



**Single Electricity Market  
(SEM)**

**Capacity Market Code Working Group 20**

**Decision Paper**

**Appendix B –**

**CMC\_03\_21 (v3) Approved Modification Text Drafting**

**SEM-21-080(b)**

**18 October 2021**

**Modify J.2.1.3**

J.2.1.3 Where the Awarded New Capacity is an Aggregated Generator Unit or Demand Side Unit, the Major Milestones set out in paragraph J.2.1.1 and the Additional Milestones set out in paragraph J.2.1.2 are modified as follows:

(a) the Awarded New Capacity achieves Substantial Financial Completion when either:

(i) a contract is in full force and effect between the Participant and the provider of the physical capacity and evidence of this is provided to the System Operators; or

(ii) only in respect of Awarded Capacity with a duration of one year, the Participant has, prior to the end of the Substantial Financial Completion Period, elected to voluntarily both:

(A) increase the Termination Charge payable under section J.7.1.9; and

(B) increase the Required Level of Performance Security under J.3.2.8 and posted Performance Security equal to or in excess of this revised Required Level with the System Operators in accordance with the requirements of J.3; ~~a contract is in full force and effect between the Participant and the provider of the physical capacity and evidence of this is provided to the System Operators;~~

[...(b)...(c)...(d)...(e)...(f)...(g)...(h)...]

...

(i) an additional milestone is added: Proof of Contract. This milestone only applies where Awarded New Capacity has achieved Substantial Financial Completion under J.2.1.3.(a)(ii), and is achieved when a contract is in full force and effect between the Participant and the provider of the physical capacity and evidence of this is provided to the System Operators.

### Add new text to J.3

J.3.2.8 Where a Participant has elected to increase the Termination Charge and associated Performance Security under section J.2.1.3(a)(ii), the €/MW Performance Security Rates specified in the Initial Auction Information pack for the relevant Capacity Auction in which the relevant Awarded New Capacity was allocated are modified so that both:

- (a) the Performance Security rate will, from the Trading Day starting immediately after the Financial Completion Period, increase to the Performance Security rate (€/MW) that would otherwise have applied at the next upcoming Performance Security Posting Date / Event after the end of the Substantial Financial Completion Period; and
- (b) the €/MW Performance Security rate after that which is brought forward under J.3.2.8(a) will also be brought forward to apply from the date at which the Performance Security rate modified under J.3.2.8(a) would otherwise have applied.

### Add new text to J.4.2.4

J.4.2.4 The Regulatory Authorities shall determine the initial reporting schedule for capacity to be awarded in a Capacity Auction so that it can be included in the Capacity Auction Timetable for that Capacity Auction, so that:

- (a) for a T-4 auction, reporting shall occur at intervals of approximately every six months;
- (b) a report shall be scheduled prior to the last T-1 Auction in respect of a Capacity Year with sufficient time to factor any expected non-delivery of capacity into that T-1 Auction;
- (c) there is an additional requirement on a Participant with Awarded Capacity to report upon achieving the following Milestones:
  - (i) Substantial Financial Completion;
  - (ii) Commencement of Construction Works; ~~and~~
  - (iii) Substantial Completion; ~~and~~
  - (iv) Proof of Contract for DSU/ AGU using the Alternative route set out in J.3.2.8

though the Regulatory Authorities may set alternative schedules.

#### Add new text to J.4.2.6

- J.4.2.6 Each Implementation Progress Report shall include:
- (a) details of any Milestones achieved;
  - (b) details of progress against outstanding Milestones;
  - (c) identified or potential delays in achieving outstanding Milestones; ~~and~~
  - (d) actions being taken to mitigate any delays; and
  - (e) where a unit has achieved Substantial Financial Completion under J.2.1.3 (a) (ii), then report must include details of identified individual Demand Sites.

#### Modify sub-clause J.4.3.2

- J.4.3.2 For the purposes of paragraph J.4.3, verification comprises:
- (a) in respect of the Substantial Financial Completion Milestone, either:
    - (i) where a Participant has elected to increase the Termination Charge and associated Performance Security under section J.2.1.3(a)(ii), notification to the System Operators confirming the Participant has posted Performance Security equal to or in excess of the revised Required Level;
    - otherwise:
    - ~~(ii)~~ (ii) a certificate addressed to the System Operators and signed on behalf of the Participant by a Participant Director certifying that, having made all due and careful enquiry and to the best of the knowledge, information and belief of the Participant Director, the Substantial Financial Completion Milestone has been achieved, and in particular that each of the statements in paragraphs J.2.1.1(a)(i) to J.2.1.1(a)(v) is true and correct in relation to the Milestone; and
    - ~~(iii)~~ (iii) a copy of the resolution, agreement or approval referred to in paragraph J.2.1.1(a)(iv);

## **Add link to new Proof of Contract milestone to J.6**

J.6.1.3 The System Operators may, subject to paragraph J.6.1.5, terminate all Awarded New Capacity in respect of a new or refurbished Generator Unit or Interconnector if:

(n) the Proof of Contract milestone, if applicable, has not been achieved by the date that is four months prior to the start of the relevant Capacity Year.

## **Add new sub-clause to J.7**

J.7.1.9 Where a Participant has elected to increase the Termination Charge and associated Performance Security under section J.2.1.3(a)(ii), the termination fee rates set out in the Initial Auction Information Pack for the relevant Capacity Auction in which the relevant Awarded New Capacity was allocated are modified so that both:

(a) the termination fee rate will, from the Trading Day starting immediately after the Financial Completion Period, increase to the termination charge rate (€/MW) that would otherwise have applied at the next upcoming date / event after the end of the Substantial Financial Completion Period; and

(b) the termination fee rate (€/MW) after that which is brought forward under J.7.1.9(a) will also be brought forward to apply from the date at which the termination fee rate modified under J.7.1.9(a) would otherwise have applied.

## **GLOSSARY (insert new definition)**

**Proof of Contract** has the meaning given in paragraph J.2.1.3.(i)