



**Single Electricity Market  
(SEM)**

**Capacity Market Code Working Group 20  
Modification Consultation Paper**

**SEM-21-066**

**17 August 2021**

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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 27 July 2021.
- 1.1.2 During this Working Group, two modifications were presented. This consultation paper relates to:
- **CMC\_03\_21 v3: Modification to the provisions for Substantial Financial Completion**  
This is an updated version of the proposal initially discussed at WG18, which proposed to modify the process for meeting Substantial Financial Completion, with regard to DSUs and AGUs so as to provide greater flexibility in the delivery of Awarded New Capacity. This updated version aims to take account of the feedback received both during WG18 and the subsequent consultation paper responses ([SEM-21-048](#)).
  - **CMC\_12\_21: Modification to the methodology for calculating the De-Rated Grid Code Commissioned Capacity**  
This proposal aims to correct inconsistencies within Chapter G of the CMC and to modify changes to the CMC that were implemented as part of CMC\_06\_19 ([SEM-19-046](#)). The proposal recommends the removal of the Gross De-Rating Factor (from qualification), for all units, from the process of calculating the Proportion of Delivered Capacity to determine Substantial Completion.

## 1.2 BACKGROUND

- 1.2.1 The SEM CRM detailed design and auction process has been developed through a series of consultation and decision papers, these are all available on the SEM Committee's (SEMC) website. These decisions were translated into legal drafting of the market rules via an extensive consultative process leading to the publication of the Trading and Settlement Code (TSC) and the Capacity Market Code (CMC). An updated version of the CMC (5.0)<sup>1</sup> was published on 24 May 2021 and the most recent version of the TSC<sup>2</sup> was published on 3 November 2020.

### **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.

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<sup>1</sup> <https://www.sem-o.com/rules-and-modifications/capacity-market-modifications/market-rules/>

<sup>2</sup> <https://www.sem-o.com/rules-and-modifications/balancing-market-modifications/market-rules/>

- 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 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.
- 1.2.9 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.”*

- 1.2.10 The RAs may request the SOs to convene a Working Group to discuss the proposed Modification.

#### **Process for these Modifications**

- 1.2.11 On 14 July 2021 the SOs notified the RAs of the two proposed modifications submitted for discussion at WG20 held on 27 July 2021.
- 1.2.12 Both CMC\_03\_21 v3 and CMC\_12\_21 were submitted by the DRAI. CMC\_03\_21 is an updated version of a proposal originally submitted for discussion during WG18 and, following a consultation process, was deferred for further consideration.

- 1.2.13 Both of the proposed modifications were marked as Standard and will therefore be processed through the normal Modification process.
- 1.2.14 Following a review of the proposals, the Regulatory Authorities determined that none of the proposals are spurious.
- 1.2.15 On the 13 August 2021 the RAs determined the procedure to apply to the Modification Proposals. The procedure is shown in detail in Appendix A. An overview of the timetable is as follows:
- i. The System Operators convened Working Group 20 where the Modification Proposals were considered on 27 July 2021.
  - ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, are to prepare a report of the discussions which took place at the workshop, provide the report to the RAs and publish it on the Modifications website promptly after the workshop.
  - iii. The RAs will then consult on the Proposed Modification, with a response time of 20 Working Days (as defined in the CMC), from the date of publication of the Consultation.
  - iv. 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 following proposed modifications:
- CMC\_03\_21 v3: Modification to the provisions for Substantial Financial Completion;
  - CMC\_12\_21: Modification to the methodology for calculating the De-Rated Grid Code Commissioned Capacity.
- 1.3.2 Further detail on each of the modifications is set out in the appended modification proposals (Appendix B 1 and 2).
- 1.3.3 The Regulatory Authorities hereby give notice to all Parties and the Market Operator of a consultation on the proposed Modifications.
- 1.3.4 Interested Parties and the Market Operator are invited to make written submissions concerning the proposed Modification **by no later than 17:00 on Wednesday 15 September 2021**.
- 1.3.5 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 PROPOSALS

