



**Single Electricity Market
(SEM)**

**Capacity Market Code Workshop 32
Urgent Modification Consultation Paper**

**CMC_15_23 – Amendments to Performance Securities
for Extended Projects**

SEM-23-060

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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 urgent modification to the Capacity Market Code (CMC) discussed at Workshop 32 held on 20 July 2023.
- 1.1.2 During this Workshop, a Modification Proposal by EPDEL was presented as a Standard Modification Proposal due to lack of proposed Legal Drafting Change. An updated version of the Modification Proposal was submitted by EPDEL to the System Operators and received by the Regulatory Authorities on Monday 31 July 2023. The Modification Proposal was marked as Urgent.
- 1.1.3 This consultation paper relates only to the following Urgent Modification Proposal:
- **CMC_15_23: Amendment to Performance Securities for Extended Projects**
This modification proposes an amendment to the timelines associated with posting Performance Securities for projects which have received an extension under CMC_15_22 or any other extensions granted under any other delay modifications.

1.2 BACKGROUND

- 1.2.1 On the 6 July 2023, EP Dublin Energy Limited (EPDEL) submitted an Urgent Modification Proposal under B.12.9.1. This Proposal was without the required Legal Drafting Change information and was therefore deemed Standard by the Regulatory Authorities.
- 1.2.2 During the Workshop, it was noted to Participants that any proposal must contain the proposed Legal Drafting Change to proceed. On 28 July 2023, EPDEL submitted an updated Urgent Modification Proposal to the System Operators for CMC_15_23 which included the Legal Drafting Change information required.
- 1.2.3 As per section B.12.9.3 of the CMC, the RAs re-assessed the proposal following resubmission and deemed it Urgent.
- 1.2.4 In this regard B.12.9.5 provides:
- “If the Regulatory Authorities determine that a Modification Proposal is Urgent, then:*
- a) the Regulatory Authorities shall determine the procedure and timetable to be followed in assessing the Modification Proposal which may vary the normal processes provided for in this Code so as to fast-track the Modification Proposal; and*
 - b) subject to sub-paragraph (a), the System Operators shall convene a Workshop.”*

- 1.2.5 As the original Modification Proposal albeit without Proposed Legal Drafting Change, was already discussed at Workshop 32, the RAs determined that an additional Workshop was not required for the Urgent Modification, and it could proceed to consultation.
- 1.2.6 On the 09 August 2023 the RAs determined the procedure to apply to the Modification Proposal. The procedure is shown in detail in Appendix A. An overview of the timetable is as follows:
- i. The RAs will consult on the Proposed Modification (as per B.12.9.5 in the CMC), from the date of publication of the Consultation closing on Friday 25 August 2023.
 - ii. As per clause 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.

1.3 PURPOSE OF THIS CONSULTATION PAPER

- 1.3.1 The purpose of this paper is to consult on the proposed Urgent Modification. More detail about the modification is set out in the appended modification proposal (Appendix B).
- 1.3.2 The Regulatory Authorities hereby give notice to all Parties, the Proposer, and the Market Operator of a consultation on the proposed Modification.
- 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 Friday, 25 August 2023. **Please note that late submissions will not be accepted.**
- 1.3.4 Upon closure of the consultation process, the Regulatory Authorities intend to assess all valid submissions received and form a decision to either implement, reject, or undertake further consideration (as per CMC B.12.11.1) as regards to matters raised through the consultation process in regard to the proposed modification.

2. MODIFICATION PROPOSAL

2.1 CMC_15_23 – AMENDMENTS TO PERFORMANCE SECURITIES FOR EXTENDED PROJECTS

Proposer: EPDEL

Proposal Overview

- 2.1.1 EPDEL proposed an amendment to the timelines associated with posting Performance Securities for projects which have received an extension under CMC_15_22 (Third Party Delays Planning and Permitting). EPDEL stated within their proposal that the highest Performance Security is required to be posted 13 months prior to the beginning of the Capacity Year.

