

APPENDIX C – RESPONSE TEMPLATE

SUMMARY INFORMATION

Respondent's Name	Bord na Móna
Type of Stakeholder	Generator
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Confidential Response	[N]

CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS:

We wish to comment on three Modifications: 1) CMC_10_23 and 2) CMC_14_23 (and Mod CMC 08_23 – already active) 3) CMC_12_23

1) CMC_10_23: Mitigation of Impact on Participants Relating to 3rd Party Gas Connection Delays

Bord na Móna has set out our position very clearly within a number of modifications, Mod 14_22, in our response to SEM 22_092 and in this Mod 10_23, of the absolute pressing need to allow for eligible 3rd party Connection delays for security of supply reasons, for the Investor case, as well as for the good of the Consumer in not inadvertently excluding from market participation Units and technologies (such as CCGT) required in the delivery of pathway to Zero Carbon.

Paramount among these is security of supply. We acknowledge and welcome the engagement of the Capacity Modifications Team in relation to Mod 14_22 as well as with this Mod 10_23. In this regard we welcome the Team's prioritisation of Security of Supply:

From SEM 23 001 CMC Urgent Mods WG28 Decision Paper

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'4.1.13 The RAs are aware of a number of projects that are currently at risk. Given the impact on both current projects and the potential chilling effect of further terminations of awarded new capacity on future investment decisions, the SEM Committee believe that the objective to promote security of supply must take priority when considering this proposed modification.'

From SEM 23-044 Consultation Paper

'2.1.22 The Committee acknowledges some of the challenges currently faced by industry in terms of project delays which are outside of the control of the participant and the potential impact of these on timeframes within the Capacity Market.....

2.1.23 Given the issues raised and the apparent need for a process to extend key milestones to allow for third-party gas delays, the SEM Committee will take time to consider this proposed modification.'

Some high-level points relating to this modification.

- Participant does not have control over Gas Connection Timeline. Is not informed of Target Completion date by the Gas Connection Party until Gas Connection Agreement Execution.
- Then, the Target Completion date can be moved by Gas Connection Party with no recourse to the Participant.
- Participant does not know the 'Target Completion Date' for Gas Connection when setting 'Mechanical Completion' milestone when submitting for Capacity Qualification.
- This being the case the Participant uses reasonable endeavour in setting its 'Mechanical Completion' milestone (modified to include Gas Connection).
- Unlike Grid Connection Offers – no option for contestable build.
- This introduces a high level of uncertainty with regard to Projects reaching Overall Project Substantial Completion by the due date – and exposes it to very high levels of financial risk.
- Different Gas Connection Parties having different procedures for processing enquiries makes little difference to the above.
- The above reasons culminate in a position which is very bad for the consumer as the primary consumer need for Security of Supply is not currently being adequately addressed. This modification seeks to re address this imbalance.

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2) CMC_14_23: Locational Capacity Constraint Violation Criteria

We strongly believe that this modification is not aligned with the Code Objectives vis a vis the primary consumer need – for Security of Supply.

The fundamental reason for this is that it looks to introduce a mechanism which is designed, in certain circumstances, to result in an auction solution with a MW volume which is less than the Minimum Constraint MW volume for the Locational Constraint Area.

This flies totally against the premise that the Minimum Constraint MW volume is set in order to provide Security of Supply.

Furthermore, it proposes to introduce this new auction solution at a time where the System is facing acute tightness of supply – and where Emergency Generation is having to be brought on. This is not in the Consumer's interests.

We also note that the relevant impact assessment is absent in that no account is taken that cost of VOLL lost load far exceeds the cost of having some additional capacity on the system.

We further note that CMC 14_23 is not aligned with the recommendations and considerations within the EY capacity market report SEM 22-054A which recognises explicitly measures needed to bring in suitable capacity – rather than to restrict its chances of success:

- i) Pointing to Evidence across auctions suggesting inadequate participation
- ii) Recognising the need for more gas units, including CCGTs (attributed to the SOs)
- iii) Questioning whether the Auction Price Cap is too low
- iv) Recognising that Ireland's Loss of Load Expectation of 8 hrs is out of kilter with the EU, meaning that the market is automatically tighter than other EU countries by virtue of its design

Furthermore, CMC_08_22 introduced LCC Maximum Quantities into the capacity auction from end September '22 which, when introduced to an Auction has the potential, if introduced for other than System overload and technical reasons, to provide a further barrier to projects (such as CCGT) which are required for the delivery of the path to zero carbon being successful at auction. This barrier could arise due to the scale/lumpiness of a CCGT, as well as its necessity to offer in at close to the Auction Price Cap. Such a barrier would not be in the interests of the Consumer.

