

## APPENDIX C – RESPONSE TEMPLATE

### SUMMARY INFORMATION

<b>Respondent's Name</b>	ESB Generation and Trading
<b>Type of Stakeholder</b>	Generator
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<b>Confidential Response</b>	[N]

### CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS:

ID	Proposed Modification and its Consistency with the Code Objectives	Impacts Not Identified in the Modification Proposal Form	Detailed CMC Drafting Proposed to Deliver the Modification
<p><b>Modification 1:</b> Linking approval of Substantial Financial Completion Delays to Long Stop Dates and Capacity End Date and Time for specific auctions</p>	<p>ESB GT believes this proposal is in line with CMC objectives especially (b) and (g).</p> <p>Linking SFC extensions with the possibility of LSD and Capacity Quantity End Date and Time extensions will allow for better understanding of real timeline of delivery for projects that have encountered delays in achieving SFC but are still in position to deliver the awarded capacity, albeit at a later date.</p>	<p>This proposal addresses the known issues with lengthy timelines for obtaining all necessary documents and contracts for SFC. While each project needs to be able to adhere to the agreed timelines when awarded there may be circumstances beyond the investor's scope that will prevent the project to achieve those in time or the offered conditions will render project unfeasible without a</p>	<p>As the legal drafting was not provided, we would like to stress the need for defined processes for extension applications and decision-making timelines to be included if the proposal is the implemented.</p> <p>A full register of SEMC decisions is required and there needs to be an obligation on the SEMC to update the register within 4 weeks of when they exercise their right their powers under this clause.</p>

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	<p>The proposed modification will also unlock the potential “Catch 22” situation that can arise where a project cannot pass SFC as the delivery of the project cannot be achieved at the contract start date but otherwise the project remains viable.</p> <p>ESB GT supports the adoption of this modification as a necessary step in the context of the current security of supply situation. However, ESB GT believes that in tandem with adopting a more permissive approach to delays in delivery there is a need to balance this by strengthening the application of the qualification criteria to ensure that projects competing in future auction processes will not become reliant on the potential for delays to be granted.</p> <p>In addition, ESB GT believes that the experience garnered across the market to date shows that the current maximum timeline of 48 months for capacity market auctions to be held in advance of delivery does not align with the degree of complexity in the commissioning of new generation capacity. ESB GT believes consideration should be given to</p>	<p>protection against at least partial contract erosion.</p> <p>While ESB GT believes the proposal addresses an issue that is faced by investors regarding third-party delivery/decision-making timelines, we also wish to point out that those timelines should be reviewed on a regular basis to ensure the delivery of the new capacity is not solely dependent on the extensions but can be achieved according to the regular schedule (especially for the T-4 auctions). If, for example, grid connections have a lengthier delivery due to a high demand and therefore do not allow projects enough time to commission prior to start of the capacity year, there should be a review of these process and incentives to bring them in line with capacity market timelines.</p> <p>ESB GT also believes there is a need for a clear set of objective criteria against which the SEM Committee will decide whether a</p>	

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	<p>extending the maximum timeline to 60 months as is applied in other European capacity markets (e.g. Poland).</p> <p>Further ESB GT is concern that the potential for extension to LSD and Capacity Quantity End Date to be granted will change the incentive structure in place for third parties, reducing the impetuous to deliver and so have a negative impact on the security of supply situation. It is also important to note that third party delays will result in cost escalation for the delivery of a project, so while the potential to maintain the original contract duration is welcome it may not be sufficient to ensure the project's viability where there are extended third party delays. ESB GT would welcome the opportunity to engage with the SEM Committee on how the incentive alinement for all parties involved in the delivery of the required generation capacity can be best assured.</p>	<p>request will be granted. This is fundamental to maintaining transparency and confidence in the market.</p> <p>ESB GT also notes that 3<sup>rd</sup> party delay will push unreasonable costs onto developers and ultimately consumers as we cannot control this. The proposed modification recognises some of this and mitigates the need for the developer to capture this risk in their bid prices. Future work is needed to make sure there are not unreasonable 3<sup>rd</sup> party delays.</p>	

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<p><b>Modification 2:</b>                      Providing a mechanism for the SEM Committee to approve extensions to the Long Stop Date and Capacity Quantity End Date and Time for specific auctions</p>	<p>ESB GT believes this proposal is in line with CMC objectives especially (b) and (g).</p> <p>Providing a mechanism for extensions beyond the SFC is an important step that may help to deliver the much needed capacity in times of where changes happening in quick pace and unforeseen world events can affect any project at any stage.</p> <p>It is not clear why this modification will apply to specific auctions and not all auctions considering third party delays can occur in many situations. For example, a generating/battery seeking to increase its MEC via a T-1 auction (either through a multi-year contract or single year contract) will face similar grid delivery risks (testing windows in this tight security of supply period are difficult to schedule and issuance of Op Cert/FONs) as that of an asset that clears in a T-3 or T-4 auction.</p>	<p>Same as the Modification 1 this proposal addresses a real issue any project can face regardless the level of due diligence in advance.</p> <p>We would like to however stress the need for a continuation of the screening process that is currently in place for qualification applications to ensure projects that can enter the capacity auctions are able to deliver the capacity within the agreed timelines and do not rely on the extension option in their business case.</p> <p>The proposed option that allows to submit the application up to 20 working days prior the LSD accommodates for issues arising at the last minute where project was on track to deliver by LSD. While those extensions will likely be of a short nature and not having a decremental impact on the security of supply, we would like to request a publication of all approved extensions to be published regularly in order to inform the</p>	<p>Same as in the previous proposal the full legal drafting was not provided. We would like to stress the need for defined processes for extension applications and decision making timelines to be included if the proposal is the implemented.</p> <p>Considering the objective of this proposed modification (addressing the significant of modifications with similar elements), ESB GT believes this modification should apply equally to all auctions (T-1, T-2, T-3 and T-4) and all contract length holders (multi-year and single year). Otherwise, the market could end up seeing the same issue of new modifications being raised containing elements similar to what this modification is trying to address.</p>

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		<p>market about when the units are expected to be delivered as the long stop date will no longer be a single value for all projects awarded in one auction.</p> <p>If a developer's qualification information was sufficient to meet the CMC requirement and approved by the TSOs and RAs, but the project was subsequently delayed due a Grid or Gas issue, it should not matter which auction upon which the contract was won. The principle upon which this modification is being raised should apply equally to all participants. The current proposed drafting appears to have not identified this potential impact and should be rectified in the decision and legal drafting.</p> <p>Finally, there should be no distinction to a 3<sup>rd</sup> party delay in the T-1 to the T-4 CY Auction process. The principled reason is when a participant placed themselves into the bidding</p>	

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		<p>process there has to be a reasonable expectation that the 3<sup>rd</sup> parties will deliver to the currently expected timelines. This equality of treatment is also embedded in the downside of the incentives around delivery where a participant pays full termination fees consistent on if they do not deliver in time. The Modification proposed does not provide any relief from this. It is important that terms and conditions are symmetric and apply equally across the different CRM timeframes.</p>	

NB please add extra rows as needed.