- 2.1.2 EPDEL note CMC_15_22, as approved by SEMC, enables Participants with New Capacity projects to seek extensions to their capacity contracts under Section J.5.5. and J.5.6. of the Capacity Market Code. New Capacity projects which receive an extension under J.5.5. or J.5.6. will become misaligned with the timings for Performance Security postings.
- 2.1.3 EPDEL are of the view that this increases the magnitude of risk associated with termination for these projects, which in turn creates challenges for investment decisions.
- 2.1.4 EPDEL gave an example of a project being required to post Performance Securities 13 months prior to the Capacity Year, resulting in a project posting full Performance Security before a decision is made with respect to its planning and/or extension request. EPDEL state this would mean greater termination charges for those projects relative to where they are in the capacity delivery process.

Workshop Feedback

- 2.1.5 Capacity Market Code Modifications Workshop 32 took place on Thursday 20 July 2023 where this Modification Proposal was presented by EPDEL and discussed. As previously outlined, this Modification Proposal was submitted and presented without the required Legal Drafting Change information and was therefore deemed Standard by the Regulatory Authorities (RAs).
- 2.1.6 On 28 July 2023, EPDEL submitted an updated Urgent Modification Proposal for CMC_15_23 which included the proposed Legal Drafting. This updated proposal has been published alongside this consultation paper.
- 2.1.7 The System Operator (SO) confirmed Performance Security is related to Termination Charges and any Modification Proposal needs to consider both elements. The SO stated that Termination Charges and the rates levied are based on the costs to the end consumer where there is non-delivery of capacity. If a project is delayed, this does not reduce the risk to the end consumer and termination would still occur beyond a certain date.
- 2.1.8 EPDEL acknowledged Termination Charges are there to protect costs to the consumer but from a Participant perspective, when a project is progressing without issue and then faces a planning appeal which can result in it being overturned, the project can't progress. They stated a project is unlikely to take on additional risk without guarantee. EPDEL also outlined their view that costs to the consumer may be greater if they terminate at the outset rather than avail of modification CMC_15_22 which is there to prevent these projects being terminated.
- 2.1.9 The SOs stated that the additional risk must be borne somewhere and if it is reduced on the Participant side, then it will be borne by consumers.
- 2.1.10 As there was no proposed Legal Drafting Changes included in the original Modification Proposal presented on at Workshop 32, no further feedback was received.

Minded to Position

- 2.1.11 The SEM Committee welcomes feedback and comments with regards to this proposed modification.
- 2.1.12 The SEM Committee acknowledge the challenges faced by Participants subject to third party delays and have been working closely with industry and the System Operators to address this.
- 2.1.13 The SEM Committee will consider this proposed modification in the context of the design and evolution of the Capacity Remuneration Mechanism and must balance its decision to ensure security of supply and cost considerations for consumers.

3. CONSULTATION QUESTIONS

- 3.1.1 The SEM Committee welcomes views and responses on the proposed modification raised within this consultation paper.
- 3.1.2 As part of this consultation, the SEM Committee are specifically seeking Participant views on whether this Proposed Modification, if adopted, should be limited to a specific time period or specific auctions (e.g., T-3 2024/2025, T-4 2025/2026).
- 3.1.3 Respondents are invited to provide any other comments and feedback on the proposed Modification in respect of:
- the proposed modification and its consistency with the Code Objectives.
 - any impacts not identified in the Modification Proposal Form, e.g., to the Agreed Procedures, the Trading and Settlement Code, IT systems etc.; and
 - the detailed CMC drafting proposed to deliver the Modification.

4. NEXT STEPS

- 4.1.1 The SEM Committee expect to make a decision by 08 September 2023 on the implementation of the Modification outlined within this consultation paper.
- 4.1.2 Responses to the consultation paper **must** be sent to **both** the CRU and UR CRM Submissions inboxes (CRMsubmissions@urgeni.gov.uk and CRMsubmissions@cru.ie) **by no later than 17:00 on Friday, 25 August 2023. Please note that late submissions will not be accepted.**
- 4.1.3 Please note that 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.