



**Single Electricity Market
(SEM)**

**Capacity Market Code Working Group 13
Modification Decision Paper**

SEM-20-055

18 August 2020

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decision relating to the proposed modification CMC_09_20 to the Capacity Market Code (CMC) discussed at the Working Group held on 26 May 2020.

This paper considers the responses associated with the consultation SEM-20-043¹ which closed on 22 May 2020 and sets out the SEM Committee decision relating to the proposed modification:

- CMC_09_20 – Modification to the Long Stop Date for the CY2020/21 T-1 Capacity Auction

This modification proposed the introduction of an Interim Arrangement that would adjust the Long Stop Date for awarded new capacity that was secured for the 2020/21 Capacity Year. This Interim Arrangement would only be applicable to new capacity, with a capacity duration of one year, which was secured in the T-1 CY2020/21 Capacity Auction.

7 responses were received to the Capacity Market Code Working Group 13 CMC_09_20 Modification Consultation Paper, none of which were marked as confidential.

Summary of Key Decisions

The purpose of the proposed modification CMC_09_20 was to further the Code Objectives within the CMC, specifically:

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

Following consideration of the proposal and the responses received to the consultation the SEM Committee have decided to accept CMC_09_20. With the approval of this modification the SEM Committee hereby approve the extension of the Long Stop Date associated with the T-1 CY2020/21 Capacity Auction to 18 December 2020 and reject the request to extend this date to 20 January 2021.

¹ Capacity Market Code Working Group 13 CMC_09_20 Modification Consultation Paper:
https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-043%20CMC_09_20%20Consultation%20Paper.pdf

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1. OVERVIEW

1.1 BACKGROUND

1.1.1 Decisions made during the development of the I-SEM CRM Detailed Design were translated into auction market rules to form the Capacity Market Code (CMC) (SEM-17-033) which was published in June 2017. The most recent version was published on 10 October 2019. The CMC sets out the arrangements whereby market participants can qualify for, and participate in, auctions for the award of capacity. The settlement arrangements for the Capacity Remuneration Mechanism (CRM) form part of the revised Trading and Settlement Code. The most recent version of the Trading and Settlement Code was published on 12 April 2019. Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the handling of proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

Process for modification of the CMC

1.1.2 Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the processes for proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

1.1.3 The purpose of the Modifications process is to allow for modifications to the CMC to be proposed, considered and, if appropriate, implemented with a view to better facilitating code objectives as set out in Section A.1.2 of the CMC. (B.12.1.2).

1.1.4 Modifications to the CMC can be proposed and submitted by any person, (B.12.4.1), at any time. Unless the modification is urgent modifications are subsequently discussed at a Working Group held on a bi-monthly basis. Each Working Group represents an opportunity for a modification proposer to present their proposal(s) and for this to be discussed by the workshop attendees.

1.1.5 For discussion at a Working Group, Modification proposals must be submitted to the System Operators at least 10 working days before a Working Group meeting is due to take place. If a proposal is received less than 10 working days before a Working Group and is not marked as urgent it is deferred for discussion to the next Working Group.

1.1.6 Following each Working Group, and as per section B.12.5.6 of the CMC, the RAs are required to publish a timetable for the consideration, consultation and decision relating to the Modification(s) proposed during a Working Group.

1.1.7 If a proposal is received and deemed to be contrary to the Capacity Market Code Objectives or does not further any of those objectives, the Regulatory Authorities (RAs) will reject the proposal on the grounds of being spurious, as set out in section B.12.6 of the CMC.

1.1.8 If a proposed modification is deemed urgent by the RAs, CMC Section B.12.9.5 will become active and the RAs will determine the procedure and timetable to be followed in the assessment of the Modification Proposal. The CMC states that the procedure and timetable may vary from the normal processes set out in the code, allowing for the modification to be fast-tracked.