### 2.1 CMC\_03\_21 V3 – MODIFICATION TO THE PROVISIONS FOR SUBSTANTIAL FINANCIAL COMPLETION

#### Proposer: DRAI

#### Proposal Overview

- 2.1.1 This proposal was originally submitted by the DRAI for discussion during WG18 which took place on 11 March 2021. The original version of the modification proposed to enable Participants to voluntarily increase their financial commitment to the delivery of Awarded New Capacity, in lieu of the standard Substantial Financial Completion milestone.
- 2.1.2 Whilst the SEM Committee recognised the issues for demand side participation created by the timing of the Substantial Financial Close milestone and the changes made by DRAI following the Working Group, several respondents raised concerns with the proposal both during WG18 and in response to the consultation paper.
- 2.1.3 Taking account of the discussions at Working Group 18 and the feedback received to the consultation, the SEM Committee decided that further consideration was required in relation to the proposed Modification.
- 2.1.4 The proposer reiterated that the overall intention of the proposal is to provide aggregator units with additional flexibility to allow them to identify elements of the aggregation process at a later stage, which more accurately reflects the contracting model, which is currently not possible within the CMC.
- 2.1.5 Whilst the proposal aims to allow for greater flexibility, the DRAI highlighted that the proposal also incentivises units not to follow this route if it can be helped and to deliver as soon as possible, with the utilisation of increased earlier performance security and termination charge exposures.
- 2.1.6 Following on from the closure of the consultation process and decision made as part of WG18, the DRAI considered five areas for clarification:
- **Performance Security Sunk Costs** – The DRAI highlighted that given if a unit is able to deliver their capacity, the performance security is recoverable and therefore wouldn't be considered a sunk cost. They elaborated that the ability to recover this cost acts as an incentive to deliver.
  - **Robustness to changes in the profile of Termination Charges** – The DRAI recognised that the termination charges for a capacity auction are not stipulated within the CMC, rather they are set out in the parameters published ahead of each Capacity Auction. They have drafted the proposal as such that it will pull forward the next applicable termination charge, as opposed to specifying a value.

They advised the intention here was to ensure the drafting of the proposal was robust to mitigate any unforeseen issues, were the values in the parameters to change in the future.

However, the approach is not fully robust to a change in the number of termination fee/date pairs. In order to remain agnostic on this point, the DRAI suggested that the Auction Information Packs for a given auction could contain separate sets of Performance Security and Termination Charges values, which would be applicable to units who avail of this alternative route and those who do not.

- **Timing of the election to be made under J.2.1.3** – In drafting the proposal the DRAI intended to allow a participant to decide whether they need to provide a proof of contract up to the point of SFC or terminate, or to follow an alternative route to SFC and increase the required performance security value with the confidence that delivery of the capacity is possible.

The DRAI state that this election should be at the point of SFC and that this wasn't fully clear in the initial version of the proposal and so have amended the drafting of the proposal to reflect this.

- **Enhanced Implementation Progress Reporting** – The DRAI advised they do not believe this would be required, however, were open to the views on this if participants believe it would be required to mitigate risk.
- **Volume cap for the amount of capacity using the alternative route to achieve SFC** – The DRAI were of the view that this would not be required, nor would it be appropriate. They have further advised that they would agree with the position taken by the SEM Committee whereby it wouldn't be possible to apply a cap without dis-incentivising participants. They provided information which showed that the affected DSU capacity was likely to be modest, probably well below 100MW

2.1.7 Following the conclusion of WG20, the DRAI provided the RAs with a slightly modified version of CMC\_12\_21. This was submitted, as during the Working Group, it was pointed out that the algebra in G.3.1.8 presented via the slide deck was slightly different to the placeholder algebra that was included in the original Mod submission. The attached document reflects the updated algebra.

2.1.8 Further detail on this Modification Proposal is set out in the appended Modification Proposal (Appendix B (1) and the slide pack submitted presented during WG20 (Appendix B (2)).

### **Working Group Feedback**

2.1.9 BGE requested clarification on a number of points. They queried whether there was any consideration given to the possibility of splitting a contract, providing an example whereby the majority of a contract follows the "normal" route towards SFC, with a smaller portion then utilising the proposed alternative route.

2.1.10 The DRAI responded advising that this is a valid point and that theoretically, the option to split the contract between each route could be beneficial. They elaborated that this could lead to a reduction in risk whilst increasing the level of commitments on participants.

However, the DRAI raised concerns that this may not be possible in the real world due to the complexity that may be involved in both drafting this and implementing the process. This view was also made by the RAs.

They advised that in drafting the proposal this wasn't considered but would welcome feedback on this point in the consultation paper.

2.1.11 BGE queried whether consideration had been given to this proposal being retrospective, further asking whether the modification could be used for contracts where capacity is yet to be delivered or simply utilised for future contracts yet to be struck.

2.1.12 The DRAI advised that the intention of the proposal was for it to be applied to any unit yet to meet SFC going forward. They cited the example of capacity secured as part of the T-4 CY2024/25 Auction, with capacity already awarded, would be able to avail of the modification upon the SFC date associated with this auction.

2.1.13 BGE queried how the Market would be informed that an aggregator has chosen this alternative route to SFC. The DRAI stated that from their view and with the current drafting of the proposal, the Market wouldn't know or be made aware that a unit has chosen this route. Instead it would realistically only be the RAs and SOs that would be notified of a change following the aggregator submitting a declaration informing them that they have elected to move down this alternative route.

