

APPENDIX C – RESPONSE TEMPLATE

SUMMARY INFORMATION

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Type of Stakeholder	Generator
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Confidential Response	[N]

CAPACITY MARKET CODE MODIFICATIONS WORKSHOP 33 CONSULTATION COMMENTS:

1) CMC_21_23: Minimum Completion on Receipt of Interim Operational Notification

While BnM supports the general thrust of this Modification we also recognise the reasons for SEMC's Minded To Position to reject it.

Urgent Mod CMC 25_23 Market Readiness Certification, which is currently in Consultation, addresses many of the shortcomings of CMC_21_23.

We look forward to responding to this new consultation with our proposals.

2) CMC_22_23: Indexation of Capacity Payment Price for Inflation

The focus of our Response to this consultation is on this Modification.

BnM high level comments in relation to the proposed modification itself are that:

- i) We firmly support the need for Opex Cost Inflation Indexation of Capacity Payments over the duration of the Contract; Opex cost inflation levels are, and look to continue to be, much higher than was the case when the decision was made in 2015 and 2016 within the CRM

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Design papers to not provide for indexation¹. In the event that inflation falls back to much lower levels the consumer will only face cost reflective situation while, with indexation, the project developer will have greater certainty for project delivery.

- ii) Absence of the modification presents a threat to Security of Supply with a negative signal for New Investment as well as a threat to some existing capacity from an unintended exit signal.
- iii) The scope of the modification should be broadened beyond that expressed in the modification and should apply to all auctions from T-3 CY2024_2025 and all subsequent auctions.

In more detail:

SEMC's detailed response paper on Indexation of Capacity Payments SEM 23 045 of 3rd July 2023 is to mainly recognise the importance of indexing Capital Cost Inflation over the Build/Construction period.²

BnM welcomes that the paper also considers Opex Cost inflation, within consultation SEM-23-014, whether it is appropriate to move to a GB style contract in which multi-year contracts are indexed for inflation each year of the contract – which would address concerns arising from Operational Cost inflation which, if not offset, has a negative effect on both the investor as well as on the consumer³.

¹ Ref particularly the negative effect on inflation resulting from Quantitative easing in powerful world economies.

² BnM, in its recent response to SEM-23-082 re CMC_19_23 Modification to Implement the SEMC Decision set out in SEM-23-038 and SEM-23-045 on Indexation of Capacity Payments, proposed that indexation of capacity contracts should be introduced as an enduring feature of the capacity remuneration mechanism (CRM) across all auctions – and not just for the specific T-3 2024_25 and T-4 2025_26 Auctions.

³ As is well articulated within the current Consultation paper (SEM 23-045) by another market participant, regarding Security of Supply for New and Existing generation and unintended threat of New project failure or Existing project exit signal.

'Energia argue that this proposal is a proportionate and necessary change to the CRM that would help safeguard the delivery of new capacity and provide inflationary protection for holders of existing capacity. Whilst inflation risk is removed from investors, ultimately consumers will be better served if the CRM contracts offer protection from high inflation, and therefore mitigate the risk of inefficient exit or failure of delivery for new capacity.'

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We have observed in our related consultation responses⁴ in 2022 and in 2023 the significance of recognising the importance of Operational Cost inflation over the duration of the Capacity contract⁵ and would be pleased to engage further in this regard if deemed useful.

While we note the Minded To Position expressed in the SEMC's Live Consultation paper 'Capacity Market Code Modifications Workshop 33 Consultation Paper' of October 2023 is to reject this modification proposal, we are not put back, noting the reasoning is that:

'2.4.18 Given the substantial change to current policy proposed by this Modification the SEM Committee is minded to reject this proposed modification' and observing that:

'2.4.19 As noted in SEM-23-045 the SEM Committee will consider whether to prioritise a workstream on an enduring indexation mechanism for capacity contracts in the context of the SEM Committee's Forward Work Programme for 2023/24.'

The current Minded To Position to reject the Opex Cost proposal may therefore be a holding position based on changes being implemented on foot of decision paper SEM 23 045 in recognition of Capital Cost inflation over the Build period, and is hopefully no more than a timing issue.

Therefore, we are encouraged in that even if this current modification is rejected, that SEMC will consider whether to prioritise a workstream on an enduring indexation mechanism for capacity contracts, which could include a mechanism for protecting the investor and consumer from the negative effects of Operational Cost Inflation.

