



**Single Electricity Market  
(SEM)**

**Capacity Market Code Working Group 12**

**Urgent Modification Consultation Paper**

**CMC\_05\_20 Amendments Relating to the Clean Energy  
Package**

**SEM-20-023**

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# 1. OVERVIEW

## 1.1 ABSTRACT

1.1.1 The purpose of this consultation paper is to invite industry participants to provide feedback and comments in regards to the proposed modification to the Capacity Market Code (CMC) discussed at the Working Group held on 31 March 2020.

1.1.2 During this Working Group, the following modification was presented and, due to time constraints relating to the upcoming T-4 CY2023/24 Capacity Auction, is now deemed as Urgent. This consultation paper relates to:

- CMC\_05\_20 – Modification to Implement amendments as required by the Clean Energy Package Regulation EU 2019/943

The purpose of this modification is to update the Capacity Market Code with the requirements placed upon capacity markets, as set out in the Energy Regulation EU 2019/943 which forms part of the European Clean Energy Package arrangements. This Regulation came into force on 4 July 2019 and impacts on capacity auctions held in January 2020 onwards. The particular focus of this modification relates to compliance with the emissions limits as set out in Article 22 (4) of the Regulation.

## 1.2 BACKGROUND

1.2.1 Decisions made during the development of the I-SEM CRM Detailed Design were translated into auction market rules to form the Capacity Market Code (CMC) (SEM-17-033) which was published in June 2017. The most recent version was published on 10 October 2019. The CMC sets out the arrangements whereby market participants can qualify for, and participate in, auctions for the award of capacity. The settlement arrangements for the Capacity Remuneration Mechanism (CRM) form part of the revised Trading and Settlement Code. The most recent version of the Trading and Settlement Code was published on 12 April 2019. Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the handling of proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

### **Process for modification of the CMC**

1.2.2 Section B.12 of the CMC outlines the process used to modify the CMC. In particular, it sets out processes for proposing modifications, as well as the consideration, consultation and implementation or rejection of modifications.

1.2.3 The purpose of the Modifications process is to allow for modifications to the CMC to be proposed, considered and, if appropriate, implemented with a view to better facilitating code objectives as set out in Section A.1.2 of the CMC. (B.12.1.2).

- 1.2.4 Modifications to the CMC can be proposed and submitted by any person, (B.12.4.1), at any time. Unless the modification is urgent modifications are subsequently discussed at a Working Group held on a bi-monthly basis. Each Working Group represents an opportunity for a modification proposer to present their proposal(s) and for this to be discussed by the workshop attendees.
- 1.2.5 For discussion at a Working Group, Modification proposals must be submitted to the System Operators at least 10 working days before a Working Group meeting is due to take place.
- If a proposal is received less than 10 working days before a Working Group and is not marked as urgent it is deferred for discussion to the next Working Group.
- 1.2.6 Following each Working Group, and as per section B.12.5.6 of the CMC, the RAs are required to publish a timetable for the consideration, consultation and decision relating to the Modification(s) proposed during a Working Group.
- 1.2.7 If a proposal is received and deemed to be contrary to the Capacity Market Code Objectives or does not further any of those objectives, the Regulatory Authorities (RAs) will reject the proposal on the grounds of being spurious, as set out in section B.12.6 of the CMC.

### **Urgent Modifications**

- 1.2.8 This paper is concerned with an urgent modification proposal.
- 1.2.9 A proposer may choose to mark a Modification proposal as “Urgent”. (B.12.9.1). In this case, the RAs, as per section B.12.9.3 of the CMC, will assess whether or not the proposal should be treated as urgent. If the RAs deem a proposal to be urgent they have the power to fast-track the proposal.
- 1.2.10 In this regard B.12.9.5 provides:
- “If the Regulatory Authorities determine that a Modification Proposal is Urgent, then:*
- a) the Regulatory Authorities shall determine the procedure and timetable to be followed in assessing the Modification Proposal which may vary the normal processes provided for in this Code so as to fast-track the Modification Proposal; and
  - b) subject to sub-paragraph (a), the System Operators shall convene a Workshop.”
- 1.2.11 The RAs may request the SOs to convene a Working Group to discuss the proposed Modification.

