



Single Electricity Market

(SEM)

Capacity Market Code Modifications

Workshop 36 Consultation Paper

- CMC_02_24:** Modification to the Performance Security Requirement
- CMC_03_24:** Enduring Mechanism for Indexation based on GB model
- CMC_04_24:** Recovery of Net Present Value Lost as a Result of No-Fault Delays to New Capacity Projects
- CMC_05_24:** Amendment to J.6.1.6 to recognise extensions granted under SEM-23-101 and SEM-23-108

SEM-24-027

19 April 2024

Contents

1.	Overview.....	3
1.1	Abstract	3
1.2	Background.....	3
1.3	Purpose of this Consultation Paper.....	4
2.	Modification Proposals.....	4
2.1	CMC_02_24 – Modification to the performance security requirement	4
2.2	CMC_03_24 – Enduring Mechanism for indexation for GB model	6
2.3	CMC_04_24 – Recovery of Net Present Value lost as a result of No-Fault Delays to New Capacity Projects	Error! Bookmark not defined.
2.4	CMC_05_24 - Amendment to J.6.1.6 to recognise extensions granted under SEM-23-101 and SEM-23-108	9
3.	Consultation Questions	9
4.	Next steps.....	10

Appendix A – Capacity Market Code Modification Timetable

Appendix B – CMC_02_24, CMC_03_24, CMC_04_24, CMC_05_24

Appendix C – Response Template

1. OVERVIEW

1.1 ABSTRACT

1.1.1 The purpose of this consultation paper is to invite industry participants to provide feedback and comments regarding the proposed modifications to the Capacity Market Code (CMC) discussed at Workshop 36, held on 21 March 2024.

1.1.2 During this Working Group, four Modification Proposals were presented. This consultation paper relates to:

CMC_02_24: Modification to the Performance Security Requirement

CMC_03_24: Enduring Mechanism for Indexation for GB model

CMC_04_24: Recovery of Net Present Value Lost as a Result of No-Fault Delays to New Capacity Projects

CMC_05_24: Amendment to J.6.1.6 to Recognise Extensions Granted under SEM-23-101 and SEM-23-108

1.2 BACKGROUND

1.2.1 On the 07 March 2024, the DRAI submitted one Modification Proposal (CMC_02_24); SSE submitted one Modification Proposal (CMC_03_24); EP UK Investments (EPUKI) submitted one Modification Proposal (CMC_04_24); and the RAs submitted one Modification Proposal under the terms of B.12.4 of the CMC. All Proposed Modifications were marked as Standard.

1.2.2 The RAs reviewed all Modification Proposals and determined that none were spurious.

1.2.3 The RAs then determined the procedure to apply to the Modification Proposals. This is shown in Appendix A. An overview of the timetable is as follows:

- i. The System Operators convened Workshop 36 where the Modification Proposals were considered on 21 March 2024.
- ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, prepared a report¹ of the discussions which took place at the workshop, provide the report to the RAs, and publish it on the Modifications website promptly after the workshop.

¹ [Capacity-Modifications-Workshop-36-Report-V1.0.pdf \(sem-o.com\)](#)

- iii. The RAs are now consulting on the Modification Proposals from the date of publication of the Consultation until the closing date of Monday, 20 May 2024.
- iv. As set out in B.12.11 the RAs will make their decision as soon as reasonably practicable following conclusion of the consultation and will publish a report in respect of their decision by Friday, 28 June 2024.

1.3 PURPOSE OF THIS CONSULTATION PAPER

- 1.3.1 The purpose of this paper is to consult on the Proposed Standard Modifications. Further detail is set out in the appended Modification Proposals in Appendix B.
- 1.3.2 The Regulatory Authorities hereby give notice to all parties and the Market Operator of a consultation on the proposed modifications.
- 1.3.3 Interested Parties and the Market Operator are invited to make written submissions concerning the proposed modification by no later than 17:00 on Monday, 20 May 2024.
- 1.3.4 **Please note that late submissions will not be accepted.**
- 1.3.5 Upon closure of the consultation process, the Regulatory Authorities intend to assess all valid submissions received and form a decision to make a modification, not make a modification or undertake further consideration of each modification.