We believe that this further consideration is highly appropriate for all auctions from T-3 2024_25 onwards given the continuing levels of Consumer Price Inflation (much of which appears to be linked to quantitative easing in large world economies) which is increasing project Operational Costs.

In relation to its scope of application, we do not believe that there is any issue with regard to 'Retrospectivity' and that its treatment should be considered in the context of decision paper SEM 23 001 and of Consultation on CMC 19_23 – both prioritising Security of Supply.

We would urge that the SEMC proceed with this workstream.

⁴ BnM responses specifically to i) SEMC 22-071 Call for Evidence regarding the impact of inflation on delivery of new Capacity Market projects and ii) SEM 23 014 Consultation and Call for further Evidence on Indexation of Capacity Payments

⁵ BnM's view is that if indexation were applied for the full duration of the capacity contracts, in addition to aiding the viability of projects, it would substantially reduce the financing costs of these projects, lowering the overall costs of capital, greatly aiding in the deliverability of new capacity by reducing the overall development costs, as well as avoiding potential exit signals for existing capacity. This would be of direct benefit to the consumer by improving Security of Energy Supply.

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ID	Proposed Modification and its Consistency with the Code Objectives	Impacts Not Identified in the Modification Proposal Form	Detailed CMC Drafting Proposed to Deliver the Modification
CMC_18_23: Amendment to Definition of Third Party Extension Period			
CMC_20_23: Amendment to Timing of Opt Out Notifications			
CMC_21_23: Minimum Completion on Receipt of Interim Operational Notification		Will feedback relevant inputs separately in our response to 'Urgent Mod CMC 25_23 Market Readiness Certification' which is a progression from CMC_21_23	

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<p>CMC_22_23: Indexation of Capacity Payment Price for Inflation</p>	<p>By addressing a risk that threatens the viability of a significant proportion of multi-year New capacity projects which won in the 2024/25 T-3 and 2025/26 T-4 auctions, as well as subsequent auctions, and could have a material impact on security of supply, the modification furthers Capacity Market Code Objectives (b), (c), (d) and (g).</p> <p>(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;</p> <p>(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;</p> <p>(d) to promote competition in the provision of electricity capacity to the SEM;</p> <p>(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.</p>	<p>Relevance of protection to the Investor and to the Consumer against unprecedented Opex Inflation, by not including all Capacity Auctions onwards commencing with T-3 2024_25. Relevance of protection to the Consumer in relation to helping ensure Security of Supply and the avoidable cost of Emergency generation (which of itself is of limited value as a fall back option – ref timing/cost, etc). The Retrospective argument should not therefore apply.</p>	
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NB please add extra rows as needed.

1) Detailed CMC Drafting Proposed to Deliver the Modification

The required drafting could be included within Section F of the CMC, or could alternatively be within Section M, building on the text which may follow from Mod CMC 19_23, ref M.13 Capacity Payment Price Indexation.

For simplicity, will add proposals to Section F, given the way that the proposed Mod is currently drafted.

(BnM Strikethroughs are applied to text proposed within the Mod; New Proposed BnM text shown in Purple)

F.9.1.2 ~~For Awarded Capacity in auctions that took place prior to XXXX (date on which Modification is approved),~~ Except to the extent provided for in the Trading and Settlement Code, the Capacity Payment Price shall not be subject to adjustment or indexation. ~~For Capacity that was awarded in auctions that took place after XXXX~~ from T-3 CY 2024_25 (and subsequent auctions), the Capacity Payment Price will be indexed at the start of each Capacity Year to account for inflation by the Inflation Modifier as per section O.

O.1.1.1

b) CPI_x means the CPI published for the month of June immediately prior to the beginning of the relevant Capacity Year, where CPI_x is anchored to the same base as is $CPI_{adjusted}$

c) $CPI_{adjusted}$ means the CPI for the month in which the relevant Capacity Auction Approval Date occurs ~~adjusted for any inflation adjustments made to the Auction Price Cap and Existing Capacity Price Cap by the Regulatory Authorities up to the month of June prior to the commencement of the relevant Capacity Year.~~

O.1.1.5 The provisions of this section O apply ~~only to the Capacity Payment Price for Capacity Auctions that take place after XXX (date on which Modification is approved)~~ from T-3 CY2024_25 and subsequent auctions.