<table>
<tr><th colspan="4">MODIFICATION PROPOSAL FORM</th></tr>
<tr><td>Proposer
(Company)</td><td>Date of receipt
(assigned by System Operator)</td><td>Type of Proposal
(delete as appropriate)</td><td>Modification Proposal ID
(assigned by System Operator)</td></tr>
<tr><td>EP UK Investments</td><td>7th March 2024</td><td>Standard</td><td>CMC_04_24</td></tr>
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<tr><th colspan="3">Contact Details for Modification Proposal Originator</th></tr>
<tr><td>Name</td><td>Telephone number</td><td>Email address</td></tr>
<tr><td>Harry Molloy</td><td></td><td>h.molloy@tynaghenergy.ie</td></tr>
<tr><th colspan="3">Modification Proposal Title</th></tr>
<tr><td colspan="3">Recovery of Net Present Value Lost as a Result of No-Fault Delays to New Capacity Projects</td></tr>
<tr><td>Documents affected
(delete as appropriate)</td><td>Section(s) Affected</td><td>Version number of CMC used in Drafting</td></tr>
<tr><td>CMC</td><td>J.5, Glossary</td><td>Version 10.0</td></tr>
<tr><th colspan="3">Explanation of Proposed Change
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This proposed modification would include an amendment to the Capacity Market Code (**CMC**) to ensure that where a New Capacity project receives an extension to its Capacity Quantity End Date and Time, an adjustment is applied to Capacity Payments to ensure that the Net Present Value (**NPV**) and cash flow for the project is kept-whole.

Under the current market rules, where a project is delayed due to a third party and receives an extension to its Capacity Quantity End Date and time, the extension period is applied at the end of the original contract life. The delay in realising this extension creates two challenges for projects: (i) construction delays result in higher construction costs, and (ii) moving revenue to the end of the contract through the extension mechanism results in a lower Net Present Value for the project. These issues create a negative impact on the value of the investment itself, increasing the risk that the developer is no longer able to secure the rate of return necessary to invest in the project. This modification seeks to make the extension process more effective at ensuring the feasibility of New Capacity.

This modification proposes to apply an amendment to the Capacity Payments for the first year of a New Capacity contract to enable the recovery of No-Fault Delay Costs **(NFDC)** incurred due to delay where an extension to Capacity Quantity End Date and Time has been granted by the Regulatory Authorities. The NFDC which may be recovered will be approved by the Regulatory Authorities following a request by a participant and provision of supporting evidence to justify the additional costs. EPUKI envisions that NFDC will consist of a combination of increased construction costs and reduction to NPV due to Capacity Payments occurring later than originally anticipated, both of which are incurred due to no-fault delays.

EPUKI believes that this modification is consistent with the principle approved by the SEM Committee (**SEMC**) in introducing extensions where no-fault delays have been incurred. In approving such an extension, the SEMC is acknowledging that a delay incurred by a New Capacity project is not the fault of the Participant delivering the project and as such, that Participant should not be penalised as a result of the delay. This helps to ensure a fair balance-of-risk and protects against New Capacity projects facing termination as a result of delays outside their control.

Extending this principle, EPUKI believes it is reasonable to expect units which receive an extension to be made whole in order to avoid negative NPV impacts which are outside the control of the

Participant. EPUKI envision this process being implemented alongside the existing process for extension applications. This would align the NPV retention mechanism with the existing extension mechanism and would give the SEMC the discretion to assess and ultimately approve or reject applications for NPV retention.

Legal Drafting Change

*(Clearly show proposed code change using **tracked** changes, if proposer fails to identify changes, please indicate best estimate of potential changes)*

This modification would require the introduction of a new section to the Code:

J.5.9 Recovery of No Fault Delay Costs pursuant to Extension of Long Stop Date and Capacity Quantity End Date and Time

J.5.9.1 Where a Participant or an Enforcing Party (on behalf of a Participant) applies to the Regulatory Authorities to extend the Long Stop Date and Capacity Quantity End Date and Time under section J.5.6, section J.5.7, or section J.5.8, the Participant or Enforcing Party (on behalf of a Participant), may apply to the Regulatory Authorities to recover No Fault Delay Costs associated with the extension sought.

