

CAPACITY MARKET CODE MODIFICATION PROPOSAL FORM			
Proposer <i>(Company)</i>	Date of receipt <i>(assigned by System Operators)</i>	Type of Proposal <i>(delete as appropriate)</i> Standard/Urgent	Modification Proposal ID <i>(assigned by System Operators)</i>
System Operators	18/07/2018	Standard	CMC_13_18
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Modification Proposal Title			
Correction to Letter of Credit, Appendix H			
Documents affected <i>(delete as appropriate)</i>	Section(s) Affected	Version number of CMC used in Drafting	
CMC Appendix H	Appendix H	June 2017	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>A couple of small amendments are required to the template for Letter of Credit in the Capacity Market Code, Appendix H (“Letter of Credit template”).</p> <p>There are two references to the ‘SOs Bank’ within the Letter of Credit template. For the purposes of the Capacity Market Code, the System Operators are using the ‘SEM Bank’.</p> <p>SEM Bank meaning ‘the bank appointed as the SEM Bank by the Market Operator under the Trading and Settlement Code’</p> <p>The two references in the Letter of Credit template should be amended to read ‘SEM Bank acting on behalf of the System Operators’.</p>			
Legal Drafting Change <i>(Clearly show proposed code change using tracked changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<p>This Appendix H contains a standard template for a Letter of Credit</p> <p>Form of Doc Credit: IRREVOCABLE STANDBY LETTER OF CREDIT</p> <p>Documentary Credit Number:</p> <p>Date of Issue:</p> <p>Applicable Rules: UCP [LATEST VERSION NO]</p>			

Date and Place of Expiry:

Applicant [insert Participant's name] or [insert company name] on behalf of [insert Participant's name]

Beneficiary: EirGrid plc and SONI Limited, being the System Operators under the Capacity Market Code. [address]

Currency Code, Amount (Maximum total amount):

Available With (ADVISING BANK IE ~~SO's~~ SEM BANK acting on behalf of the System Operators)

Partial Shipments/Drawings: Allowed

Documents required:

Beneficiary Statement, as detailed below, must be on [System Operators letterhead]

QUOTE:

"We, the System Operators under the Capacity Market Code (the "Beneficiary") hereby state that [insert Participant's name] is in default of its obligation to pay pursuant to the Capacity Market Code (to which the Participant is a party) under paragraph [insert details] and as a result we hereby demand[insert amount being claimed] under Standby Letter of Credit number..... issued by[insert name of Issuing Bank]. Payment in respect of this Beneficiary Statement shall be effected immediately to [insert relevant account details]. We confirm that the signatory(ies) to this Beneficiary Statement are empowered to sign and make this Beneficiary Statement on behalf of the Beneficiary.

Terms defined in the Standby Letter of Credit referred to above have the same meaning when used in this Beneficiary Statement."

SIGNED FOR AND ON BEHALF OF THE SYSTEM OPERATORS.

NAME..... TITLE.....

UNQUOTE

Additional Conditions:

1. Not Used.

2. This irrevocable Standby Letter of Credit is available by payment at sight against presentation to the Advising Bank of a Beneficiary Statement as detailed in Documents required.
3. The Beneficiary Statement must be made on original letterhead paper of the Beneficiary and signed on its behalf, and must be presented to the Advising Bank on or before the Expiry Date.
4. Upon receipt of a signed Beneficiary Statement in compliance with the above conditions the Advising Bank is required promptly to notify us by SWIFT of receipt of such Beneficiary Statement and inform us of the relevant details of such Beneficiary Statement. Provided such notification is received by us no later than 14:00 hrs on any week day on which banks are open for business in Dublin and Belfast, we shall make payment under this Standby Letter of Credit for Same Day Value on that day or if received after 14.00hrs on the next such week day in accordance with such notification and shall confirm payment by notifying the Advising Bank by SWIFT.
5. Where we, the Issuing Bank are also the Advising Bank, we may revise the above notification requirements as appropriate provided that this shall in no way affect the obligation on us to make payment under this Standby Letter of Credit.
6. We the Issuing Bank hereby waive any right to set off or counterclaim whatsoever against any amounts payable under this Standby Letter of Credit in respect of any claims we may have against the Beneficiary and such amounts shall be paid free and clear of all deductions or withholdings whatsoever.
7. Effective From:
8. This Standby Letter of Credit is personal to you and your rights hereunder including the right to receive proceeds to this Standby Letter of Credit, are not assignable.
9. This Letter of Credit shall be governed by and construed in accordance with the laws of Northern Ireland and the parties submit to the jurisdiction of the Courts of Ireland and the Courts of Northern Ireland (and no other court) for all disputes arising under, out of, or in relation to this Letter of Credit.

Charges:

All Issuing Bank charges are for the account of the Applicant.

All Advising Bank charges are for the account of the Beneficiary.

Confirmation:

CONFIRMATION WITH OR WITHOUT? (THIS INSTRUCTION IS TO SEM BANK ACTING ON BEHALF OF THE SYSTEM OPERATORS SO's BANK TO ADD CONFIRMATION OR NOT)

Instruction to Pay:

PLEASE REFER TO ADDITIONAL CONDITIONS.

ADVISING BANK TO CLAIM REIMBURSEMENT BY SWIFT AND RETAIN BENEFICIARY STATEMENT ON FILE.

APPENDIX

[System Operators letterhead]

We, the System Operators under the Capacity Market Code (the “Beneficiary”) hereby state that [insert Participant’s name] is in default of its obligation to pay pursuant to the Capacity Market Code (to which the Participant is a party) under paragraph [insert details]

and as a result we hereby demand[insert amount being claimed] under Standby Letter of Credit number..... issued by[insert name of Issuing Bank]. Payment in respect of this Beneficiary Statement shall be effected immediately to [insert relevant account details]. We confirm that the signatory(ies) to this Beneficiary Statement are empowered to sign and make this Beneficiary Statement on behalf of the Beneficiary.

Terms defined in the Standby Letter of Credit referred to above have the same meaning when used in this Beneficiary Statement.

Modification Proposal Justification

(Clearly state the reason for the Modification)

The Capacity Market Code specifies that “...Participants shall instruct the System Operators to establish and maintain a Reserve Account with the SEM Bank...” (J.3.3.2). The SEM Bank is referenced throughout the Capacity Market Code aside from the Letter of Credit template which incorrectly provides for the SOs Bank (twice), where it should read instead “SEM Bank acting on behalf of the System Operators”.

This modification is merely a correction, presenting no material changes to the Capacity Market Code.

Code Objectives Furthered

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

(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;

(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 ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and

Implication of not implementing the Modification Proposal

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

Letters of Credit submitted as per the current drafting of Appendix H of the Capacity Market Code will not be accepted, as the System Operators are not using the SO Banks for the purpose of the Capacity Market Code. This is impacting Participants ability to post Performance Security in line with the requirements in section J.3 of the Capacity Market Code for all Capacity Market Auctions, commencing with T-1/18-19 auction.

Impacts

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

Not applicable

Please return this form to the System Operators by email to modifications@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.