



**Single Electricity Market**

**(SEM)**

**Capacity Market Code Workshop 34**

**CMC\_24\_23 Decision Paper**

**CMC\_24\_23: Revision of the Exception Application timelines**

**SEM-24-030**

**19 June 2024**

## EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decision relating to a Proposed Modification to the Capacity Market Code (CMC). The Proposed Modification, CMC\_24\_23 was discussed at Workshop 34, held on 16 November 2023.

- **CMC\_24\_23: Revision of the Exception Application timelines**
- This Proposed Modification seeks to introduce a new event in the Auction timeline (Exception Application Decision Date) and to move the Exception Application Date to be the first event in the Auction timeline.

The decision within this paper follows on from the associated consultation ([SEM-23-109](#)), which closed on 26 January 2024.

Five responses were received to the Capacity Market Code Workshop 34 CMC\_24\_23 Consultation Paper (SEM-23-109). No responses were marked as confidential. The responses have been published alongside this decision paper.

### 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
<b>CMC_24_23:</b> Revision of the Exception Application timelines	Not make a Modification	N/A

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## **Appendix A** Responses

# 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**

1.1.2. On the 02 November 2023, Bord Gáis Energy (BGE) submitted one Urgent Modification Proposal (CMC\_24\_23) 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 30 November 2023, the RAs determined the procedure to apply to the Modification Proposal. An overview of the timetable is as follows:

- i. The System Operators convened Workshop 34 where the Modification Proposal was considered on 16 November 2023, alongside one other Modification.
- ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, prepared a report<sup>1</sup> 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 Proposal from the date of publication of the Consultation until the closing date of Friday 26 January 2024.
- iv. As set out in B.12.11, the RAs shall make their decision as soon as reasonably practicable following conclusion of the consultation and publish a report in respect of their decision. The purpose of the decision paper is to set out the decision relating to the Standard Modification Proposal discussed during Workshop 34 to:
  - a) Make a Modification;
  - b) Not make a Modification; or
  - c) Undertake further consideration in relation to the matters raised in the Modification Proposal.

1.1.5. This decision paper provides a summary of the consultation proposals and sets out the SEM Committee's decision.

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<sup>1</sup> [Capacity-Modifications-Workshop-34-Report-V1.0.pdf \(sem-o.com\)](#)

## 1.2. RESPONSES RECEIVED TO CONSULTATION

- 1.2.1. This paper includes a summary of the responses made to Capacity Market Code Workshop 34 CMC\_24\_23 Consultation Paper ([SEM-23-109](#)) which was published on 21 December 2023 and closed on 26 January 2024.
- 1.2.2. A total of five responses were received to consultation SEM-23-109 with none marked as confidential. The responses are from:
- Energia
  - ESB Generation and Trading
  - SSE
  - Bord Gáis Energy
  - EP UK Investments

## 2. CMC\_24\_23 – REVISION OF THE EXCEPTION APPLICATION TIMELINES

### 2.1. CONSULTATION SUMMARY AS PRESENTED BY BORD GÁIS ENERGY (BGE)

- 2.1.1. This Modification Proposal aims to change the timelines around the Exceptions Application process, which BGE state would reduce the Security of Supply risk that exists at present due to the current timing for a Unit Specific Price Cap (USPC) determination occurring after the closure of the Opt-out process for participants.
- 2.1.2. The proposal seeks to address this risk by introducing a new event in the Auction timeline – Exception Application Decision Date – and to move the Exception Application Date to be the first event in the Auction timeline, allowing sufficient time for a determination to be made.
- 2.1.3. The proposal notes that contrary to CMC\_20\_23, it does not seek to change or remove E.5.1.11, and the grounds for a participant giving an Opt-out notification would remain the same as they are currently; a Plant Closure, a Planned Outage in excess of 3 months, or Mothballing.
- 2.1.4. The proposal would also aim to facilitate evidence-based decisions for market participants around the Opt-out process by having the decision on an Exception Application available to them earlier.
- 2.1.5. The proposal was marked as “Urgent” as it is intended to prevent an inadvertent exist signal being sent to Existing Capacity and subsequent Opt-out of said Capacity.

