



Response by Energia to SEM-23-082

***Capacity Market Code Modifications Workshop 33
Consultation Paper***

17 November 2023

Energia welcomes the opportunity to respond to SEM-23-082. Energia participated in CMC Workshop 33 on the 21st of September, at which proposed modification CMC_19_23 was discussed. The proposed modification implements the decision set out in SEM-23-038 on the indexation of capacity payments for multi-year contracts awarded at the T-3 2024/25 and T-4 2025/26 CRM auctions.

Energia remains strongly opposed to the decision made by SEMC in SEM-23-038, and further detailed in SEM-23-045. Energia set out its opposition in detail in our responses to the original Call for Evidence (SEM-22-071) and the further consultation and Call for Evidence (SEM-23-014). Energia's view remains that the proposed modification represents a retrospective change to the fundamental terms of concluded auctions processes, and on that basis is unfair, uncompetitive and contrary to the requirements of the CMC.

Energia notes that the proposed legal drafting of the modification deletes CMC section F.9.1.2, that:

“Except to the extent provided for in the Trading and Settlement Code, the Capacity Payment Price shall not be subject to adjustment or indexation”.

In Energia's view, the proposal to delete Section F.9.1.2 is evidence that the proposed modification is contrary to the terms of the CMC as they stood at the time of the relevant auctions as were clearly understood by auction participants.

Energia has no other specific comments on the proposed legal drafting in the modification. Energia calls for transparency from the SOs in terms of publishing the final Capacity Payment Prices awarded when indexation concludes on the first month of the first delivery year of the relevant Capacity Auction (or earlier as per proposed M.13.4).

Energia will respond separately to consultation paper SEM-23-084 on the other modifications discussed at Workshop 33, including Energia's proposed modification on forward-looking indexation of capacity payments. Energia reiterates its support for forward-looking indexation of capacity payments and urges SEMC to facilitate this at the earliest opportunity.