2. MODIFICATION PROPOSALS

2.1 CMC_02_24 – MODIFICATION TO THE PERFORMANCE SECURITY REQUIREMENT

Proposer: DRAI

[CMC_02_24: Proposal Overview](#)

- 2.1.1 This Modification Proposal seeks to amend J.3.2.3 of the CMC to allow for a differentiation between capacity awarded for a duration of greater than one year and capacity awarded for less than one year. Currently, there is no differentiation between the two contract lengths, meaning all Awarded New Capacity is subject to the same Performance Security Rates, regardless of the duration.

2.1.2 The Modification Proposal also seeks to modify J.7.1.3 to allow the RAs differentiate between one year Awarded New Capacity and greater than one year Awarded New Capacity when setting the Termination Charge Rates.

2.1.3 Further details on the Modification Proposal are set out in the appended Modification Proposal Appendix B, which includes the draft changes to the CMC.

[CMC_02_24: Working Group Feedback](#)

2.1.4 Capacity Market Code Modifications Workshop 36 took place on Thursday 21 March 2024 where the modification was presented and discussed.

2.1.5 Energia expressed concern regarding moving away from the recommendations set out in the EY review. These recommendations included increasing Performance Security Rates and Termination Charges.

2.1.6 Energia also noted that a significant amount of thermal capacity was qualified but chose not to bid in the 27/28 T-4 auction. Energia stated that this was not the same for DSUs.

2.1.7 DRAI responded to Energia's point noting that the EY review outlined how other jurisdictions are approaching this issue and proposes to do in a technologically neutral manner.

2.1.8 In response to Energia's second point outlined above, DRAI said that specific volumes of capacity were not bid in at the qualification stage and that Performance Security Rates were known prior to qualification. DRAI further underlined that if Performance Security Rates decreased it would result in greater volumes of DSU capacity seeking to qualify.

2.1.9 BGE shared the same view as Energia, opining that there is not a sizeable barrier for entry regarding New Awarded DSU Capacity. BGE stated that of those that qualified, a high percentage of New Capacity DSUs bid in the last 27/28 T-4 auction. BGE also noted that it saw the example of a 50% reduction in Performance Security Rates (presented as an example in the presentation) as an arbitrary figure and could see no material impact in the different rates.

2.1.10 DRAI responded by noting that the proposal does not have to be 50% less than the current rates. Rather, the proposal is to give the RA's ability to differentiate between 1- and 10-year contracts. Furthermore, if Performance Security Rates were halved, DRAI stated that more DSUs could be delivered.

[CMC_02_24: Minded To Position](#)

2.1.11 The SEM Committee welcomes feedback and comments regarding the proposed modification.

2.1.12 At the time of writing, the SEM Committee has not formed a minded to position on this modification.

2.2 CMC_03_24 – ENDURING MECHANISM FOR INDEXATION FOR GB MODEL

Proposer: SSE

CMC_03_24: Proposal Overview

- 2.2.1 This Modification Proposal seeks to index capacity contracts against inflation to hedge against a potential inflationary impact on the cost base of procurement and delivery of New Capacity from 2026 onwards.
- 2.2.2 The proposal would seek to introduce an indexation mechanism similar to the approach taken in GB. Currently, the price caps are fixed and unchanging for a 5-year period.
- 2.2.3 The proposal would seek to keep in step with the pace of inflation or deflation between auctions. Inflation would be based on the indexation base year and calculated as follows:

$$PCP\Omega_n \times \max (CPIX/CPIbase, 1)$$

- 2.2.4 These values will be known ahead of auction, allowing stakeholders to assess Opt-out decisions or requirements for specific prices as the proposal outlines. Deflation would also be accounted for as the proposal contends through a 'max' term in the formula to prevent a price reduction known as the Auction Cleared Price.
- 2.2.5 According to the SSE, these proposed changes as they contend, would achieve a greater balance between deterring speculative offers and disincentivising terminating New Capacity, while not placing significant barriers to one-year Awarded New Capacity.
- 2.2.6 Further details on the Modification Proposal are set out in the appended Modification Proposal Appendix B, which includes the draft changes to the CMC.

