
Urgent Modification CMC 05_20

SSE response

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Introduction

SSE welcomes the opportunity to respond to CMC 05_20 Implement amendments as required by the Clean Energy Package Regulation EU 2019/943, modification. We note that this

modification was marked urgent, given that it relates to the progressing Capacity Auction T-4 2023/24 which is scheduled for the 27th April.

SSE attended Working Group 12, where this modification was tabled. We note that the agenda was very full and that there was not sufficient time for fuller discussion on this modification, as noted in the Working Group minutes. We also note that the TSOs requested a standard and clear calculation for emission limits to ensure standard submissions during the auctions process. We are also supportive of the comments that were raised in relation to this modification. Finally, we are supportive of EAI's views on this modification. We provide additional comments below.

SSE Response

Timing of the modification

SSE in principle appreciates and supports the need to implement clear emissions limits in the CMC in accordance with the requirements under the Clean Energy Package. However, the manner in which this is being implemented via an urgent modification, this late in the day, is not acceptable.

It is our view that facilitation of compliance with the emissions limits for the forthcoming Capacity Auction is underway, as indicated in the SEMC information paper regarding the interaction of the Clean Energy Package and the T-4 2023/24¹. We assume that in order to comply with this process, i.e. to provide Director's certificates confirming compliance with the emissions limits, there has been:

- An interpretation of the requirements, in the absence of this modification,
- A calculation of emissions limits performed by all new capacity projects, and
- A determination of the final pot of New Capacity that is compliant and qualifies for the auction next week.

It is therefore unclear:

- why is an urgency exercised to push through this mod—where the requirements are already in place in the absence of it being codified in the CMC.
- whether the approach in the modification and technical guidance, reflects whatever approach has been taken by New Capacity to comply with SEM 19-074.
- why this modification was tabled so late, when this information note (SEM 19-074) was published in December 2019, almost four months ago.

The Clean Energy Package requirements have been expected since 2019, ahead of the compliance deadline on the 1st January 2020. Yet, this was not tabled sooner, when there would have been ample time, ahead of the current pandemic situation, to have considered and consulted on the application and importantly, the interpretation of these rules, with industry.

Finally, the likely parallel impacts to the Trading and Settlement Code, or the likely direction of the expected SEMC Clean Energy Package consultations on Article 12 and 13, as they relate to the Capacity Market; would have an impact on the drafting of this modification and its technical guidance.

¹ <https://www.semcommittee.com/publications/sem-19-074-interaction-clean-energy-package-emissions-limits-and-t-4-cy202324-capacity>

Inclusion of Appendix C

We note that the consultation includes Appendix C: High Level Technical Guidance. This guidance amounts to a material interpretation of the Clean Energy Package emissions limits. This is a document which has not been previously shared with industry, and the timeframe in which to respond to the urgent modification, is not sufficient to reflect fully on this interpretation.

There are certain paragraphs in this document that appear at odds with our understanding of the ACER guidance or regulations themselves, see below. As noted above, the TSO sought clear and standard calculations for emissions limits, which this guidance does not provide. We would agree with the TSO that standard approaches insofar as possible provides important clarity for generators and for future generation investment.

Concerns with specific points in the guidance

Point 5: It is unclear what the intention for this inclusion is. It is our understanding that the emissions limits under the CMC would relate to their application for the auction. Clarity for emissions limits during operation is also necessary but may not be within the remit of the CMC. Therefore, it is not clear what the intention of this paragraph is, and why if it is related to operations, it does not consider treatment of routine secondary fuel testing.

Operational emissions limits are important to underpin investment decisions ahead of applications at pre-qualification or final bids for a capacity auction. Therefore, the technical document has value in its own right and should have been afforded sufficient engagement and consultation, which was not provided under the period set for this modification.

Point 9: This references that for anything not covered in this guidance, *“a Party should make their own determination complying so far as possible with the guidance provided”*. This amounts to the use of reasonable endeavours to cover what is not considered in this document. “Reasonable endeavours” are well-accepted to be a difficult activity to justify and leaves room for interpretation. The risk of a differing interpretation of a unit’s reasonable endeavours in reporting or calculation; is the loss of capacity payments. Therefore, we would not be comfortable in applying reasonable endeavours without any further clarity.

Process for the modification

The modification is seeking to implement emissions limits both in time for the forthcoming T-4 2023/24 and to set long term emissions limits beyond 2025. These two separate parts of the obligations should not be rushed through for the sake of the auction next week, since the latter does not relate to this auction.

As in GB, we would advocate that this should be progressed via a two-stage process. We appreciate that the auction next week is very close, but we would consider that an urgent modification should have been pushed through only as it relates to T-4 2023/24.

We would advocate a short re-drafted mod as needed for the forthcoming auction, if it is in fact required so quickly, (with reference to SEM 19-074). The second stage would involve a separate modification for the longer-term emissions limits under the CEP and a clearer set of guidance notes. Insofar as the technical guidance document, this requires greater scrutiny and engagement with industry, through perhaps a separate consultation process.



Summary

We welcome the opportunity to respond to this consultation. We have engaged with the EAI to make our concerns known at an industry level. We support their concerns relating to the modification, as outlined above.

We are not comfortable with the speed of this modification and the manner in which the technical guidance was included. The short time frame does not provide sufficient opportunity for reflection on the technical guidance. We advocate a two-stage process to clearly implement these requirements into the CMC.