### **Process for this Modification**

- 1.2.12 On 16 March 2020 the Regulatory Authorities submitted a modification proposal (CMC\_05\_20) under the terms of B.12.4. The Modification Proposal was initially not deemed ‘urgent’, given the proximity of the scheduled Working Group, however following the Working Group and given

the proximity to the upcoming T-4 CY2023/24 Capacity Auction, this modification is now deemed Urgent.

- 1.2.13 The Regulatory Authorities have, following WG12, determined that the Modification Proposal is Urgent. This is because the Modification Proposal was proposed to deal with a matter that could reasonably be anticipated would imminently and unduly interfere with, disrupt, or threaten the proper operation of the Capacity Market.
- 1.2.14 On the 8 April 2020 the RAs determined the procedure to apply to the Modification Proposal. The procedure is designed to fast-track the Modification proposal and is shown in detail in Appendix A. An overview of the timetable is as follows:
- i. The System Operators convened Working Group 12 where the Modification Proposal was considered on 31 March 2020.
  - ii. The RAs will consult on the Proposed Modification, with a response time of seven Working Days (as defined in the CMC), from the date of publication of the Consultation.
  - iii. As contemplated by B.12.11 the RAs will make their decision as soon as reasonably practicable following conclusion of the consultation and will publish a report in respect of their decision.

### 1.3 PURPOSE OF THIS CONSULTATION PAPER

- 1.3.1 The purpose of this paper is to consult on the proposed modification. More detail about the modification is set out in the appended modification proposal (Appendix B).
- 1.3.2 The Regulatory Authorities hereby give notice to all Parties and the Market Operator of a consultation on the proposed Modification.
- 1.3.3 Interested Parties and the Market Operator are invited to make written submissions concerning the proposed Modification by 20 April 2020.
- 1.3.4 Upon closure of the consultation process, the Regulatory Authorities intend to assess all valid submissions received and form a decision to either implement or reject a modification or undertake further consideration as regards to matters raised through the consultation process in regards to the proposed modification.

## 2. MODIFICATION PROPOSAL

### 2.1 CMC\_05\_20 V2 - MODIFICATION TO IMPLEMENT REQUIREMENT OF CLEAN ENERGY PACKAGE REGULATION EU 2019/943

#### Proposer: Regulatory Authorities

#### Proposal Overview

- 2.1.1 This Modification was submitted by the Regulatory Authorities on 16 March 2020 and marked as a Standard Modification due to the proximity of the scheduled Workshop. However, as highlighted above the proposal is now deemed Urgent. A Workshop was convened for 31 March 2020 at which the Modification was discussed.
- 2.1.2 This modification proposes to update the Capacity Market Code (CMC) with the requirements in respect placed upon capacity markets, as set out in the Energy Regulation EU 2019/943 which forms part of the European Clean Energy Package arrangements. This Regulation came into force on 4 July 2019 and impacts on capacity auctions held in January 2020 onwards. The particular focus of this modification relates to compliance with the emissions limits as set out in Article 22 (4) of the Regulation and their impact on the CMC.
- 2.1.3 This Modification adds checks to various stages of the auction process to ensure that Capacity Market Units comply with the CO<sub>2</sub> emission limits set out in the Clean Energy Package Regulation. This impacts on a number of areas of the Code, particularly the application and qualification sections (E.2, E.7, Appendix D) as well as the obligations on awarded capacity (I.1) including obligations on new capacity in terms of both the Minimum Completion and Substantial Completion criteria (J.2, J.6).
- 2.1.4 As the T-4 CY2023/24 qualification process has been completed in early April 2020, the focus for this auction is on the obligations for awarded capacity, including awarded new capacity.
- 2.1.5 To assist with future auctions, commencing with the T-4 CY2024/25 capacity auction scheduled for January 2021, the focus of this modification is on the full process including the application and qualification requirements.
- 2.1.6 As the Regulation EU 2019/943 came into force on 4 July 2019 there is currently a disconnect between this legal requirement and the Capacity Market Code. Therefore the CMC must be updated to align with the legal requirement and to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity Market.

