

## APPENDIX C – RESPONSE TEMPLATE

### SUMMARY INFORMATION

<b>Respondent's Name</b>	Bord na Móna
<b>Type of Stakeholder</b>	<i>Generator</i>
<b>Contact name (for any queries)</b>	<i>Justin Maguire</i>
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<b>Confidential Response</b>	[N]

### CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS:

We wish to feedback comment and proposals in relation to one of the Modifications, namely i) CMC\_04\_23 and like to set out some contextual comment.

i) CMC 04\_23 Introduction of Remedial Action for Unforeseeable Delays Due to Extraordinary Supply Chain Impacts

Bord na Móna recognises the acute need for provisions to extend the Substantial Completion date and Longstop date, while maintaining the (max) capacity duration as agreed in instances where there are 3<sup>rd</sup> party delays which are outside the control of the participant, and to which they should, therefore, not be fairly subjected to.

In this regard BnM has supported the series of mods primarily initiated by CMC 10\_22. Given that there was concern regarding the breadth of this Mod, BnM submitted Mod CMC 14\_22 which focussed on 3<sup>rd</sup> party delays relating to Grid and Gas connection only, where such delays are outside the control of the participant.

We welcomed the associated decision paper SEM 23 001, which followed, in so far as it now recognises and provides mechanisms for relevant time extensions in the delivery of capacity and related payments directly relating to a) 3<sup>rd</sup> Party Planning Appeals and b) 3<sup>rd</sup> Party Judicial Review. We welcome that the appropriate

## APPENDIX C – RESPONSE TEMPLATE

recognition of delays relating to Grid and Gas Connection Mod 14\_22 are under further consideration, given that these workstreams are fundamental to the delivery of projects within the capacity market mechanism and remain dedicated to finding a solution with full engagement with the Capacity Modifications work panel.

BnM has recently submitted Mod 10\_23 in parallel with Mod 14\_22 – where Mod 10\_23 focusses on Gas Connection delays.

It is within this lens that we offer proposals in relation to Mod CMC 04\_23, especially given its similarity to Mod 14\_22, but noting that its scope is focussed on delays relating to Extraordinary Supply Chain Impacts.

Our fundamental comment is that:

- i) We are strongly supportive of this Modification – as this type of delay clearly needs to be recognised and factored into relevant delay in Substantial Completion timelines and Longstop period dates. To do otherwise would be to expose the participant/investor to undue and disproportionate financial risk, ultimately jeopardising the project and the delivery of the security of supply objective.
- ii) We believe that the Mod would be well served by:
  - a) Provision within the Mod to take the literal meaning of ‘Extraordinary Events’, and the introduction of supporting provisions within the mod for the effective application of same
  - b) Specifying a proposal for Documentary Evidence which would support the Trigger to Apply for a 3<sup>rd</sup> Party Extension Period
  - c) Consideration of the potential need to push out the Substantial Financial Completion Milestone, given the kinds of delays referred to, notwithstanding the provisions of J.5.2 Extension of Date for Substantial Financial Completion within the CMC

# APPENDIX C – RESPONSE TEMPLATE

<b>ID</b>	<b>Proposed Modification and its Consistency with the Code Objectives</b>	<b>Impacts Not Identified in the Modification Proposal Form</b>	<b>Detailed CMC Drafting Proposed to Deliver the Modification</b>
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<p><b>CMC_04_23:</b> Introduction of Remedial Action for Unforeseeable Delays Due to Extraordinary Supply Chain Impacts</p>	<p>We support the Proposer Originator’s position that the proposed change furthers the code objectives, in particular, objective (g) “security of supply of electricity across the Island of Ireland”:</p> <p>(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;</p> <p>(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;</p> <p>(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;</p> <p>(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.</p>	<p>We believe that the Mod would be well served by:</p> <p><b>a)</b> Recognising the meaning of the words which scope the mod ‘extraordinary events’ – where the literal interpretation is ‘out of the ordinary’, or ‘beyond the ordinary’. The mod needs to recognise that there could be a series of legitimate reasons where such delays could occur. We appreciate that there could be a need for classification of such delays and the attribution of delay between the Participant and the Supply Chain Party(s) – and have proposed CMC drafting in this regard in ‘a) and b) iii)’ within the ‘Detailed CMC Drafting Proposed to Deliver the Modification’. To avoid the RAs and SOs having to make judgement calls we propose that there is provision for the appointment of a procurement expert in the relevant equipment supply and that they provide a judgement, but only where necessary, that is, where the evidence and proofs presented by the Participant are deemed insufficient.</p>	<p><b>a) and b)</b> <i>J.5.X.X The application under paragraph J.5.X.X shall include:</i> <i>(i) reasons for the request and supporting evidence in sufficient detail to enable the Regulatory Authorities to consider the request regarding supply chain issues; and</i> <i>(ii) an updated estimated date for final completion of the Awarded New Capacity with detailed reasoning and action plan.</i> <i>(iii) where ‘supporting evidence in sufficient detail’ is in the form of documentary evidence, and where the suitability of delay beyond what is ordinary, as well as attribution of delay between the Participant and the Supply Chain Party(s), if in question, beyond evidence which is submitted by the Participant, is determined by an independent Expert, where the terms of appointment and powers of the Expert are</i></p>
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			<p><i>Completion Milestone is delayed solely as a result of an extraordinary supply chain delay, a Participant or an Enforcing Party (on behalf of a Participant) may apply to the Regulatory Authorities for an extension to this Substantial Financial Completion Milestone.</i></p>
<p><b>CMC_05_23:</b> Resolving Inconsistency in Definition of Existing Capacity Arising from CMC_11_22</p>			
<p><b>CMC_06_23:</b> Outstanding Aspects of the Implementation of ARHL De-Rating Factors</p>			
<p><b>CMC_07_23:</b> Special Application of ISTA</p>			

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<b>CMC_08_23:</b> Typographical Capacity Threshold Correction Aggregation	NOT BEING CONSULTED ON	NOT BEING CONSULTED ON	NOT BEING CONSULTED ON
<b>CMC_09_23:</b> Removal of Section J.6.1.6 of the Capacity Market Code			

NB please add extra rows as needed.