

MODIFICATION PROPOSAL FORM			
Proposer (Company)	Date of receipt (assigned by System Operator)	Type of Proposal (delete as appropriate)	Modification Proposal ID (assigned by System Operator)
EPDEL		Urgent	
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Harry Molloy	0860785534	h.molloy@tynaghenenergy.ie	
Modification Proposal Title			
Extension to New Capacity Impacted by Indexation			
Documents affected (delete as appropriate)	Section(s) Affected	Version number of CMC used in Drafting	
Capacity Market Code	J.5 J.6 Glossary		
Explanation of Proposed Change (mandatory by originator)			
<p>This modification proposes an extension similar to that granted under CMC_15_22 for projects which were awarded New Capacity through the 2024/2025 T-3 and 2025/2026 T-4 Capacity Auctions. This extension would take account of delays incurred to projects awaiting a SEM Committee decision with respect to indexation.</p> <p>Indexation was introduced in response to spiralling inflation which threatened the feasibility of New Capacity projects. The level of risk caused by this inflation meant that projects which would otherwise be in a position to proceed were unable to make a Final Investment Decision (FID) until the impact of inflation, and any mitigation, was understood. No reasonable investor would be expected to commit to FID where the feasibility of their project is still uncertain.</p> <p>Following the SEMC's decision paper in May 2023, Participants can now assess the feasibility of their projects and take FID. However, this delay has meant that projects have become misaligned with their expected timelines. This causes a number of issues:</p> <ul style="list-style-type: none"> <li>• Exposure to higher rates of Performance Securities before FID;</li> <li>• Potential termination as a result of the Long Stop Date; and</li> <li>• Contract erosion as a result of delay.</li> </ul> <p>In order to mitigate against each of these issues, we are proposing a modification in order to grant extensions to New Capacity projects in the relevant Capacity Auctions.</p>			
Legal Drafting Change			
<i>(Clearly show proposed code change using <b>tracked</b> changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<b>Add the following paragraphs:</b>			
<b>J.5.7 Extension of Long Stop Date for New Capacity affected by Capacity Market Indexation</b>			
<p>J.5.7.1 Subject to the requirements of paragraph J.5.7.2, a Participant or an Enforcing Party (on behalf of a Participant) may apply to the System Operators to extend the date of Substantial Financial Completion and Long Stop Date associated with a Capacity Market Unit by a period equal to the Inflationary Extension Period where that Capacity Market Unit is a New Capacity unit with Awarded New Capacity in the 2024/25 T-3 and 2025/26 T-4 Capacity Auctions.</p>			

J.5.7.2 The System Operator shall extend the date of Substantial Financial Completion and Long Stop Date under paragraph under J.5.5.1 subject to the requirements of paragraph J.4.5.2.

J.5.7.3 The System Operators may propose to the Regulatory Authorities the termination of the Awarded New Capacity for which an extension was granted under J.5.7.1 if:

(a) Substantial Financial Completion has not been achieved after more than eighteen months has passed since the end of the Substantial Financial Completion Period of the Capacity Auction Results Date in the Capacity Auction Timetable for the Capacity Auction in which the capacity was allocated (or such longer period as accepted by the Regulatory Authorities pursuant to J.5.2.4); or

(b) an Implementation Progress Report indicates that Substantial Financial Completion will not be achieved after more than eighteen months has passed since the end of the Substantial Financial Completion Period of the Capacity Auction Results Date in the Capacity Auction Timetable for the Capacity Auction in which the capacity was allocated (or such longer period as accepted by the Regulatory Authorities pursuant to J.5.2.4);

J.5.7.4 When considering any termination under paragraph J.5.7.3, the Regulatory Authorities may request further information on the Awarded New Capacity from the relevant Participant.

J.5.7.5 If following due consideration the Regulatory Authorities approve the proposed termination, the System Operators shall terminate the affected Awarded New Capacity.

#### **J.5.8 Extension of Capacity Quantity End Date due to Inflation**

J.5.8.1 Where the System Operators have granted an extension under paragraph J.5.7.1, a Participant or an Enforcing Party (on behalf of a Participant) may seek the approval of the Regulatory Authorities for an extension to the Capacity Quantity End Date and Time associated with a Capacity Market Unit by a period no greater than the Inflationary Extension Period.

J.5.8.2 The Regulatory Authorities may request that a Participant provide additional information or evidence as part of an Inflationary Extension Application.

J.5.8.3 If a Participant makes an Inflationary Extension Application, then the Regulatory Authorities shall notify the Participant and the System Operators whether or not they approve the Inflationary Extension Application and, if they do approve it, the provisional value of the Capacity Quantity Extension Period to be applied to the Capacity Quantity End Date and Time.

J.5.8.4 At the earlier of Substantial Completion and the Long Stop Date, the final value of the Inflationary Extension Period shall be determined as the minimum of:

(a) the provisional Capacity Quantity Extension Period; and

(b) the period from the Capacity Quantity Start Date and Time to the Capacity Quantity Commissioning Date where this period shall be zero if the Capacity Quantity Commissioned Date is prior to the Capacity Quantity Start Date and Time.

J.5.8.5 The Capacity Quantity End Date and Time shall be extended by the Capacity Quantity Extension Period and the System Operators shall update the Capacity and Trade Register as set out in Appendix F accordingly.