Process and Timeline for this Modification

- 1.1.9 On 6 May 2020 the System Operator notified the RAs of one proposed modification proposal submitted for discussion at WG13 (CMC_09_20) under the terms of B.12.4. Upon submission, the proposer marked the modification proposal as Urgent.
- 1.1.10 The Regulatory Authorities determined that the Modification Proposal was potentially “urgent”. This was because the Modification Proposal was proposed to deal with a matter that could reasonably be anticipated would imminently and unduly interfere with, disrupt, or threaten the proper operation of the Capacity Market.
- 1.1.11 On 26 May 2020, the System Operators convened Working Group 13 where this Modification Proposal was considered. During Working Group 13, it was decided that, whilst the modification is marked “urgent” there was enough time for this proposal to follow the normal modification process.
- 1.1.12 This being the case, the proposal can follow a 20 Working Day consultation period which will allow for respondents the full period to comment whilst also ensuring that, if approved, implementation would be facilitated well ahead of the beginning of the 2020/21 Capacity Year.
- 1.1.13 On the 9 June 2020 the RAs determined the procedure to apply to the Modification Proposal. An overview of the timetable is as follows:
- i. The System Operators convened Working Group 13 where the Modification Proposal was considered on 26 May 2020.
 - ii. The System Operators were then required to prepare a report of the discussions which took place at the workshop, provide the report to the RAs and publish it on the Modifications website.
 - iii. The RAs were required to publish a Modification Process Timetable for consideration, consultation and decision relating to the Modification Proposal.
 - iv. The RAs were to proceed with the consultation process on the Proposed Modification, with a response time of 20 Working Days (as defined in the CMC), from the date of publication of the Consultation. The paper was published on 26 June 2020.
 - v. As contemplated by B.12 the RAs will make their decision following the public consultation and if they are satisfied that the Modification will or is likely to contribute to the achievement of the Capacity Market Code Objectives.
- 1.1.14 The purpose of this decision paper is to set out the decision relating to the Modification Proposal CMC_09_20 discussed during Working Group 13 to either:
- a) Implement a modification;
 - b) Reject a modification; or
 - c) Undertake further consideration in regards to matters raised in the modification proposal.
- 1.1.15 This decision paper sets out a summary of the consultation proposals and sets out the SEM Committee’s decision.

1.2 RESPONSES TO CONSULTATION

1.2.1 This paper includes a summary of the responses made to the Capacity Market Code Modifications consultation paper (SEM-20-043) which was published on 26 June 2020.

1.2.2 A total of 7 responses were received by close of the consultation period. The respondents are listed below and copies of the responses received can be obtained from the SEM Committee website.

- SSE
- ESB GT
- Demand Response Association Ireland (DRAI)
- Statkraft
- Bord Gáis Energy (BGE)
- Energy Storage Ireland (ESI)
- EirGrid/SONI

2. CMC_09_20 – MODIFICATION TO THE LONG STOP DATE FOR THE CY2020/21 T-1 CAPACITY AUCTION

2.1 CONSULTATION SUMMARY

2.1.1 This modification proposed the introduction of a new section within the CMC – M.11 Provisions Applicable to the T-1 Capacity Auction for Capacity Year 2020/21 only.

2.1.2 The Modification was submitted by the DRAI, who had proposed to adjust the Long Stop Date for the 2020/21 Capacity Year, for any CMUs that have successfully been awarded a one year Reliability Option (RO) contract. The current Long Stop Date is 31 October 2020.

The initial proposal submitted proposed this date be adjusted to 31 December 2020.

2.1.3 This modification proposed the introduction of the following text:

M.11.1 The provisions of this section M.11 apply only to the T-1 Auction for Capacity Year 2020/21, (the T-1 2020/21 Auction).

M.11.2 Paragraph J.6.1.1 (b) (ii) shall be replaced with “in the case of a Capacity Award with a capacity duration of one year or less, the last day of the third full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided, or such later date as may be determined by the Regulatory Authorities, due to restrictions implemented in response to COVID-19, and notified to the System Operators.

M.11.3 In the event of any inconsistency or conflict between a provision of this section M.11 and any other provision of this Code, the provision of this section M.11 shall prevail to the extent of the inconsistency or conflict. Save as expressly amended by this section M.11 the Capacity Market Code shall continue to apply to the T-1 2020/21 Auction in accordance with its terms.

2.1.4 The proposal stated that restrictions implemented due to the ongoing COVID-19 pandemic were having a significant negative impact on 28 CMUs which successfully secured an RO for Awarded New Capacity for CY2020/21 in the T-1 auction which took place on 26 November 2019.

2.1.5 The DRAI stated that these restrictions were preventing Participants from completing construction works to install and commission equipment and also from completing the required testing with the System Operator. They highlighted concerns that restrictions will prevent Participants from achieving Substantial or Minimum Completion prior to the Long Stop Date at many of the industrial and manufacturing sites where DSUs/AGUs have contracted to commission New Capacity.

2.1.6 If a CMU is unable to achieve Substantial or Minimum Completion prior to the current Long Stop Date of 31 October 2020 (for Awarded New Capacity with capacity duration of 1 year) this will result in the CMU’s Awarded New Capacity being terminated by the System Operators, and the CMU incurring the Termination Charge (currently 30,000 €/MW, rising to 40,000 €/MW from 1st October 2020).

- 2.1.7 The DRAI justified the submission stating that an adjustment to the Long Stop Date will significantly reduce the risk for new capacity providers caused by the COVID-19 restrictions, without material impact on security of supply and the value of the CRM hedge to consumers.

