

Response to SEM-23-084

Capacity Market Code Modifications Workshop 33 Consultation

CMC_18_23, CMC_20_23, CMC_21_23, CMC_22_23

1st December 2023



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1. Introduction

EirGrid holds licences as independent electricity Transmission System Operator (TSO) and Market Operator (MO) in the wholesale trading system in Ireland. System Operator for Northern Ireland (SONI Ltd) is the licensed TSO and MO in Northern Ireland. The Single Electricity Market Operator (SEMO) is a contractual joint venture between SONI and EirGrid and operates the Single Electricity Market on the island of Ireland.

EirGrid and SONI have been certified by the European Commission as independent TSOs. EirGrid also owns and operates the East West Interconnector, while SONI acts as Interconnector Administrator for both of the interconnectors that connect the island of Ireland and GB.

EirGrid and SONI, both as TSOs and MOs, are committed to delivering high quality services to all customers, including generators, suppliers and consumers across the high voltage electricity system and via the efficient operation of the wholesale power market. EirGrid and SONI therefore have a keen interest in ensuring that the market design is workable, will facilitate security of supply and compliance with the duties mandated to us and will provide the optimum outcome for customers.

EirGrid and SONI have duties under licence to advise the CRU and UR respectively on matters relating to the current and expected future reliability of the electricity supply. We have also been allocated responsibility for administering the Capacity Market Code through our TSO licences. This response is on behalf of EirGrid and SONI in their roles as TSOs for Ireland and Northern Ireland.

2. EirGrid and SONI View on the Consultation Topic

EirGrid and SONI, the System Operators, welcome this opportunity to respond to the SEM Committee's consultation paper ([SEM-23-084](#), 23rd October 2023) in relation to the Capacity Market Code Modification Proposals:

- [CMC_18_23](#): Amendment to Definition of Third Party Extension Period
- [CMC_20_23](#): Amendment to Timing of Opt Out Notifications
- [CMC_21_23](#): Minimum Completion on Receipt of Interim Operational Notification
- [CMC_22_23](#): Indexation of Capacity Payment Price for Inflation

The System Operators' views are tabulated in Section 2.1.

2.1. EirGrid and SONI Response

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
<p>CMC_18_23: Amendment to Definition of Third Party Extension Period</p>	<p>The Proposed Modification addresses a conflict between what is involved in the planning appeals process and its implementation in the Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review remedial action. The current definition of Third Party Extension Period is, in effect, incomplete.</p> <p>As the Third Party Extension Period is currently defined, with a gap in the period covered, it appears that a project that was subject to a Third Party Judicial Review would be required to apply for two extensions: once for the period of the planning appeal and once for the subsequent period of judicial review.</p>	<p>The System Operators recommend that legal counsel is sought to ensure the remedial action for Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review is complete and fully reflects the processes in Ireland and Northern Ireland.</p> <p>The System Operators recommend that the definition of Third Party Extension Period is amended slightly to replace the ‘either / or’ logic between paragraph (i) and (ii) with ‘and/or’ to reflect that either one or both of the paragraphs may be relevant to a project.</p>	<p>The proposed legal drafting addresses the conflict between the appeals process and the Code and is consistent with terminology used in the definition of the Third Party Extension Period.</p> <p>In the interests of being more specific and explicit, the System Operators wish to offer an alternative for consideration in relation to the definition of Third Party Extension Period:</p> <p><i>ii. received a copy of the Third Party Planning Appeal to the date of eight weeks after the date of the determination by An Bord Pleanála in respect of the Third Party Planning Appeal.</i></p> <p>This alternative reflects the fact that the eight-week period is set down in statute and gives more certainty in relation to the duration of the period.</p> <p>In considering the proposed drafting in CMC_18_23 and the above alternative, the System Operators note that the Planning and Development Act 2000 (S.50(4.a.iii)) states that the High Court shall not extend the eight week “unless it considers that there is good and sufficient reason for doing so” - which indicates that later applications may be possible on an exceptional basis. Therefore citation of ‘eight weeks’ is perhaps more definitive than an end point which is technically undefined in statute.</p>

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<p>CMC_20_23: Amendment to Timing of Opt Out Notifications</p>	<p>The USPC Exception Application process is a matter for the Regulatory Authorities and the System Operators recognise the financial pressures on generators and the potential for a unit which is unsuccessful in seeking a Unit Specific Price Cap (USPC) to operate at a loss.</p> <p>The System Operators acknowledge the complexity of the Exception Application assessment process however it is desirable that there is clarity as early as possible in relation to units which are proceeding to Auction i.e., certainty on volumes.</p>	<p>The proposal cites the evolution of the energy markets and revenue streams in justifying USPCs or higher capacity payments for existing generators. The System Operators recognise the impact of changing market conditions on generator revenues however the purpose of each market should be considered and whether it is correct that one should subsidise another.</p>	<p>It is not clear from the proposal whether the revised opt-out process would be preceded only by a complete rejection of a USPC application i.e., should there be an approval of a USPC which the applicant deems insufficient is this regarded as a rejection?</p> <p>The System Operators have concerns with the proposed revision to the timing of the Opt-Out Notification Date and the proximity of this to the Auction start (6 weeks). Existing capacity withdrawing at this juncture, after provisional qualification, could not be recovered.</p>

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<p>CMC_21_23: Minimum Completion on Receipt of Interim Operational Notification</p>	<p>The System Operators consider the proposal to deem completion at the Interim Operational Notification stage as premature. The existence of an Interim Operational Notification does not equate to capacity being available to the system so payment for capacity or exposure to Reliability Options at that point is not appropriate.</p> <p>Holding an Interim Operational Notification allows capacity to use the system for exports during a period of commissioning and testing. Whether any capacity is actually available or of benefit to generation adequacy during this period is dependent on progress through the commissioning and testing process.</p> <p>The System Operators' proposed modification CMC_25_23 is a more appropriate approach which recognises that capacity which has an Interim Operational Notification and has both demonstrated an ability to provide capacity to the system in a secure manner and in a manner which minimises exposure to Reliability Options, can contribute to generation adequacy.</p>	<p>The modification proposal does not recognise that Substantial Completion and Minimum completion are mutually exclusive. Nor does it recognise that there are system security considerations in availing of new capacity.</p>	<p>The System Operators refer to CMC_25_23 as our proposed approach to implementing an additional certification which will expedite completion milestones pending full completion of Grid Code compliance.</p>

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<p>CMC_22_23: Indexation of Capacity Payment Price for Inflation</p>	<p>The System Operators acknowledge the efforts of the proposer in seeking to bring forward a proposal which is developed and considered. However, the System Operators note the SEM Committee's recent policy decision which excluded enduring indexation.</p> <p>In relation to the SEM Committee's stated intention in SEM-23-045 to 'consider whether to prioritise a workstream on an enduring indexation mechanism for capacity contracts in2023/24', the System Operators consider clarity on this matter is important to provide certainty for future auction processes. The System Operators will welcome clarity on enduring indexation in due course and an indication of timeframes for and process which will lead to clarity in the shorter term e.g., whether further consultation is required in addition to that which occurred during 2023.</p> <p>The System Operators note the Proposed Modification differs substantially from the indexation methodology / policy determined by SEM_23-045 (no dead band or risk share, different inflation reference dates).</p>	<p>N/A</p>	<p>Should a legal drafting be required to integrate this proposal into the Code, the final approved text which will implement CMC_19_23 on indexation will need to be accounted for, including with respect to section F.9.1.2 and Chapter M.</p>