J.5.9.2 The application under paragraph J.5.9.1 shall be in the form and made in the manner prescribed by the Regulatory Authorities and shall include:

i. Any relevant information specified as required by the Regulatory Authorities; and
ii. Reasons for the request in sufficient detail to enable the Regulatory Authorities to consider the request, together with supporting evidence.

J.5.9.3 When considering any application under paragraph J.5.9.2, the Regulatory Authorities may request such further information about the application and/or about the Awarded New Capacity from the relevant Participant.

J.5.9.4 Where the Regulatory Authorities approve a request under paragraph J.5.9.2, they shall advise the Market Operator of the No Fault Delay Costs approved by the Regulatory Authorities and the Capacity Market Unit to which it relates, within ten working days of receiving an application.

J.5.9.5 The No Fault Delay Costs Payment ($PNFDC_{\Omega n}$), for Capacity Market Unit, Ω, shall be calculated in accordance with the following formula:

$$PNDFC_{\Omega\mathrm{n}} = \frac{NFDC_{\Omega}}{qC_{\Omega n}}$$

Where:

(a) $NFDC_{\Omega}$ is the total No Fault Delay Costs as approved by the Regulatory Authorities under paragraph J.5.9.4.
(b) $qC_{\Omega n}$ is the Net Capacity Quantity for Capacity Market Unit, Ω, for Contact Register Entry, n.

J.5.9.6 Beginning on the date that a Capacity Market Unit achieves Substantial Completion and for a period of 12 months, the Capacity Payment Price ($PCP_{\Omega n}$) with respect to Capacity Market Unit, Ω, for Contract Register Entry, n, shall be equal to the Capacity Payment Price determined in accordance with F.9.1 plus the No Fault Delay Cost Payment $PNDFC_{\Omega}$￼).

J.5.9.7 The provisions of paragraph J.5.9.6 shall be applicable only to units with respect to which the Regulatory Authorities have approved an application under J.5.9.2.

For the avoidance of doubt, this calculation is intended to enable the recovery of NPV lost through the result of a no-fault delay by an amendment to the Capacity Payment Price for a period of twelve months.

In addition to the above, the following definitions will need to be added to the glossary:

No Fault Delay Costs: means the increase in costs of construction and reduction in net present value incurred by projects as a result of delays associated with extensions as approved by the Regulatory Authorities from time-to-time in accordance with J.5.9.4.

No Fault Delay Costs Payment: means the amount in €/MW calculated in accordance with the formula under J.5.9.5.

Modification Proposal Justification

(Clearly state the reason for the Modification)

In SEM-23-001, the SEMC identify the impact that project delays can contribute to termination of Awarded Capacity as a result of "*damage to projects economics caused by the shortening of the RO term*". While extensions available as a result of SEM-23-001 (and later SEM-23-101) help to address this impact on project economics, Participants are still exposed to increased costs and reduced project value as a result of third-party delays. Specifically, this is due to associated increased construction costs, and cashflow impact of the Capacity Payments being shifted back due to a delay.

This limits the effectiveness of contract extensions awarded under J.5.6, J.5.7, and J.5.8 and means that developers may choose not to invest in New Capacity projects given the significant risk exposure. This modification addresses this risk by ensuring that extensions maintain projects' Net Present Value. Under the proposed drafting, the Regulatory Authorities have discretion over applications for cost recovery.

Failure to deliver New Capacity future Capacity Auctions will be detrimental for Security of Supply and for the consumer. The recently published Generation Capacity Statement for 2023 – 2032 identified adequacy deficits in Ireland from 2023 onwards. Northern Ireland also faces adequacy deficits under a number of the sensitivities examined in the Generation Capacity Statement. This illustrates the need to deliver New Capacity through the upcoming Capacity Auctions.

