

Consultation on CMC Modifications to Facilitate Delivery of Capacity

Response to SEM-23-080

20th October 2023



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1. Introduction

EirGrid holds licences as independent electricity Transmission System Operator (TSO) and Market Operator (MO) in the wholesale trading system in Ireland. System Operator for Northern Ireland (SONI Ltd) is the licensed TSO and MO in Northern Ireland. The Single Electricity Market Operator (SEMO) is a contractual joint venture between SONI and EirGrid and operates the Single Electricity Market on the island of Ireland.

EirGrid and SONI have been certified by the European Commission as independent TSOs. EirGrid also owns and operates the East West Interconnector, while SONI acts as Interconnector Administrator for both interconnectors that connect the island of Ireland and GB.

EirGrid and SONI, both as TSOs and MOs, are committed to delivering high quality services to all customers, including generators, suppliers, and consumers across the high voltage electricity system and via the efficient operation of the wholesale power market. EirGrid and SONI therefore have a keen interest in ensuring that the market design is workable, will facilitate security of supply and compliance with the duties mandated to us and will provide the optimum outcome for customers.

EirGrid and SONI have duties under licence to advise the CRU and UR respectively on matters relating to the current and expected future reliability of the electricity supply. We have also been allocated responsibility for administering the Regulatory Authorities' Capacity Market Code through our TSO licences. This response is on behalf of EirGrid and SONI in their roles as TSOs for Ireland and Northern Ireland.

2. EirGrid and SONI Response

EirGrid and SONI ('the System Operators') welcome this opportunity to respond to the SEM Committee's consultation paper ([SEM-23-080](#), 6th October 2023) in relation to Modification Proposals to facilitate delivery of capacity.

The System Operators have already outlined concerns in relation to the current functioning of the Capacity Remuneration Mechanism ('CRM') and to a potential cumulative effect of piecemeal changes which incrementally increases risk for consumers. The System Operators welcome policy development which provides clarity and direction in advance of potential Modification Proposals however such significant change warrants further engagement and analysis.

The System Operators have communicated concerns and outlined issues with the current CRM, evidenced by the disappointing volume of delivered new capacity. The System Operators have proposed solutions and are open to engagement with all key stakeholders to find and implement appropriate, long-term solutions. Given the risk of unintended consequences, the System Operators strongly advise that modifying key aspects of the Code, such as the risk allocation model, should only be done following detailed engagement with the System Operators, adequate consultation, robust analysis and detailed design.

2.1. Consultation Process

The System Operators have concerns in relation to the short period of time (two weeks) allocated for consultation on the SEM Committee's considerations, given the absence of proposed legal drafting and the significant nature and breadth of the changes. In this context it is not feasible to develop, review and propose updated detailed legal drafting that would implement the considerations outlined in the consultation paper within this timeframe. Therefore, this response focuses on the principles and potential modifications discussed.

The proposals involve the reallocation of risks to consumers that were allocated to participants following lengthy consultation processes during the establishment of the Capacity Market. The System Operators recommend, if the risk allocation model is to be amended with a broader application of extension

mechanisms, it is done so holistically, considering the complexities of CRM design as a whole and considering the implications on investment decision making with respect to new and existing capacity. On that basis, the System Operators believe it is essential that the Regulatory Authorities engage with the System Operators and other key stakeholders in relation to a larger programme of work which would provide a firm foundation for significant change.

2.2. Modification Principles

The Regulatory Authorities are aware of the System Operators' position regarding the ongoing failure of the CRM to deliver the required volumes. It is vital to achieve an appropriate balance of incentives and risk allocation to facilitate timely delivery of the full range of technologies required to secure our electricity supply, support social and economic growth and transition to renewable sources of energy.

The introduction of broad application remedial actions could be regarded as acknowledgement that the current auction timeframes (T-4) are inadequate for the delivery of new conventional capacity, in particular.

The System Operators recognise that there are external dependencies which are outside of the control of a developer of new capacity, and that such circumstances may delay delivery to the extent that the project is no longer financially bankable, viable and/or is unable to meet obligated milestones such as Substantial Financial Completion or Long Stop Date.

The System Operators appreciate the pressures on and concerns of project developers however project developers should be expected to take all reasonable steps to identify, manage and mitigate internal and external risks associated with their projects.

System Operators are not in principle opposed to the introduction of remedial actions which are targeted, supported by clear criteria, robust evidence and address a specific risk which is outside of the control of the project developer. However, the impact of a more permissive approach to delayed capacity is a cause for concern with respect to the upstream impact on investment.

Therefore, the System Operators recommend, where remedial actions are implemented, that they are specific, evidence based, almost automatic in their assessment and are reflective of risks that are not within the reasonable control of the developer.

It should also be acknowledged that relaxing of the commitment model does carry additional risk of delayed delivery of capacity. The System Operators have been reflecting risk of non/delayed delivery in annual capacity requirements and will continue to do so based on the framework for delivery for a given capacity year. It is essential that such risks are adequately accounted for by the SEM Committee in its decisions on the capacity requirements for each capacity auction.

2.3. Modification Proposals

Notwithstanding the concerns outlined above with respect to process and principles, the System Operators welcome this opportunity to comment on the considerations outlined in the consultation.

The System Operators have provided responses to the individual Modification Proposals cited in the consultation. We reiterate that we do not support them as proposed for the reasons outlined in previous consultations. The System Operators acknowledge the SEM Committee's desire to introduce remedial actions in a manner which would provide flexibility to address a variety of scenarios. This approach however may introduce a broad over-reliance on the remedial actions in relation to project delivery and, in the absence of clear triggers and criteria, may introduce a significant administrative burden in assessing applications.

The System Operators share the SEM Committee's concerns that project developers remain incentivized to bring forward projects which are lower risk and suitably located from a planning and connectivity perspective. Realistic project implementation plans, and appropriate contingency plans must remain the default.

The SEM Committee may wish to consider if additional commitment, in the form of performance securities, should be a factor in granting extensions. This may ensure that extensions are only sought for projects which intend to progress and that projects which do not have a reasonable prospect of progressing withdraw in a timely fashion.

It is reasonable that the mitigation of revenue erosion currently in the Code (J.5.6) would be adopted should other or broader remedial action mechanisms be implemented. And that controls are in place to prevent a project from benefiting from an extended Capacity Quantity End Date and Time or indefinite extension period.

The System Operators would recommend that the same level of scrutiny which is currently applied to applications for remedial actions is maintained i.e., documentary evidence, legal declarations, independent certification etc.

The System Operators query if the 20 working days deadline for extension applications will still be adequate if multiple applications are to be expected with broader application of remedial actions. Also, to notice the significant impact this could have on resources in both the System Operators and the Regulatory Authorities.

In relation to SEM Committee's consideration of the auction specificity of the proposed remedial actions, the System Operators recommend that implementation, if progressed, should not be unnecessarily complex or discriminatory and apply to all who may avail of it at the effective date. In general, introducing auction specific conditions in the Code effectively creates multiple Codes, presenting challenges operationally and in terms of accessibility or interpretation of market rules.

In relation to endurance or otherwise of the implementation, there may be merit in considering that risks reasonably outside of the control of a project developer may always arise and generation adequacy concerns and delivery timescales may not always be linked.

In responding to previous Modification Proposals, the System Operators outlined practical concerns in relation to compelling third parties to provide evidence or engage in the remedial action application process. This may become particularly difficult if sub-contractors are involved, if contract timelines (where they exist) are non-binding or if there is a disagreement in relation to the cause of a delay and commercial repercussions or liabilities associated with identifying the cause.