## 2.2. RESPONSES

- 2.2.1. Most respondents were in favour of the Modification Proposal and considered it necessary to amend the Auction timetable to allow units the ability to Opt-out of an auction after receiving a USPC determination, should they decide to do so. Some respondents identified issues with some of the processes set out in the proposal.
- 2.2.2. Energia stated that the setting of the ECPC at 0.5 times Net CONE does not adequately allow existing generators to recover their Net Going Forward Costs or the costs of Unavoidable Future Investment.
- 2.2.3. Energia also supported the principal of the modification, that generating units that are sent an exit signal through their USPC determination should be allowed to Opt-out of the relevant auction. Energia stated that the current process could lead to inefficient exit as participants would not be willing to enter CRM auctions without being able to bid in at an economically sustainable level.
- 2.2.4. Energia, while noting the practicalities of requiring the submission of Exception Applications 39 weeks prior to the auction, stated that this would need to be considered. Based on the current approach of holding T-4 auctions four years prior to the start of Capacity Auctions, Energia suggested that it may require the submission of Exception Applications around the Christmas period, where people's availability can be limited.
- 2.2.5. ESB Generation and Trading (ESB GT) considered the proposal to be in line with the CMC objectives, specifically (b), (c), and (d). It supported the rationale of making changes to the timings of the Exception Application process to ensure owners of the aging plants are able to fully assess the economic considerations of continuing the operation of a generation unit for another year.
- 2.2.6. In ESB GT's view, the current process where the Opt-out Notification Date is in advance of the Exception Application Decision Date does not properly recognise the risks facing the current conventional generation portfolio on the island of Ireland and the costs associated with keeping these aging plants operational and therefore contributing to the Security of Supply.
- 2.2.7. ESB GT stated that the introduction of Intermediate Length Contracts, if approved, may mitigate some of the risk associated with the current situation and potentially encourage investments into the existing conventional generation fleet. It stated that some older sites which may not be suitable for such investment to prolong its operating life could still significantly contribute to Security of Supply and help mitigate the adequacy deficit while new and refurbished generators are being delivered.
- 2.2.8. While ESB GT supported the rationale of the proposal and agreed that the Opt-out notification should be made after the USPC application is assessed and a decision on that application is issued, it stated that the publication of the Initial Auction Information Pack should be the first step in the Auction timeline process to ensure the ECPC has been published and the application for the USPC can be submitted by reference to the published position of the RAs regarding that price cap.

- 2.2.9. ESB GT also suggested that the RAs should undertake a comprehensive review that should seek to streamline the Exception Application process to the benefit of all market participants, the TSOs and the RAs.
- 2.2.10. SSE stated that it sees the logic of CMC\_24\_23 as it would ensure that units engaged in the Exception Application process receive a USPC decision before deciding whether to Opt-out of the Capacity Auction.
- 2.2.11. SSE stated that under the current process, where a unit does not receive the necessary USPC at the level to cover its operational costs, it can either operate at a loss for the duration of the Capacity Year or voluntarily terminate, thereby incurring penalties and skewing the capacity requirement volumes met by the auction. This, in SSE's view, is an exit barrier, which not only adversely affects Security of Supply but hinders decarbonisation efforts of the existing thermal fleet.
- 2.2.12. SSE also stated that the latest Generation Capacity Statement has highlighted that even with mitigating measures such as Temporary Emergency Generation, Ireland will continue to face capacity deficits in the near term and will face deficits in the longer term out to 2032 if steps are not taken to de-risk the delivery of New Capacity and incentivise Existing Capacity to remain available, such as "removing unfair barriers" to their ability to operate in the market economically.
- 2.2.13. SSE suggested that while Intermediate Length Contracts may provide a route to market for existing units investing in refurbishment or potentially repowering, the USPC process is still the only mechanism for existing conventional generators facing increasingly higher costs and decreased revenue streams (e.g., due to Annual Run Hour Limits or decreasing load factors due to higher wind penetration) to operate in the market economically.
- 2.2.14. If CMC\_24\_23 is approved, SSE stated that the modification would enhance transparency in the Capacity Auction process for existing units, allowing them to make informed decisions based on economic signals about whether to remain available in the short term or invest in decarbonisation and/or long-term availability.
- 2.2.15. BGE reiterated the importance of its Proposed Modification and stated that the timelines around the Exception Application process and how it interacts with the Opt-out notification process do not align to provide participants with full transparency on the economic signals for their participation in Capacity Auctions in the bidding in of their existing units. It stated that the existing timelines are a threat to the Security of Supply for consumers.
- 2.2.16. BGE marked the proposal as "Urgent" as it was concerned the current situation could lead to critically important conventional generation units choosing to exit the market or mothball rather than being exposed to this "open-ended financial risk" related to the uncertainty of whether the auction clearing price following a rejected USPC application will be sufficiently high to maintain financial viability for a unit.
- 2.2.17. BGE welcomed the proposal to introduce Intermediate Length Contracts but stated that the proposal does nothing to assuage its original concern around the Exception Application process

itself and the timelines involved. For Intermediate Length Contracts to be effective, BGE suggested that necessary improvements must also be made to the USPC process.