***Amendments will be required to the following paragraphs:***

- J.6.1.1 For the purposes of this section:
- (a) Minimum Completion: Awarded New Capacity achieves Minimum Completion when:
    - (i) all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity are substantially complete (subject only to snag or punch list items or any other matters which do not prevent substantial completion or taking over taking place under the applicable Major Contracts);
    - (ii) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has undergone commissioning testing;
    - (iii) a Final Compliance Certificate, Operational Certificate or Final Operational Notification has been issued under the applicable Grid Code in respect of each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity;
    - (iv) the Proportion of Delivered Capacity in respect of the Awarded New Capacity is not less than 50%; and
    - (v) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has met all Trading and Settlement Code and Grid Code requirements for participating in the Balancing Market; and
    - (vi) each new or refurbished Generator Unit providing New Capacity complies with the CO2 Limits; and
  - (b) Long Stop Date: the Long Stop Date in respect of Awarded New Capacity means
    - (i) in the case of a Capacity Award with a capacity duration greater than one year, the last day of the eighteenth full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided; or
    - (ii) in the case of a Capacity Award with a capacity duration of one year or less, the last day of the first full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided; or
    - (iii) such later date as specified under paragraph(s) J.5.5.1 and/or J.5.7.1.
- J.6.1.2 The System Operators shall terminate all the Awarded New Capacity in respect of a new or refurbished Generator Unit or Interconnector in the event that:
- (a)
    - (i)        Substantial Financial Completion has not been achieved within the Substantial Financial Completion Period of the Capacity Auction Results Date in the Capacity Auction Timetable for the Capacity Auction in which the capacity was allocated;
    - (ii) such later date as allowed by the Regulatory Authorities under section J.5.2; or
    - (iii) such later date as specified under paragraph J.5.5.1 and/or J.5.7.1; or
  - (b) Minimum Completion has not been achieved by the applicable Long Stop Date.



J.6.1.6 Except where an extension has been granted under paragraph J.5.5.2 and/or J.5.7.2, the System Operators shall terminate all or part of the Awarded New Capacity in respect of New Capacity only for the first Capacity Year for which that capacity was awarded if requested to do so by the Regulatory Authorities if it is determined by the Regulatory Authorities (based on an independently verified report) prior to the T-1 Capacity Auction for the Capacity Year that all or part of the Awarded Capacity is not likely to be delivered by the start of the Capacity Year.

***The following definitions to be added to the Glossary:***

**Inflationary Extension Period** means a period of three hundred and forty three (343) calendar days.

**Inflationary Extension Application** means an extension made under Section J.5.7 of this Code.

***The following definitions to be amended:***

**Capacity Quantity Extension Period** means the extension to the Capacity Quantity End Date and Time approved in respect of a Third Party Extension Application **or Inflationary Extension Application** in accordance with section(s) J.5.6 **and/or J.5.8**.

**Modification Proposal Justification**

*(Clearly state the reason for the Modification)*

In the decision to apply indexation to Capacity Payments, the SEMC recognised the material risk which unprecedented inflation represented to New Capacity awarded through the relevant Capacity Auctions. Due to this significant level of risk, project developers would not have reasonably been able to make a Final Investment Decision with respect to these projects.

This has resulted in exposure to delays which may result in the termination of this much-needed New Capacity. Due to the criticality of these projects, and the fact that these delays were outside of the control of the Participants, we believe an extension to key project milestones is warranted.

We propose to design this extension in such a way that projects can not receive payments for any greater than ten years. This will ensure that New Capacity projects cannot gain from this modification, only that they are protected from the risks associated with these delays.

**Code Objectives Furthered**

*(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)*

A.1.1.1 This Code is designed to facilitate achievement of the following objectives (the “**Capacity Market Code Objectives**”):

- (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;
- (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;
- (d) to promote competition in the provision of electricity capacity to the SEM;
- (e) to provide transparency in the operation of the SEM;

(f) 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.

**Implication of not implementing the Modification Proposal**

*(State the possible outcomes should the Modification Proposal not be implemented)*

Failure to implement this modification will result in significant risks for New Capacity projects which secured contracts through the 2024/2025 T-3 and 2025/2026 T-4 Capacity Auctions. These projects are critical for Security of Supply and the delivery of this New Capacity is beneficial to consumers through ensuring the lights are kept on and increasing competitiveness in the SEM. The alternative, procurement of Temporary Emergency Generation, is more costly and inefficient for consumers. Given the benefits, and the fact that the delays incurred by this modification are not the fault of the Participant, we believe this modification should be implemented.

**Impacts**

*(Indicate the impacts on systems, resources, processes and/or procedures)*

**Please return this form to the System Operators by email to [CapacityModifications@sem-o.com](mailto:CapacityModifications@sem-o.com)**

### Notes on completing Modification Proposal Form:

1. If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.
2. Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Regulatory Authorities.
3. Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.
4. For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:

CMC / Code:	means the Capacity Market Code for the Single Electricity Market
Modification Proposal:	means the proposal to modify the Code as set out in the attached form
Derivative Work:	means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal

The terms "System Operators" and "Regulatory Authorities" shall have the meanings assigned to those terms in the Code.

In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section B.12 of the Code, which I have read and understand, I agree as follows:

1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:
  - 1.1 to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
  - 1.2 to the Regulatory Authorities to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;
  - 1.3 to the System Operators and the Regulatory Authorities to incorporate the Modification Proposal into the Code;
  - 1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.
2. The licences set out in clause 1 shall equally apply to any Derivative Works.
3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.
4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.
5. I hereby acknowledge that the Modification Proposal may be rejected by the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.