CMC_03_24: Working Group Feedback

- 2.2.7 Energia supported the change but considered its own Modification Proposal to be more balanced regarding retrospectivity.
- 2.2.8 SSE responded to state that the proposal would not be retrospective, is in line with the SEMC's interpretation of retrospectivity and would apply from the 26/27 T-4 auction onward.
- 2.2.9 BnM stated that the proposal only protects against CPI and OPEX inflation whereas SEM-23-045 protects against CAPEX inflation. It suggested that the Modification Proposal should apply for the T-3 2024/25 and T-4 2025/26 auctions as well.
- 2.2.10 SSE responded by saying that the indices used for SEM-23-045 were unique and that this approach applies to one-year and 10-year contracts and uses CPI, like the GB model.

- 2.2.11 BGE was supportive of both Energia’s Modification Proposal and SSE’s Modification Proposal and stated that they should be considered together to avoid duplication.
- 2.2.12 The RAs responded saying that both Modification Proposals could be considered together. The RAs also highlighted that they were currently progressing deliverables for the T-4 2028/29 auction, including Early Delivery Incentives and Intermediate Length Contracts (ILC). The RAs also noted that section F.9.1.2 of the CMC had been deleted because of the RA modifications to implement a decision on indexation.
- 2.2.13 ESB sought clarity on when the decision on ILCs would be made.
- 2.2.14 The RAs responded saying that the decision paper is to be brought to the April meeting of the SEM Committee and if approved at the meeting, the decision will be published after.
- 2.2.15 BNM sought clarity on whether the modification will be consulted upon if being considered with Energia’s Indexation Modification.
- 2.2.16 The RAs responded saying that yes, the timetable is to be published within 10 working days and will set out consultation period for this modification and others discussed at workshop.
- 2.2.17 The TSOs queried if SSE will submit a version 2 of this modification.
- 2.2.18 SSE confirmed that it would submit a version 2. This was submitted after the workshop to the RAs and TSOs, and published alongside the other Modification Proposals.

CMC_03_24: Minded To Position

- 2.2.19 Given the substantial change to current policy proposed by this Modification Proposal, the SEM Committee is minded to reject this proposed modification.
- 2.2.20 The SEM Committee recognises that a workstream on enduring indexation was not included in the SEM Committee’s Forward Work Programme for 2023/24 due to competing priorities and notes that a number of policy changes are being considered ahead of the T-4 2028/29 auction. Nonetheless, the SEM Committee may consider progressing such a workstream going forward and welcomes feedback and comments regarding the proposed modification.

2.3 CMC_04_24 – RECOVERY OF NET PRESENT VALUE LOST AS A RESULT OF NO-FAULT DELAYS TO NEW CAPACITY PROJECTS

Proposer: EP UK investments

CMC_04_24: Proposal Overview

- 2.3.1 This Modification Proposal seeks to introduce an amendment to the Capacity Market Code (CMC) in the event of an extension being granted, that an adjustment would be applied to capacity payments to ensure that the Net Present Value (NPV) and cash flow for the project is kept whole.

- 2.3.2 The proposed change would be achieved through the introduction of a new section to the code.
- 2.3.3 According to EPUKI, the rationale for introducing this Modification Proposal is to avoid unfairly penalising the market participant for 'No Fault Delay Costs'. These instances are not the fault of the market participant and as the proposal contends, their capacity payments should be modified if an extension is granted.
- 2.3.4 EPUKI argue that the proposed changes would achieve greater certainty for investors and that the economic cost of adjusting capacity payments would be less than that of the non-delivery of New Awarded Capacity.
- 2.3.5 Further details on the Modification Proposal are set out in the appended Modification Proposal Appendix B, which includes the draft changes to the CMC.

