

APPENDIX D – RESPONSE TEMPLATE

SUMMARY INFORMATION

Respondent's Name	Energia
Type of Stakeholder	Generator
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CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS

(TO BE READ IN CONJUNCTION WITH ENERGIA'S MAIN RESPONSE TO SEM-20-023):

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ID	Proposed Modification and its Consistency with the Code Objectives	Impacts Not Identified in the Modification Proposal Form	Detailed CMC Drafting Proposed to Deliver the Modification
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<p>CMC_05_20 Modification to Implement amendments as required by the Clean Energy Package Regulation EU 2019/943</p>	<p>The proposed Modification does not comply with the requirements of Article 22(4)(b) of Regulation 2019/943 and therefore does not further the Code objectives, as claimed.</p> <p>Further amendments to the Capacity Market Code (CMC) are necessary to enable compliance, including how the CO₂ emissions limits are to be checked and enforced on an ongoing basis, in particular the 350kg CO₂ annual allowance applicable to Existing Capacity. Unless and until such amendments are made, there will continue to be a disconnect between the CMC and the legal requirements within Regulation 2019/943.</p> <p>Therefore, similar to the approach adopted in Great Britain, we recommend that the CMC only be modified to make the required changes for New Capacity at this stage. The modifications relating to Existing Capacity are far more complex and can be made subsequently after due consideration.</p> <p>This two-phased approach clearly facilitates compliance with the Clean Energy Package (being the objective of the Modification reflected in Section</p>	<p>Further amendments to the CMC are necessary to enable compliance with Article 22(4)(b) of Regulation 2019/943, including how the CO₂ emissions limits are to be checked and enforced on an ongoing basis, in particular the 350kg CO₂ annual allowance applicable to Existing Capacity.</p> <p>Given that changes applicable to New Capacity are only required for the T-4 CY23/24 capacity auction, we recommend a two-phased approach, similar to Great Britain, whereby the CMC is modified to make the required changes for New Capacity at this stage and further modifications relating to Existing Capacity are made after further consideration.</p> <p>In addition, we recommend that the Technical Guidance that is part of this consultation be considered a working document that is subject to further changes. This is of upmost importance given the complexity of the issues they are providing guidance on and the requirement for them to provide a clear and consistent approach as intended. It is important that any changes or updates are then revised in the Technical Guidance in a timely manner. We note this is a complex area still being considered by</p>	<p>Energia has reviewed the proposed legal drafting in the Modification Proposal. For reasons already explained, we recommend that the legal drafting be modified to make the required changes for New Capacity only at this stage. See below and Schedule 1 of Energia’s main response to SEM-20-023 for further details:</p> <p><u>Add to Glossary</u> CO₂ Limits means the limits on CO₂ emissions which apply in relation to participation in capacity mechanisms as set out in Article 22(4) of Regulation 2019/943/EU.</p> <p><u>Add new para E.2.1.6:</u> A Participant with a Candidate Unit that is New Capacity and which does not, or will not, comply with the CO₂ Limits shall not apply for the Candidate Unit to be Qualified in a Qualification Process.</p> <p><u>Add a new para E.7.2.3:</u> The System Operators shall reject an Application for Qualification for a Capacity Year in respect of each Candidate Unit which is New Capacity, or each Generator Unit forming part of each Candidate Unit which is New Capacity, which does not, or will not, comply with the CO₂ Limits.</p> <p><u>Add new paras E.7.4.4 and E.7.4.5:</u> The System Operators shall reject that element of an Application for Qualification for a Capacity Year in respect of New Capacity for an Aggregated Generator Unit in respect of any Generator comprising it that does not, or will not, comply with the CO₂ Limits.</p>
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	<p>2.1.25 of the Consultation Paper) and indeed secures increased likelihood of compliance by giving additional time to consider the more complex elements of Article 22(4)(b).</p> <p><i>NB: Above contains summary comments only. Please see Energia’s main response to SEM-20-023 for further details.</i></p>	<p>Energia and we will revert with further comments in due course.</p> <p><i>NB: Above contains summary comments only. Please see Energia’s main response to SEM-20-023 for further details.</i></p>	<p>The System Operators shall reject that element of an Application for Qualification for a Capacity Year in respect of New Capacity for a Demand Side Unit in respect of any Demand Site comprising it that does not, or will not, comply with the CO₂ Limits.