2.2 SUMMARY OF RESPONSES

- 2.2.1 A total of 7 responses were received to the consultation. In summary each of the respondents to the consultation believed the proposal would mitigate the significant administrative burden for both the Participants and the System Operators with regard to the Force Majeure process whilst also furthering the relevant code objectives set out in A.1.2.1 of the CMC.
- 2.2.2 SSE stated that they are supportive of the RAs position to provide an extension for a limited period. They highlighted that with the SEMC requesting responses relating to whether the extension to the Long Stop Date is automatic or requiring some evidence to support the request for extension, they would be supportive of the modification applying some contingency. As way of an example they have advised that a letter could be required from the project to confirm the need for the extension is directly related to the extenuating circumstances relating to COVID-19 and providing some detail as to what has been affected exactly.
- 2.2.3 This comment was mirrored in the DRAI response whereby they highlighted that should the RAs decide to require impacted Participants to provide a degree of evidence in support of their claim, in order to benefit from the extended Long Stop Date, this should be kept as simple as possible. They elaborated that this should be no more complicated than a letter from the Participant confirming the reason for the delay and requesting the extension.
- 2.2.4 In their response, ESB GT stated their belief that the proposed modification is consistent with the code objections, specifically A.1.2.1 (b) and (c).
- 2.2.5 They highlighted that considering the potentially high administrative burden (for affected Participants and the System Operators) associated with managing individual claims for relief under the CMC Force Majeure provisions, the flexibility provided through this modification is a proportionate approach to assist affected market participants balance the risk impact of capacity commissioning delays caused by restrictions implemented in response to COVID-19.
- 2.2.6 In their response, ESB GT referred to paragraph 2.1.48 of the consultation paper, where the RAs asked whether any extension to the Long Stop Date should be contingent on the provision of some degree of evidence submitted to the RAs. ESB GT stated that this could be as simple as a letter from the participant confirming the reason for the delay and requesting the extension.
- 2.2.7 ESB GT highlighted that, whether big or small, the size of the effected unit(s) can have an impact on the Capacity Market. By way of an example they elaborated that if the effected 63.2MW was missing during an ASP event it could increase the Partial ASP by €298/MWh.

They also stated that considering the impact the 63.2MW could have on the BM price, the fact that there cannot be a re-auction, and the delays to meeting completion deadlines are out of control of the affected participants and therefore ESB GT support the modification with the RAs proposed change of the 18 December.

2.2.8 Whilst ESB GT believe that an extension of the Long Stop Date to 18 December 2020, for capacity with a single year award, is a pragmatic approach to balance the competing concerns of the TSOs and potential affected market participants, they advised the additional RA approval exemption process proposed in M.11.2 of the modification is unnecessary. ESB GT elaborated that the addition introduces ambiguity as to the real long stop date. To mitigate this they have suggested the removal of the following text from the proposal:

M.11.2 Paragraph J.6.1.1 (b) (ii) shall be replaced with “in the case of a Capacity Award with a capacity duration of one year or less, the last day of the **third** full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided, ~~or such later date as may be determined by the Regulatory Authorities, due to restrictions implemented in response to Covid-19, and notified to the System Operators.~~”

2.2.9 BGE mirrored the response provided by ESB with regard to the extension of the Long Stop Date to 18 December 2020. They stated their support of the proposal would be on the basis of an extension to this date and added that whilst they support some flexibility with the Long Stop Date for the affected units as suggested in this modification it must be balanced with the potential impacts to capacity availability during high-demand periods in the coming winter.

2.2.10 With regard to the modification text stating “for a further extension by the RAs if deemed appropriate” BGE commented that they would encourage the RAs to impose a high qualification threshold for any further extension after the proposed Interim Arrangement.

2.2.11 BGE wished to highlight that is an Interim Arrangement and must be seen in the context of the situation resulting from the imposition of the COVID-19 restrictions. They elaborated that this situation is unique in nature and it should not be seen as setting a precedent for the treatment of new capacity awards from future auctions and on this basis, should only be looked upon as one-time event.

BGE are of the mind that any further extensions beyond the RAs suggestion increases the risk of scarcity events in the market so impacting all other market participants, and ultimately the consumer through increased costs to cover capacity scarcity events.

2.2.12 In their response, EirGrid/SONI advised they understand the RAs aim in amending the Long Stop Date to 18 December 2020 was to strike a balance between affording Participants with Awarded New Capacity more time to deliver it in light of the COVID-19 restrictions and the need to ensure a continued reliable supply of electricity.

2.2.13 EirGrid/SONI stated that given the capacity outstanding and the fact that Participants would experience erosion of their payments if they are late in delivering capacity, they consider that there is adequate incentive to deliver as soon as possible.

