



Energy for
generations

ESB Generation and Trading
Response SEMC Consultation Paper
on Capacity Market Code
Modifications (Workshop 37B)

12/08/2024





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1. SUMMARY INFORMATION

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Confidential Response	No

1. INTRODUCTION

ESB Generation and Trading (GT) welcomes the opportunity to respond to SEMC Workshop 37B Consultation Paper on the following Capacity Market Code (CMC) modification proposals:

- **CMC_10_24:** Introduction of Intermediate Length Contracts
- **CMC_11_24:** Implementation of Early Delivery Incentives according to SEMC Decision SEM-24-037

2. ESB GT RESPONSES

3.1 CMC_10_24: Introduction of Intermediate Length Contracts

4.1.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT agrees that the proposed modification is consistent with CMC objectives (b) and (g) but does have concerns in relation to some of the drafting proposed in the modification.

Substantial Completion

In relation to the proposed drafting of **J.2.1.1(c)**, ESB GT believes that the inclusion of the text highlighted in red below, whereby Substantial Completion is certified by reference to the details in the

Implementation Plan is problematic and unnecessary. The ultimate project implementation methodology could change significantly in the period between the exception application and the ultimate commissioning.

It could be difficult or indeed impossible for both the TSO and the Market Participant to sign-off on specific elements of the Exception Application that is out of date and not reflective of the works undertaken.

The existing text of the CMC is sufficient for both parties, acting under the CMC and the Grid Code to determine if “*all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity are substantially complete*”

(c) Substantial Completion: this milestone is achieved when: (i) all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity (as described in the approved Exception Application where applicable) are substantially complete (subject only to snag or punch list items or any other matters which do not prevent substantial completion or taking over the works taking place under the applicable Major Contracts);

The addition of the new text should therefore not be reflected and it should be left to the established processes of the TSO as to whether all requirements for Substantial Completion have been fulfilled including by reference to the use of a Market Readiness Certificate.

Market Manipulation

ESB GT questions the need for the inclusion of Exception Applications within the definition of Market Manipulation in B.9.1.2.

An Exception Application by its nature requires the provision of extensive information to the RAs/TSOs which must be certified by a Participant Director (E.5.1.3) stating that:

- (i) *all information in the application and any other information provided to the Regulatory Authorities and the System Operators in relation to it is true and correct; and*
- (ii) *the application is not for the purposes of, or connected with, Market Manipulation by the Participant or any of its Associates;*

Given the existing CMC provision, general obligation under REMIT, and as information provided in an Exception Application is subject to extensive review by the RAs prior to approval, ESB GT would request that the RAs provide further rationale for the proposed modification to B.9.1.2.

CMC Chapter M

ESB GT has concerns about the inclusion of M.15 as proposed on the basis that the existing provisions, processes and governance associated with the CMC should be sufficient to deal with any updates necessary to give effect to the SEM-24-035 decision paper.

This is evidence by recent modifications which were deemed necessary to give full effect to **SEM-23-101 - Decision on Supplementary Consultation Paper on modified and combined Modifications to Facilitate Delivery of Capacity** following the initial modifications. Examples include **CMC_05_24 - Amendment of J.6.1.6 to recognise extensions granted under SEM-23-101 and SEM-23-108** and **CMC_09_24 - Amendments to J.5.7 and J.5.8**.

The proposed introduction of M.15 should therefore not happen as it would remove the ability of industry to participate in a consultative process in relation to modifications relevant to the CMC.

[4.1.2 Impacts Not Identified in the Modification Proposal Form](#)

Remedial Actions

In the Consultation Paper, in response to a query raised by a Market Participant (Point 2.1.13),

“The RAs stated that at the time of the workshop and as set out in the decision paper, it was not clear if capacity applying for an ILC would experience the same delays as ten-year new capacity.”

While ESB GT believes that the CMC allows contracts awarded ILCs to avail of the provisions of **Section J.5 - Remedial Actions**, we would urge the RAs to explicitly confirm the applicability of the CMC to CMUs awarded Intermediate Length Contracts.

Projects undergoing major refurbishment could potentially have significant implementation plans and costs along with dependencies on third parties which are outside the control of the project developer.

There is also the potential that new planning application may be required to local authorities or An Bord Pleanála in respect of aspects of the refurbishment project. This opens the possibility of third-party planning appeals or Judicial Reviews which could negatively affect the delivery of the Capacity.

Confirming the applicability of Section J.5 would ensure that provisions of the CMC are understood to apply consistently to all capacity auctions and projects and ensure that there is no discrimination as between parties delivering Awarded Capacity. This would be consistent with Objectives (e) and (f) of the CMC.

4.1.3 Detailed CMC Drafting Proposed to Deliver the Modification

Do not make the proposed drafting changes to:

- B.9.1.2
- M.15
- J.2.1.1(c)

as they are not necessary to give effect to SEM-24-035, could have potentially negative impacts and are therefore not justified.

4.2 CMC_11_24: Implementation of Early Delivery Incentives according to SEMC Decision SEM-24-037

4.2.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT agrees that the proposed modification furthers the Capacity Market Code objectives (b) and (g) by addressing security of supply through incentivising capacity to be delivered early without introducing an additional risk.

4.2.2 Impacts Not Identified in the Modification Proposal Form

4.2.3 Detailed CMC Drafting Proposed to Deliver the Modification

5. CAPACITY MARKET CODE OBJECTIVES

A.1.2.1 *This Code is designed to facilitate achievement of the following objectives (the “Capacity Market Code Objectives”):*

- a) 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;
- b) to promote competition in the provision of electricity capacity to the SEM;
- c) to provide transparency in the operation of the SEM;
- d) to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and
- e) 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.
- f) become parties to the Capacity Market Code; and
- g) 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.