</p> <p><i>Modify para E.7.5.1 as follows:</i></p> <p>The System Operators shall reject an Application for Qualification for a Capacity Year in respect of New Capacity for a Generator Unit or Interconnector comprising a Candidate Unit unless they consider that:</p> <ul style="list-style-type: none"> (a) where New Capacity is under development, the information provided reflects an accurate view of the state of that development; (b) the Implementation Plan dates are achievable; (c) Substantial Completion of the Generator Unit or Interconnector can be achieved prior to the start of the relevant Capacity Year; (d) all Qualification Data required to be provided in the Application for Qualification is provided and is accurate; and (e) the New Capacity will comply with the CO₂ Limits. <p><i>Modify I.1.2.1 as follows:</i></p> <p>In addition to its other obligations under this Code, a Participant shall, with respect to each of its Capacity Market Units:</p> <ul style="list-style-type: none"> (a) in respect of Awarded New Capacity: <ul style="list-style-type: none"> (i) use reasonable endeavours to achieve each Milestone by the date indicated in respect of that Milestone in the relevant Implementation Plan for delivery of the Awarded New Capacity;
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			<ul style="list-style-type: none"> (ii) provide Implementation Progress Reports to the System Operators in accordance with section J.4; (iii) maintain adequate Performance Security in accordance with section J.3; (b) dedicate and use its reasonable endeavours to make available the Awarded Capacity; (c) for each Imbalance Settlement Period within the Capacity Year: <ul style="list-style-type: none"> (i) for each Capacity Market Unit that is an Interconnector, maintain a level of availability for imports into the SEM for each Imbalance Settlement Period not less than the Obligated Capacity Quantity and be subject to Difference Charges in accordance with the Trading and Settlement Code; (ii) for each Capacity Market Unit comprising one or more Generator Units, through its participation in the day-ahead market, intraday trade and/or Balancing Market, schedule or provide sufficient energy for each Imbalance Settlement Period to satisfy its Obligated Capacity Quantity and be subject to Difference Charges in accordance with the Trading and Settlement Code.; and <p>(d) — use reasonable endeavours to comply with the CO₂ limits.</p> <p><i>Modify J.2.1.1(c) as follows:</i></p> <ul style="list-style-type: none"> (c) Substantial Completion: this milestone is achieved when: <ul style="list-style-type: none"> (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 the works taking place under the applicable Major Contracts);
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			<ul style="list-style-type: none"> (ii) 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; (iii) the Proportion of Delivered Capacity in respect of the Awarded New Capacity is not less than 90%; and (iv) 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 (v) each new or refurbished Generator Unit providing Awarded New Capacity complies with the CO2 Limits. <p><u>Modify J.6.1.1(a) as follows:</u></p> <ul style="list-style-type: none"> (a) Minimum Completion: Awarded New Capacity achieves Minimum Completion when: <ul style="list-style-type: none"> (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;
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			<ul style="list-style-type: none"> (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 Awarded New Capacity complies with the CO2 Limits; and <p><u>Add a new Section D.4 as follows:</u></p> <p>D.4 Compliance with CO2 Limits</p> <p>D.4.1.1 When determining CO2 emissions and their compliance with the CO2 Limits, Parties shall take account of the latest technical guidance published from time-to-time by the Regulatory Authorities.</p> <p>D.4.1.2 If any determination of CO2 emissions and their compliance with the CO2 Limits is not covered by the technical guidance published by the Regulatory Authorities, Parties shall take account of the technical guidance published by ACER pursuant to Article 22(4) of EU Regulation 2019/943 or any other applicable technical guidance issued by ACER.</p> <p>D.4.1.3 If a determination of CO2 emissions and their compliance with the CO2 Limits is not covered by either D.4.1.1 or D.4.1.2, then Parties shall make their own determination taking account of the principles underlying the technical guidance from the Regulatory Authorities and ACER.</p> <p><u>Add new sub-para to Appendix D (4)</u></p>
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			<ul style="list-style-type: none"> (n) evidence that the Candidate Unit which is New Capacity complies with the CO2 Limits, including details of any determination of CO2 emissions; (o) in the case of Candidate Units using bioliquids and/or biomass fuels (as defined in Article 2 of Directive 2018/2001/EU), evidence that they meet the criteria set out in Article 29 of Directive 2018/2001/EU to be eligible for financial support.