</i>	<b>Type of Proposal</b> <i>(delete as appropriate)</i>	<b>Modification Proposal ID</b> <i>(assigned by System Operator)</i>
Kilshane Energy Ltd (KEL)	7 <sup>th</sup> September 2023	Standard	CMC_18_23
Contact Details for Modification Proposal Originator			
<b>Name</b>	<b>Telephone number</b>	<b>Email address</b>	
Brian McMullan		brian@kilshaneenergy.ie	
Modification Proposal Title			
Amendment to definition of Third Party Extension Period			
<b>Documents affected</b> <i>(delete as appropriate)</i>	<b>Section(s) Affected</b>	<b>Version number of CMC used in Drafting</b>	
CMC	Glossary	9.0	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>The current definition of Third Party Extension Period covers the period from when a Participant receives a copy of the Third Party Planning Appeal to the date of the determination by ABP in respect of the Third Party Planning Appeal.</p> <p>It also covers the period from, in respect of Ireland, a Participant has been served with an originating notice or, in respect of Northern Ireland, been served with an application for leave to apply for judicial review, in respect of the Third Party Judicial Review.</p> <p>There is an eight week period which follows the determination by ABP in respect of the Third Party Planning Appeal whereby an appellant can apply for leave to apply for judicial review of the ABP determination. Only after this eight week period has lapsed will a Participant be certain of either a judicial review proceeding or no further action and a final grant of planning permission being awarded. Therefore, no investment decisions can be made during this eight week period. It is entirely consistent with decision SEM-23-001 to include this period in the definition of Third Party Extension Period.</p>			
Legal Drafting Change <i>(Clearly show proposed code change using <b>tracked</b> changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<p><i>Third Party Extension Period means, in respect of date of Substantial Financial Completion and Long Stop Date extension under paragraph J.5.5.1, the period from the date on which the relevant Participant has either</i></p> <p><i>i. in respect of Ireland, been served with an originating notice or, in respect of Northern Ireland, been served with an application for leave to apply for judicial review, in respect of the Third Party Judicial Review to the date on which the Third Party Judicial Review is concluded, either by order, direction or decision of the court (not appealed by the third party to the Third Party Judicial Review), or otherwise; or</i></p> <p><i>ii. received a copy of the Third Party Planning Appeal to the <del>date</del> end of the period when an application for leave to apply for judicial review of the determination by An Bord Pleanála in respect of the Third Party Planning Appeal can be made.</i></p>			
Modification Proposal Justification <i>(Clearly state the reason for the Modification)</i>			
SEM-23-001 decision was made on the basis that a Participant should not be penalised on the basis of Third Party Delays. The eight period following an ABP determination whereby a Participant could not make any investment decisions is as a result of a Third Party Delay,			

namely the appeal of a planning decision. There is currently an eight week gap between an ABP determination and when an appellant can take leave for a judicial review that is not covered in the current definition. This mod would fill this gap, ensuring that the entire period a Participant is delayed due to a Third Party Planning Appeal is covered. SEM-23-001 also accepts that there are several projects currently at risk of delivery and the chilling effects further terminations could have on security of supply concerns, of which there have been since SEM-23-001. This modification will only help alleviate delivery risk of those projects affected by SEM-23-001.

**Code Objectives Furthered**

*(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)*

This modification furthers a number of the Capacity Market Code Objectives:

*(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; 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.*

**Implication of not implementing the Modification Proposal**

*(State the possible outcomes should the Modification Proposal not be implemented)*

Increases delivery risk of projects that have been delayed due to a Third Party Planning Appeal

**Impacts**

*(Indicate the impacts on systems, resources, processes and/or procedures)*

Minimal impacts are expected due to this modification.

**Please return this form to the System Operators by email to [CapacityModifications@sem-o.com](mailto:CapacityModifications@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 Regulatory Authorities.
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:

CMC / Code:	means the Capacity Market 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 "System Operators" 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 B.12 of the Code, which I have read and understand, I agree as follows:

1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:
  - 1.1 to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
  - 1.2 to the Regulatory Authorities 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;
  - 1.3 to the System Operators 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 Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.