#### Working Group Feedback

- 2.1.7 The TSOs gave their expectation that as part of the application process for the T-4 CY2024/25 capacity auction applicants will be required to submit a final CO<sub>2</sub> emissions value and that there would be a need for the underlying calculation to be provided to avoid any requirements for clarification to be requested. The TSOs advised that this calculation, and resulting value, would be assessed as part of the normal qualification process.

2.1.8 The TSOs support the removal of the proposed new section D.4 'Compliance with CO<sub>2</sub> Limits' given the difficulties in developing and consulting on a CO<sub>2</sub> Limits Methodology in advance of the Initial Auction Information Pack being published early June 2020, which commences the application process.

2.1.9 However, throughout the discussion on this Modification the TSOs and other industry representatives were uncertain as to the approach which should be applied in a range of different scenarios. The TSOs are concerned that without guidelines for assessing the emissions limits within the applications they may be faced with a wide range of varying calculations which would greatly add the burden of processing these applications for qualification. A summary of the areas which were mentioned are listed below and further mention is given in the subsequent paragraphs:

- Treatment of demand sites e.g. movement between DSUs and what is considered 'new' or 'existing' demand site;
- Some technology types are more complex and what would the arrangements be for them e.g. CHP units;
- Confusion as to how the 350 kg CO<sub>2</sub> on average per year is to be calculated, as it's not clear from the ACER Opinion and appears to be a recommendation as opposed to definitive;
- Uncertainty as to whether secondary trading can be used if an CMU has or is in risk of exceeding the emissions limit;
- Uncertainty as to the purpose of the proposed introduction of section I.1.2.1(d) within the section 'Obligations Associated with Awarded Capacity'.

2.1.10 A DSU representative considered the emissions limits to be applicable at a unit level rather than at an Individual Demand Site level. The TSOs and RAs clarified that the ACER Opinion refers to the sites associated with demand response as being subject to the emissions limits introduced in Article 22(4) of the Regulation (EU 2019/943). The TSOs confirmed this, however advised it would be useful to have this clarified within the proposal to avoid ambiguity.

2.1.11 A CHP representative has considerable concern with the ACER Opinion and the lack of clarity for CHP units and confusion the ACER Opinion causes for CHP units. As it is written a high efficient CHP plan can comply with the emissions limits in Article 22 (4) of the Regulation EU 2019/943, but when applying the approach provided in the ACER Opinion a high efficient CHP may not be able to participate in the Capacity Market. Therefore they questioned the status of the ACER Opinion and gave a preference for compliance to be set against Article 22 (4) of the Regulation EU 2019/943 which directly references the International Organisation for Standardisation (ISO) Standards as the basis on which emissions should be determined.

The RAs highlighted that there were issues with the representation of CHP units in the ACER opinion at the consultation stage. The RAs elaborated that with a CHP a significant proportion of the CO<sub>2</sub> emissions are associated with production of heat and the emissions wouldn't be representative of the electrical output of the plant.

The RAs stated that the idea of charging the limits against the production electricity alone would seem at a variance with other EU approaches to CO<sub>2</sub>. The RAs advised that this is one of the areas they deem it appropriate to provide guidance.

- 2.1.12 One attendee noted that the proposed validation of aggregated units (AGUs and DSUs) set out in E.7.4.4/5 seemed extreme and it seemed more reasonable only to reject qualification for the component of the aggregated unit which failed to meet the CO<sub>2</sub> limits.
- 2.1.13 One attendee advised that there should be thinking involved in regards to Secondary Trading and how it would be facilitated with a specific unit that had breached the CO<sub>2</sub> limits. They have further queried that if the capacity were to be traded, would the limits also be moved in tandem with the Capacity.
- 2.1.14 Some attendees expressed concerns about how CO<sub>2</sub> Limits would be applied or enforced in real time. Such application or enforcement lies outside of the scope of the CMC as its role ends when a unit commences delivery against its awarded capacity is or terminated under Chapter J for failure to achieve Substantial Financial Completion, or at least Minimum Completion by the Long Stop Date.
- 2.1.15 One attendee noted potential linkage with the consultation paper (SEM-20-006) “Capacity Remuneration Mechanism 2024/25 T-4 Capacity Auction Parameters and Compliance with the Clean Energy Package”. The RAs noted that they would take this in consideration when preparing their decision on the two consultations.