The consequences of not securing New Capacity are significant. In response to Security of Supply concerns, the Commission for Regulation of Utilities has procured 700MW of Temporary Emergency Generation. The CRU Information Paper on Transmission Network Allowed Revenues (CRU2023104) indicated that by 2024 the cost of TEG will reach approximately €965m. Based on technological de-rating, and a four-year contract life, this equates to an approximate average of €2,477,032/MW/year which is fifteen times the current Auction Price Cap. As well as significantly higher costs for consumers, failure to deliver New Capacity represents a risk to keeping the lights on.

EPUKI believes that this modification proposal has a much lower economic impact than the consequence of not delivering New Capacity but would be significant in terms of de-risking and encouraging investment in the T-3 2027/2028 and T-4 2028/2029. Based on the principles already approved by the SEMC through SEM-23-001 and SEM-23-101, and in line with the interests of consumers and Security of Supply, we believe that this modification should be implemented ahead of the upcoming Capacity Auctions.

Code Objectives Furthered

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

EPUKI believes that this modification promotes a number of the CMC objectives:

A.1.2.1 This Code is designed to facilitate achievement of the following objectives (the "**Capacity Market Code Objectives**"):

(a) to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to the Capacity Market;

This modification would increase the likelihood of New Capacity participating in future Capacity Auctions and increase the likelihood of Awarded Capacity delivering successfully. This would enable EirGrid and SONI to carry out their functions with respect to the Capacity Market in a manner which is more efficient and effective.

(b) to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity Market and the provision of adequate future capacity in a financially secure manner;

This modification would increase the likelihood of New Capacity participating in future Capacity Auctions and increase the likelihood of Awarded Capacity delivering successfully. This aligns with the objective of ensuring adequate capacity in the future. The Generation Capacity Statement indicates that currently there are significant adequacy concerns in both Ireland and Northern Ireland.

(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;

This modification will increase the likelihood of undertakings in the provision of electricity capacity. The T-4 2027/2028 Auction results demonstrated the current challenges that electricity undertakings face in seeking to provide capacity to the Single Electricity Market.

(d) to promote competition in the provision of electricity capacity to the SEM;

EPUKI believes that this modification would increase competition with respect to the T-3 2027/2028 and T-4 2028/2029 Capacity Auctions by lowering the risk of participation. Additionally, this modification supports the delivery of New Capacity through a competitive process. This represents a significantly better option for consumers than the recently deployed alternative of procuring capacity through the Temporary Emergency Generation, outside the liberalised market and at a much higher cost per MW.

(f) to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and

This modification helps to ensure equal treatment of all Awarded New Capacity in the Capacity Market. Currently, a participant can incur a delay which is completely outside of their control. Even if they are awarded an extension under the current market rules, this could result in significant NPV loss when compared to other participants who behaved in an identical manner but did not incur such a delay. This modification would mitigate against such instances and ensure that Participants are protected from third-party impacts.

(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.

This modification is aligned with consumer interest as it supports the delivery of New Capacity through the CRM. This will help to address the Security of Supply Crisis and keep the lights on. Additionally, supporting the delivery of New Capacity is in the economic interest of consumers based on the significantly higher costs of procuring Temporary Emergency Generation.

Implication of not implementing the Modification Proposal

(State the possible outcomes should the Modification Proposal not be implemented)
EPUKI has concerns that failing to implement this modification will result in similar auction outcomes to the T-4 2027/2028 Capacity Auction. This auction saw only 80MW of new gas turbine capacity participate despite a need for significant investment to address the Security of Supply Crisis. Low levels of participation are driven by lack of an investment case and too high of a risk exposure. This modification helps to address the risk profile which is significantly greater for the T-3 2027/2028 than it was for the T-4 2027/2028. The costs of not implementing this modification and failing to secure the delivery of New Capacity is significant both from a Security of Supply perspective and in terms of economic cost to the consumer.
Impacts *(Indicate the impacts on systems, resources, processes and/or procedures)*
This modification would require Regulatory Authorities resources to assess applications to recover No Fault Delay Costs. It is unclear whether changes would be required to Market Operator (MO)systems to implement this modification, but we do not expect there to be a significant impact on MO resources.
Please return this form to the System Operators by email to 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.**