The RAs advised that as things stand this would likely remain internal in nature and that only in the event of an exceptional change being made, for example, a change of technology class which would have the potential to change the fuel mix, would the Market be made aware of any changes.

2.1.14 Energia reiterated comments contained within their response provided as part of SEM-21-048, whereby they believe the proposal could pose a security of supply issue. Energia advised that if a unit pushes the deadline right out to the end of the timeframe proposed and subsequently is not delivered this would pose a risk to the system, which they believe is too great.

2.1.15 Whilst the DRAI accepted the views and concerns raised by Energia, they highlighted that the aim of the proposal isn't as simplistic as relaxing the requirements for DSUs to meet SFC, but it attempts to put forward an adjustment that would significantly increase the financial commitment whilst also ensuring the same level of certainty relating to delivery is in place as it would be now.

In terms of mitigating the issues raised by Energia, the DRAI advised that the utilisation of the Implementation Progress Reports could allow for these risks to be alleviated, as the SOs would be aware of how DSUs are progressing towards delivery. This would then provide the SOs with sight of any capacity that is potentially at risk and allow for them to act.



- 2.1.16 The DRAI highlighted their understand of Participant concern with regards to the risk involved, however reiterated that this process is managed within other Capacity Markets where a framework has been implemented that allows aggregators to recruit new sites in close to real time. They provided the example whereby the GB Market allows up to four months and several US Markets which allow an even shorter timeframe.
- 2.1.17 The RAs referred to J.6.1.3 of the CMC which provides the SOs with the option to terminate capacity if an Implementation report shows that capacity cannot be delivered. This would mitigate a certain portion of the risk here as the SOs wouldn't be entirely reliant on a Participant to confirm capacity is to be terminated if it cannot be delivered as expected.
- 2.1.18 The RAs welcome feedback within responses to this consultation paper, specifically in this area of the CMC, if Participants believe it could benefit from modification to allow for additional comfort in mitigating risks associated with this issue.

SONI / EirGrid advised that in the event that capacity opts to take this alternate route to SFC, this could lead to an increase in risk associated with modelling ahead of a T-1 Capacity Auction. They elaborated that they would have concerns relating to capturing the volume of capacity yet to be delivered which feeds into a number of reports provided to the RAs, including adequacy and Locational Constraints data.

### **Minded to Position**

- 2.1.19 The SEM Committee recognise the work put in by DRAI to respond to the issues raised in the first consultation on this modification.
- 2.1.20 The information on quantifying the likely volumes that may use of the election was very useful. The Committee note that even where a DSU does make such an election, the capacity affected may not represent the full awarded capacity. While noting BGE's comments on applying the election to only the portion of the awarded capacity which is not able to achieve Substantial Financial Completion, the Committee are concerned that this would make implementation and management of the process significantly more complex.
- 2.1.21 The SEM Committee further notes that some of the awarded capacity considered "New" under the CMC will relate to existing Demand Sites which have already participated in the CRM as part of a different CMU.
- 2.1.22 With respect to reporting requirements, the Committee notes the flexibility offered by the DRAI. We consider it may be appropriate to extend the reporting requirements set out in J.4.2.6 to include identification of the Demand Sites for inclusion, where known, to enable early identification of the situation where the same Demand Site is planned to be included in more than one DSU.

- 2.1.23 Given the proposal in the 2025/26 T-4 Parameters consultation paper (SEM-21-059<sup>3</sup>) to add a fourth Performance Security Posting Date/Event, the Committee notes that there will be a need to adjust the drafting of J.7.1.9 to make it interact appropriately with any changes to Performance Security Posting Dates/Events arising from the parameters decision SEM-21-059 and from potential future decisions. While noting the suggestion by DRAI to include a separate schedule in the IAIP, the Committee considers it important that the CMC clearly sets out the basis for the schedule of dates and rates.
- 2.1.24 As was observed during the Working Group, this modification is a balance between the increased flexibility offered to DSUs, which will allow additional capacity to come forward, and the potential increased risk of non-delivery. The SEM Committee note that there is good evidence from the operation of the CRM to date that the increases in the termination fee rate do create an incentive for projects to terminate early. The introduction of an additional increase step as proposed in SEM-21-059 will strengthen these incentives.
- 2.1.25 The SEM Committee are minded to approve this Modification, subject to some tightening of the legal drafting mentioned above, as representing an appropriate balance between encouraging capacity to participate while safeguarding the hedge to consumers and security of supply.