- 2.2.18. BGE considered the Proposed Modification to be consistent with the CMC objectives, specifically (c), (d) and (f).
- 2.2.19. EP UK Investments (EPUKI) stated that it strongly supports CMC\_24\_23 and its implementation in time for the T-4 2028/29 Capacity Auction. It stated that the principle of the modification is aligned with EPUKI's Proposed Modification CMC\_20\_23.
- 2.2.20. In EPUKI's view, the ability for Existing Capacity to Opt-out of participation in Capacity Auctions after receiving their USPC determination removes the risk of these units being required to run at a loss for the duration of their capacity contract. EPUKI suggested that this is critical for retaining Existing Capacity during the ongoing Security of Supply crisis.
- 2.2.21. EPUKI also stated that Existing Capacity nearing the end of its economic life is more likely to have higher operating and maintenance costs and will also be higher in the merit order, meaning they are unlikely to gain revenue in energy markets and future System Services market. According to EPUKI, the combined effect of higher costs and reduced revenues mean that these units are more reliant on a USPC to recover their operating costs over the duration of their capacity contract.
- 2.2.22. EPUKI considered the current arrangements to be fundamentally inequitable and providing an adverse market signal to Existing Capacity.
- 2.2.23. EPUKI stated that the concerns expressed in response to CMC\_20\_23 are removed with this Proposed Modification as it would mean that the Opt-out date is unchanged from its current position within the Capacity Auction timeline. It highlighted that there are strict conditions for opting out of the Capacity Auction including closure, mothballing, or extensive maintenance, but that this risk would be mitigated by the setting of a USPC which facilitated cost recovery, or earlier delivery of USPC determinations.
- 2.2.24. EPUKI also suggested that while the Intermediate Length Contract mechanism would possibly support Existing Capacity undergoing extensive maintenance or refurbishment, it does not address the risk of a unit not receiving a USPC to enable recovery of operating costs. In EPUKI's view, if a unit does not receive an adequate USPC, it may be exposed to greater risk under an Intermediate Length Contract. Thus, EPUKI stated that the Intermediate Length Contract is not an alternative approach to addressing the problem raised by CMC\_20\_23 and CMC\_24\_23.

## 2.3. SEM COMMITTEE DECISION

- 2.3.1. The SEM Committee welcomes the feedback provided by participants both as part of the Workshop and through the consultation process.
- 2.3.2. The SEM Committee notes the support amongst respondents for the Proposed Modification and its implementation in time for the T-4 2028/29 auction.



- 2.3.3. The SEM Committee also notes the concerns expressed by respondents around the current Exception Application process and timelines, and the reliance on USPCs for Existing Capacity at a time when, according to respondents, Existing Capacity is facing higher costs and reduced revenues.
- 2.3.4. The Proposed Modification seeks to amend the auction timeline such that the Exception Application date occurs prior to the issuance of the Initial Auction Information Pack (IAIP). The IAIP is an important document which sets out the price caps for the relevant auction. The SEM Committee is of the view that the IAIP should remain the first event in the auction timeline as it helps inform market participants' decisions around Exception Applications.
- 2.3.5. The SEM Committee also has concerns around the proposal to revise the timelines to change the Exception Application Date to be before the Opt-out notification date, due to risks this would pose to RA operational processes.
- 2.3.6. Additionally, the SEM Committee is concerned around the changes to the original design of the CRM this Modification would introduce. As set out in the detailed CRM design decision papers, an Opt-out notification must be submitted if an existing unit is expecting to close before the end of the relevant Capacity Delivery Year. If the existing unit does not submit an Opt-out notification, it has a mandatory requirement to bid into an auction up to the level of the Existing Capacity Price Cap (ECPC). Mandatory bidding was introduced as a market power mitigation measure.
- 2.3.7. Following an existing unit's decision not to Opt-out, if it can satisfactorily evidence that its Net Going Forward Costs will exceed this price cap, it is permitted to apply for a higher bid limit (a USPC) through the Exception Application process. The Opt-out process and the USPC process are designed to arise in the order currently provided for in the CMC, and are separate application processes.
- 2.3.8. Given the reasons outlined above, the SEM Committee is rejecting CMC\_24\_23 and will not make a Modification at this time.
- 2.3.9. While the SEM Committee is not making a Modification, the introduction of Intermediate Length Contracts (SEM-24-035) gives Existing Capacity a new option to bid for a longer duration contract at any price up to the ECPC/a USPC.
- 2.3.10. The SEM Committee notes that it has reviewed its own internal processes in order to make the USPC process more efficient.

### **3. NEXT STEPS**

- 3.1.1. Given that the SEM Committee has decided to reject the Proposed Modification CMC\_24\_23, there are no actions required of the System Operators with regards to its implementation.
- 3.1.2. All SEM Committee decisions are published on the SEM Committee website: [www.semcommittee.com](http://www.semcommittee.com).