### **Amendments to CMC 05 20 following Working Group Feedback**

- 2.1.16 Following the discussion at the Working Group on 31 March 2020 a number of changes have been made to the modification and these are outlined in the following paragraphs. An updated Modification, named version 2, is provided in Appendix B to this consultation.
- 2.1.17 The treatment of aggregated units in E.7.4.4/5 has been amended to only reject the qualification of those components of an aggregated unit that fail to meet the CO<sub>2</sub> Limits.
- 2.1.18 The Glossary definition of CO<sub>2</sub> Limits has been modified to refer only to the Regulation to reduce confusion as to the role of the Acer Opinion.
- 2.1.19 The obligation in I.1.2.1(d) has been changed to a “reasonable endeavours” obligation in response to concerns raised at the Working Group about factors outside of a Participant’s control impacting real-time operation of a unit.
- 2.1.20 The RAs have decided to remove the proposed new section D.4 “Compliance with CO<sub>2</sub> Limits”. This proposed section mentioned the possibility of a CO<sub>2</sub> Limits Methodology being developed. As mentioned at the workshop, the RAs gave their current thinking that the preferred approach was to remove this section and rely on the definition of CO<sub>2</sub> Limits in the Glossary.
- 2.1.21 Following the concerns about areas where the ACER opinion is unclear, the amended Modification includes a new (replacement) section D.4 which introduces the concept of



technical guidance to be provided by the RAs to create greater clarity as to the determination of CO<sub>2</sub> emissions to be made under the CMC. The intention is that this should ensure that all Applications for Qualification are made and validated on a consistent basis. A draft of the high level technical guidance being considered by the RAs is attached as Appendix C.

- 2.1.22 The High Level Technical Guidance Note covers the issues set out in 2.1.9 above. The RAs are minded to accept the point made about the treatment of CHP and are proposing that the determination of CO<sub>2</sub> emissions is made in line with ISO Standards as set out in the Regulation (Article 22(4)).
- 2.1.23 The Qualification Data required in Appendix D has been expanded to clarify that applicants should include details of their determination of CO<sub>2</sub> emissions.
- 2.1.24 The presentation of CO<sub>2</sub> has been updated in the modification to reflect the chemical naming convention i.e. CO<sub>2</sub>.

### Minded To Position

- 2.1.25 Given the necessity of the proposed modification and the requirements to comply with the Clean Energy Package, the SEM Committee are minded to approve this Modification proposal (as amended) to ensure that compliance is facilitated.

### Timelines

- 2.1.26 This Modification consultation process is being treated as urgent so as a decision can be made on the modification itself before the auction takes place on 27 April 2020. The timetable reflects that the RAs will endeavour to make a decision on this Modification by 24 April 2020.

## **3. CONSULTATION QUESTION**

- 3.1.1 The SEM Committee welcomes views and responses on the proposed modification raised within this consultation paper, including the high level technical guidance set out in Appendix C.
- 3.1.2 Respondents are invited to provide comments and feedback for each of the proposed Modifications in respect of:
  - the proposed modification and its consistency with the Code Objectives;
  - any impacts not identified in the Modification Proposal Form, e.g. to the Agreed Procedures, the Trading and Settlement Code, IT systems etc.; and
  - the detailed CMC drafting proposed to deliver the Modification.
- 3.1.3 A template has been provided in Appendix D for the provision of responses.

## 4. NEXT STEPS

- 4.1.1 The SEM Committee will endeavour to make a decision in April 2020 on the implementation of the Modification outlined within this consultation paper.
- 4.1.2 Responses to the consultation paper must be sent to Kevin Lenaghan ([Kevin.Lenaghan@uregni.gov.uk](mailto:Kevin.Lenaghan@uregni.gov.uk)) and Karen Shiels ([Karen.Shiels@uregni.gov.uk](mailto:Karen.Shiels@uregni.gov.uk)) by 17.00 on Monday, 20 April 2020.
- 4.1.3 Please note that we intend to publish all responses unless marked confidential. While respondents may wish to identify some aspects of their responses as confidential, we request that non-confidential versions are also provided, or that the confidential information is provided in a separate annex. Please note that both Regulatory Authorities are subject to Freedom of Information legislation.