

MODIFICATION PROPOSAL FORM			
Proposer <i>(Company)</i>	Date of receipt <i>(assigned by System Operator)</i>	Type of Proposal <i>(delete as appropriate)</i>	Modification Proposal ID <i>(assigned by System Operator)</i>
Shannon LNG Limited	14 th May 2024	Standard	CMC_06_24
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Martin Ahern		mahern@newfortressenergy.com	
Modification Proposal Title			
Performance Securities for Extended Projects			
Documents affected <i>(delete as appropriate)</i>	Section(s) Affected	Version number of CMC used in Drafting	
Capacity Market Code	J.3.2.9 and J.7.1.3	11.0	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>This modification proposes an amendment to the timelines associated with posting Performance Securities for projects which have received an extension under SEM-23-101 or any other extensions granted.</p> <p>In SEM-23-069 the RA's approved modification CMC_15_23 which linked performance securities and termination payments to extensions, but only for those projects that cleared in the T-3 2024/25 and the T-4 2025/26. This modification seeks to extend this to all auctions.</p> <p>Currently, Performance Security posting dates are set based on the beginning of the relevant Capacity Year. Specifically, the highest Performance Security is required to be posted 13 months prior to the beginning of the Capacity Year.</p> <p>SEM-23-101 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. This mitigates against contract erosion which would impede the economic feasibility of New Capacity projects. Extensions under J.5.5 and J.5.6 are reserved for instances where the delay is the result of a third-party action beyond the control of the Participant.</p> <p>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 (i.e., 13 months prior to expected delivery). This increases the magnitude of risk associated with termination for these projects, which in turn creates challenges for investment decisions. This risk is compounded by the fact that projects seeking these extensions may be facing a planning challenge and thus will be more exposed to possible termination. For example, if a project is required to post Performance Securities 13 months prior to the Capacity Year, it may be the case that a project is posting full Performance Security before a decision is made with respect to its planning and/or extension request. This will mean greater termination charges for these projects relative to where they are in the capacity delivery process.</p> <p>This modification seeks to amend the dates for Performance Security postings, to reflect extensions approved by the SEMC under the CMC as they were introduced under CMC_15_23.</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>			
This modification seeks to amend sections J.3.2.9 and J.7.1.3			

J.3.2.9 Where an extension has been granted to Awarded New Capacity in accordance with Section J.5.5, (Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review) the Performance Security Posting Dates/Events applicable to that Awarded New Capacity shall be extended by a period equal to the Third Party Extension Period applicable to such Awarded New Capacity, so that any increase in the Performance Security Rate applicable to such Awarded New Capacity shall be postponed by a period equal to the Third Party Extension Period. ~~This provision applies to Awarded New Capacity in the T-3 2024/2025 and T-4 2025/2026 auctions only.~~

J.7.1.3 The amount of the Termination Charge payable under this section **Error! Reference source not found.** in respect of each Capacity Market Unit shall be determined in accordance with the formula:

$$TC = TFR \times ACO$$

where:

- (a) TC is the Termination Charge payable;
- (b) TFR is the termination fee rate for calculating Termination Charges per MW applicable at the time the Awarded New Capacity is terminated or adjusted or the Defaulting Participant is Terminated, as determined by the Regulatory Authorities and specified in the Initial Auction Information Pack for the relevant Capacity Auction in which the relevant Awarded New Capacity was allocated (and, for this purpose, where the Defaulting Participant's designated currency is Sterling, that termination fee rate shall be converted to Sterling based on the Annual Capacity Payment Exchange Rate specified in the applicable Final Auction Information Pack), with ~~-(but only in respect of Awarded New Capacity in the T-3 2024/2025 and T-4 2025/2026 auctions)~~ the relevant Dates / Events used to calculate the applicable termination fee rate each being extended by a period equal to any relevant Third Party Extension Period, so that any increase in the termination fee rate applicable to such Awarded New Capacity shall be postponed by a period equal to the Third Party Extension Period; and
- (c) ACO (expressed in MW) is the amount of the relevant Awarded New Capacity, or, if the relevant Awarded New Capacity has been reduced, the amount by which it has reduced.

Modification Proposal Justification

(Clearly state the reason for the Modification)

SEM-23-101 allows extensions to projects which incur delays which are beyond the control of the participant. Such instances would result in these New Capacity projects becoming misaligned with the timing for Performance Security postings. In effect, projects which receive an extension under SEM-23-101 will be required to commit to provision of Performance Securities at a much earlier stage in project development relative to projects which have not been subject to significant delays.

This represents a greater risk for these projects. Typically, the highest rate of Performance Security posting occurs 13 months out from the expected delivery date. Under SEM-23-101, a project's expected delivery date is amended. This requirement to post a high level of Performance Security, at a point when a project is not substantially progressed, is disproportionate and will make it very difficult to secure investment sign-off.

This is problematic as an extension under SEM-23-101 is reserved for instances where the delay is beyond the control of a Participant. It therefore seems unfair that the consequences of such an extension are detrimental to a project's feasibility.

Implementing this modification would ensure consistency with the timing for Performance Security postings for delayed projects, relative to their delivery progression.

Code Objectives Furthered

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

This modification is designed to facilitate achievement of the following objectives (the "**Capacity Market Code Objectives**"):

- (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 facilitate the participation of undertakings including electricity undertakings engaged or seeking to be engaged in the provision of electricity capacity in the Capacity Market;
- (d) to promote competition in the provision of electricity capacity to the SEM;
- (e) to provide transparency in the operation of the SEM;
- (f) through the development of the Capacity Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.

Implication of not implementing the Modification Proposal

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

Failure to implement this modification will result in undue risk exposure for New Capacity projects which have received a no-fault extension under SEM-23-101. This is detrimental to Security of Supply and unfair on projects which have been delayed. This risk exposure may ultimately result in projects being unable to secure investment which is an impediment to Security of Supply and consumer good.

Impacts

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

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