



Response by Energia to SEM-23-084

***Capacity Market Code Modification Workshop 33
Consultation Paper***

01 December 2023

1 Introduction

Energia welcomes the opportunity to respond to SEM-23-084 consultation on the modifications raised at CMC Workshop 33 on 21st of September. Energia actively participated at Workshop 33 and has already responded to consultation SEM-23-082 on CMC_19_23 (implementing indexation for T-3 24/25 and T-4 25/25), which was also discussed at the workshop. In this consultation response, Energia will briefly address each of the remaining modifications discussed at the workshop in turn.

1.1 CMC_18_23 – Amendment to Definition of Third-Party Extension Period CMC_22_23 – Indexation of Capacity Payment Price for Inflation

CMC_18_23 proposed to extend the Third-Party Extension Period in cases of Third-Party Planning Appeals by the eight-week period following the notification of a decision during which the appellant has leave to apply for judicial review of the determination.

Energia was not supportive of the original modification to allow for CRM contract extensions due to Third-Party Judicial Reviews and Planning Appeals, on the basis that it represented a retrospective change to the fundamental terms of concluded auction processes. If CMC_18_23 is approved, participants should be required to evidence to the RAs the period for which the appellant had leave to apply for judicial review prior to a further 8-week extension being granted. Energia has no further specific comments on CMC_18_23.

1.2 CMC_20_23 – Amendment to Timing of Opt-Out Notifications

Energia is supportive of the proposed modification to amend the timing of opt-out notifications so that the deadline for opt-out occurs after the exceptions application (USPC) process.

Under the current CRM arrangements, USPC applications are often necessary for existing plants to ensure that they can bid into the CRM auction at a price that is economical and can support their continued operation. If an existing unit's USPC application is not approved, it may not be economically viable for that unit to operate for the given capacity year at a price below that specified in the USPC application. However, currently that plant would still be required to participate in the CRM Auction and bid in a price that is below that required to recover its costs.

Rather than applying for a USPC and risk having to enter the auction at an inadequate price if that application is rejected, an existing plant may feel compelled to opt-out in advance of the USPC process. For a viable existing plant, this would represent inefficient exit, and that capacity would have to be replaced by more expensive, long-term New Capacity that would be subject to significant delivery risk and represent poor value for consumers. To avoid this outcome, it would be better to move the deadline for opt-outs to after the receipt of USPC determinations, as CMC_20_23 proposes.

In addition to the issues raised by this modification, the current USPC process does not enable Existing Capacity to recover the full costs of Unavoidable Future Investments that come with substantial refurbishments, and these refurbishments, that would be in the interests of consumers and security of supply, subsequently do not take place. Energia welcomes the RA's commitment to bringing forward a

refurbishment category to the CRM. It is imperative that the refurbishment category is well designed. Energia will respond to the recently published consultation on Intermediate Length Contracts.

1.3 CMC_21_23 – Minimum Completion on Receipt of Interim Operational Notification

At Workshop 33 Energia raised the question as to how CMC_21_23 would interact with the cap of 5MW on export capacity for units with an ION. On the basis of the feedback at the Workshop, a revised modification to create a Market Readiness Certificate in addition to the requirement for an ION was proposed at CMC Workshop 34. On that basis, Energia is minded to support the RA's proposal to reject CMC_21_23 and will respond to the recently published consultation on the proposed Market Readiness Certificate.

1.4 CMC_22_23 – Indexation of Capacity Payment Price for Inflation

Energia proposed CMC_22_23 following the RA's commitment to consider including an enduring solution for indexation as part of the 2023/24 work programme. Energia believes that the modification proposed in CMC_22_23 represents a workable solution that would ensure that indexation is applied to both Existing and New Capacity on a forward-looking basis. Widespread support from industry at Workshop 33 is evidence that inflationary risk is of considerable concern for investors in both New and Existing capacity.

Energia is disappointed that in SEM-23-084, the RAs are minded not to proceed with the proposed modification. Energia urges that any proposed modification next year from the RAs regarding indexation must be consulted on in detail with stakeholders, and should apply on a forward looking basis.