## 2.2 CMC\_12\_21 – MODIFICATION TO THE METHODOLOGY FOR CALCULATING THE DE-RATED GRID CODE COMMISSIONED CAPACITY

### **Proposer: DRAI**

### **Proposal Overview**

- 2.2.1 This proposal aims to modify previous changes to the CMC made as a result of the implementation of CMC\_06\_19.
- 2.2.2 The proposer highlights that CMC\_06\_19 recognised the numerous reasons why Awarded New Capacity may be less than the de-rated Initial Capacity (New). Further to this, they stated that the intent of that proposal was to clarify that the calculation of the Proportion of Delivered Capacity should be measured against the Awarded New Capacity secured in the auction, and de-linked from measurement against the Initial Capacity (New) qualified for the auction.
- 2.2.3 However, they are of the view that the algebra introduced to G.3.1.4 by CMC\_06\_19 does not align with the intent of modification CMC\_06\_19. The current drafting of G.3.1.4A places a different value on Delivered Capacity depending on the quantity of the Initial Capacity that was qualified.
- 2.2.4 The DRAI also advise that CMC\_12\_21 intends to correct inconsistencies that remain in place, despite the implementation of CMC\_06\_21. This included:

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<sup>3</sup> <https://www.semcommittee.com/sites/semc/files/media-files/T-4%202526%20Parameters%20Con%20paper%20-%20FINAL.pdf>

- The final part of G.3.1.4 includes references to “Initial Capacity (Existing)” and “Initial Capacity (Total)” despite these terms having been removed from the part above by CMC\_06\_19; and
- The Capacity and Trade Register calculations in G.3.1.8 still refer to Initial Capacity quantities.

2.2.5 Within their proposal, the DRAI suggest that the Gross De-Rating Factor (from qualification) is completely removed, for all units, from the process of calculating the Proportion of Delivered Capacity to determine Substantial Completion.

2.2.6 The DRAI believe that significantly simplifying the drafting in Chapter G would deliver additional flexibility for all units when delivering New Capacity, whilst also mitigating unintended consequences imposed by CMC\_06\_19.

2.2.7 Further detail on the Modification Proposal as well as the amendments to the text within the CMC is set out in the appended Modification Proposal (Appendix C (1)) and the slide pack submitted presented during WG20 (Appendix C (2)).

### **Working Group Feedback**

2.2.8 The RAs agreed that this proposal does raise a valid point, elaborating that in the event that awarded capacity is less than the qualified capacity then the determination of PDC would not work properly and would set too high a delivery target at Substantial Completion.

The RAs also advised that this would be true to any plant type and not only DSUs.

2.2.9 Referring to limb (b) of G.3.1.4A, the RAs advised that this would most likely be needed in the event that there is a non-zero INCTOL value. The RAs further highlighted that within all auctions to date the value associated with INCTOL has been set at zero, however, reiterated that this is a value set out in the parameters decision ahead of each auction and can be subject to change.

In the event that INCTOL were to be greater than zero, the RAs raised concerns that this could result in issues for units being able to demonstrate their awarded capacity.

2.2.10 Taking this into account, the RAs advised it may be of benefit to retain limb (b), in some shape or form to ensure the CMC is robust enough to utilise INCTOL.

2.2.11 The RAs also questioned whether any issues could arise from units using DECTOL. In many cases, limb (b) would not be appropriate but there could be specific situations where it remained relevant.

2.2.12 The DRAI recognised the points raised by the RAs and queried whether limb (b) should be retained however not as a “catch all” and should be limited to only specific circumstances.

The RAs agreed that it could be limited in this respect, however, they specifically requested feedback on the need for limb (b) within the consultation responses.

### Minded to Position

- 2.2.13 The SEM Committee agrees that this Modification is designed to tackle a real issue in drafting of the CMC that affects all classes of capacity and not just DSUs.
- 2.2.14 In addition to the specific issues faced by DSUs, as currently drafted the CMC creates a strong incentive not to offer capacity into auctions on a flexible basis as a CMU which is awarded less capacity than was qualified will struggle to achieve Substantial Completion. This issue has negative consequence for both capacity providers and consumers.
- 2.2.15 However, the Committee are of the view that limb (b) of G.3.1.4A does need to apply in a specific set of circumstances, in particular where a non-zero INCTOL has been used by a participant in qualifying a CMU.
- 2.2.16 Given the importance of the issue raised by this modification, the SEM Committee are minded to approve it, subject to appropriate retention of limb (b).
- 2.2.17 The Committee note that implementation of this modification may require system changes and this will impact on the timetable for its implementation.

## 3. CONSULTATION QUESTIONS

- 3.1.1 The SEM Committee welcomes views and responses on the proposed modifications raised within this consultation paper.
- 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 intends to make a decision in October 2021 on the implementation of the Modifications 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 Kevin Baron ([Kevin.Baron@uregni.gov.uk](mailto:Kevin.Baron@uregni.gov.uk)) **by no later than 17.00 on Wednesday, 15 September 2021.**
- 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.