[CMC_04_24: Working Group Feedback](#)

- 2.3.6 BGE supported the proposal in principle and noted that every participant would have a different view on discount rates for NPV. BGE also stated that the Modification Proposal would introduce an additional strain on the RAs.
- 2.3.7 BGE further stated that a unit should only get paid at energisation.
- 2.3.8 BnM noted that 'No Fault Delay Costs' could relate to the SEM-23-101 decision and noted the wording in that decision that the SEM Committee's consideration of delay requests would be made on a case-by-case basis, in line with CMC objectives.
- 2.3.9 Energia had concerns regarding how NPV is calculated and asked for greater transparency. Energia asked how it would ensure value for the consumer and noted that the issue could be compounded if the Indexation Modification Proposal is introduced. It stated that units would be paid for not delivering capacity.
- 2.3.10 ESB GT saw similarities between the SSE Indexation Modification Proposal and this one.
- 2.3.11 SSE is supportive of recovery of costs and would like an assessment of this and queried if this process could be simplified.
- 2.3.12 BGE clarified its comment on getting paid at energisation and stated that a market participant should receive full capacity payments, but not until it delivers.
- 2.3.13 EPUKI responded that the Indexation Modification Proposal will help with NPV erosion but time value impact in real terms remains even with no inflation. Modification seeks to address cashflow impact.
- 2.3.14 The TSOs (Transmission System Operator) concluded the conversation by stating that valid points had been raised, questioning how the RAs would calculate the NPV and highlighted how different modifications have added complexity of managing/tracking projects to Substantial Completion. The TSOs stated that an impact assessment of this modification would be needed.

CMC_04_24: Minded To Position

- 2.3.15 The SEM Committee welcomes feedback and comments regarding the proposed modification.
- 2.3.16 The SEM Committee has concerns regarding the proposed new term “No-Fault Delay Costs” and how fault would be attributed. As outlined in SEM-23-101, the SEM Committee has received testimony that there are a range of legal and practical difficulties in using independent expert witnesses to determine fault attribution.
- 2.3.17 In addition, the SEM Committee has concerns regarding the complexities involved with accurately calculating the value of this proposed new term and the need to maintain incentives for on-time delivery of capacity.
- 2.3.18 The SEM Committee is minded to reject this Modification Proposal.

2.4 CMC_05_24 – AMENDMENT TO J.6.1.6 TO RECOGNISE EXTENSIONS GRANTED UNDER SEM-23-101 AND SEM-23-108

Proposer: RA’s

CMC_05_24: Proposal Overview

- 2.4.1 This Modification Proposal seeks to amend the CMC to recognise extensions granted under J.5.7 and J.5.8.
- 2.4.2 The rationale for this amendment is to alleviate any concerns of market participants regarding the termination of Awarded New Capacity that has been granted an extension under the combined and modified delay modifications (SEM-23-101 and SEM-23-108).

CMC_05_24: Working Group Feedback

- 2.4.3 No feedback was provided at the workshop.

CMC_05_24: Minded To Position

- 2.4.4 Given this Modification seeks to amend a section of the CMC to recognise extensions granted under the combined and modified delay modifications, the SEM Committee is minded to approve this Modification Proposal.

3. CONSULTATION QUESTIONS

- 3.1.1 The SEM Committee welcomes views and responses on the proposed modifications raised within this consultation paper.
- 3.1.2 Respondents are invited to provide comments and feedback in respect of:
 - the Proposed Modification and its consistency with the Code Objectives.

- any impacts not identified in the Modification Proposal Forms, e.g., to the Agreed Procedures, the Trading and Settlement Code, IT systems etc.; and
- the detailed CMC drafting proposed to deliver the Modifications.

3.1.3 A template has been provided in Appendix C for the provision of responses.

4. NEXT STEPS

- 4.1.1 The SEM Committee intends to decide, at the earliest, by 28 June 2024 on the implementation or otherwise of the Modification outlined within this consultation paper as per B.12.11.1 of the CMC.
- 4.1.2 Responses to the consultation paper **must** be sent to both the UR and CRU CRM Submissions inboxes (CRMsubmissions@uregni.gov.uk and CRMsubmissions@cru.ie), **by close of business 17:00 on Monday 20th May 2024. Please note that late submissions will not be accepted.**
- 4.1.3 We intend to publish all responses unless marked confidential. While respondents may wish to identify some aspects of their responses as confidential, we request that non-confidential versions are also provided, or that the confidential information is provided in a separate annex. Please note that both Regulatory Authorities are subject to Freedom of Information legislation.