However, they added that they feel including a mechanism to confirm to the RAs that any delay was unavoidable, as alluded to in the consultation, may be helpful in this respect.

2.2.14 The DRAI, proposer of the modification, stated they welcome the RAs 'minded to' position approve the proposed Modification and recognising the significant issues faced by several impacted Participants with bringing New Capacity online during the period impacted by the ongoing COVID-19 restrictions.

2.2.15 Taking on board the compromise put forward by the RAs, EirGrid/SONI have advised they would be supportive of the proposed extension to the Long Stop Date to the 18 December 2020 as opposed to 31 December 2020, believing it to be a reasonable compromise.

2.2.16 The DRAI noted the RAs proposal to extend the Long Stop Date to 18 December 2020 was a compromise, balancing the desire to maximise the amount of capacity made available during the winter period and minimising any potential negative impacts associated with setting the adjusted Long Stop Date during the Christmas holiday period, while at the same time providing a sufficient extension to the affected Participants in line with the intent of the Modification.

However, they advised that they do not believe that the suggestion to set the revised Long Stop Date to the 18 December provides an extension proportionate to the impact of the restrictions faced due to COVID-19. While acknowledging the concerns raised about the practicality of an extended Long Stop Date during December, the DRAI propose that the Long Stop Date instead be extended to 20 January 2021.

2.2.17 The preference put forward by the DRAI for a Long Stop Date of 20 January 2020 was also mirrored in the response submitted by Statkraft and ESI. In their responses they have advised that an extension to this date would allow sufficient time for providers to deliver capacity in light of ongoing restrictions, as well as other COVID-19 impacts, and enables the delivery of capacity that may otherwise be terminated.

2.2.18 The DRAI justified a Long Stop Date of 20 January 2020, stating that it was important to note that one of the main aims of the proposal was to help avoid affected participants having to engage in a complex and time-consuming Force Majeure process. For this reason, they stated that if this modification is to be effective, it is important that the extension is proportionate to the impact of the restrictions faced due to COVID-19.

As the CMC sets a Long Stop Date 18 months after the start of the Capacity Year for New Capacity securing a multi-year Capacity Duration, the DRAI believes extending the Long Stop Date to less than 4 months from the start of the Capacity Year, for less than 65 MW of capacity is reasonable given the severity of the current situation.

2.2.19 The DRAI provided their opinion that the extension proposed by the RAs is relatively short in duration. Due to this shortened extension period, and the strong retained financial incentive for impacted Participants to deliver as much of the capacity as possible as soon as possible, the DRAI's view is that the automatic extension of the date for all affected Participants is appropriate. They advise there is further evidence in support of this by the fact that there is a known and relatively limited number of potentially impacted Participants (a total of 7) and capacity (63.2 MW).

2.3 SEM COMMITTEE DECISIONS

- 2.3.1 The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.
- 2.3.2 The SEM Committee notes the broad support for the Modification. While responses were split on the length of extension to be provided, the SEM Committee also has to take into account the interests of consumers who do not generally participate in the Modification process.
- 2.3.3 Given the increased risk to both security of supply and the hedge provided by awarded capacity by extending the Long Stop Date three weeks into January 2021, the SEM Committee has decided that the Long Stop Date should be extended to 18 December 2020.
- 2.3.4 The SEM Committee notes that this Modification is in response to the exceptional circumstances brought about by the COVID-19 pandemic and will apply only to the CY2020/21 T-1 Auction.
- 2.3.5 The SEM Committee notes concerns around the leeway given to the RAs to further extend the Long Stop Date. They note that any extension would be likely to push the date well into January 2021. As a consequence, the SEM Committee does not believe it is appropriate to provide further leeway around the Long Stop Date at the RAs discretion and this is reflected in the final text of the Modification.
- 2.3.6 The SEM Committee notes that there was some support for their suggestion that the Long Stop Date extension should not be automatic. However, they are also mindful not to create a new process that is unduly onerous on either Market Participants or the RAs. Given the decision to extend the Long Stop Date to 18 December, which helps to manage the risk to consumers of late delivery, the SEM Committee have decided not to require an application for an extension.
- 2.3.7 The final legal drafting for the Modification, taking account of the decision above, is given in Appendix C.

3. NEXT STEPS

- 3.1.1 Given that the Proposed Modifications approved within this decision paper do not have any immediate systems implications, the SEM Committee require that the SOs incorporate the approved Modifications contained within this paper into the CMC via an appropriate version control process and the Modification is to become effective by no later than 28 August 2020.
- 3.1.2 All SEM Committee decisions are published on the SEM Committee website: www.semcommittee.com