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We strongly encourage that due care is exercised whenever introducing LCC Maximum Quantities to ensure that they are applied ONLY for System overload and technical reasons. We are acutely conscious of the need to avoid the inadvertent potential positioning of barriers which could prevent from effective market participation projects of scale and technology which are required to underpin the pathway to zero carbon.

3) CMC_12_23: Facilitation of Unit Specific Price Caps for Existing Capacity in Excess of the Auction Price Cap

While we do not wish to directly comment on the mod per se we believe that this mod highlights that there are units – existing and new – which are needed for security of supply. Furthermore, there are new units such as CCGTs which are needed to facilitate the pathway to Zero Carbon. The Auction process needs to allow these units to properly compete in relation to Auction Price Cap (which is ostensibly too low) as well as unit lumpiness, which already makes it extremely difficult for these units to be successful. In this regard we note that the recent EY report SEM 22-054A draws attention to the SOs concerns that the Capacity Market Auction mechanism has not been attracting CCGTs. We also note that the potential introduction of maximum LCCA volumes in the T-4 27_28 auction, facilitated by CMC_08_22 would make it even more difficult for a CCGT to be successful at auction and that such an initiative would not be consistent with the thrust of the recommendations within the recent EY report on the Capacity Market.

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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
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<p>CMC_10_23: Mitigation of Impact on Participants Relating to 3rd Party Gas Connection Delays</p>	<p>We wish to make a few improvements to our own (Bord na Móna) Modification since the original CMC_10_23 was proposed, based on further information and consideration.</p> <p>Both the Original CMC 10_23 and this proposed modified update are entirely consistent with the objectives of Subsection A.1.2 of the Code Objectives:</p> <p>(a) to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to the Capacity Market;</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>(f) to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and</p>	<p>There are a number of impacts not identified in the original proposed wording. One of these is to not fully allow for the extension of the mechanical completion milestone, as well as of other relevant implementation milestones. Also the broadening of the definition of Mechanical Completion so as to reflect that the delivery of the Gas Connection Agreement is synonymous with Mechanical Completion.</p>	<p>As there are a number of alterations to the Original Proposed text it is more expedient to show these in the text underneath this table, and entitled:</p> <p>Detailed CMC Drafting Proposed to Deliver Modification CMC_10_23</p>
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	(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.		
CMC_11_23: Amendment to Drafting Introduced Under Modification CMC_15_22			

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<p>CMC_12_23: Facilitation of Unit Specific Price Caps for Existing Capacity in Excess of the Auction Price Cap</p>		<p>While we do not wish to directly comment on the model per se we believe that this model highlights that there are units – existing and new – which are needed for security of supply. Furthermore, there are new units such as CCGTs which are needed to facilitate the pathway to Zero Carbon. The Auction process needs to allow these units to properly compete in relation to Auction Price Cap (which is ostensibly too low) as well as unit lumpiness, which already makes it extremely difficult for these units to be successful.</p> <p>In this regard we note that the recent EY report SEM 22-054A draws attention to the SOs concerns that the Capacity Market Auction mechanism has not been attracting CCGTs.</p> <p>We also note that the potential introduction of maximum LCCA volumes in the T-4 27_28 auction, facilitated by CMC_08_22 would make it even more difficult for a CCGT to be</p>	
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		successful at auction and that such an initiative would not be consistent with the thrust of the recommendations within the recent EY report on the Capacity Market.	
CMC_13_23: Min Completion Prior to Long Stop Date			

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<p>CMC_14_23: Locational Capacity Constraint Violation Criteria</p>	<p>We strongly believe that this modification is not aligned with the Code Objectives.</p> <p>The fundamental reason for this is that it looks to introduce a mechanism which is designed, in certain circumstances, to result in an auction solution with a MW volume which is less than the Minimum Constraint MW volume for the Locational Constraint Area. This flies totally against the premise that the Minimum Constraint MW volume is set in order to provide Security of Supply. Furthermore, it proposes to introduce this new auction solution at a time where the System is facing acute tightness of supply – and where Emergency Generation is having to be brought on. This is not in the Consumer’s interests.</p> <p>We believe the Mod to be inconsistent with many of the Code Objectives – we highlight just two for expediency:</p>	<p>Multiple Reasons for not being aligned with Code Objectives mainly regarding (see column to left):</p> <ul style="list-style-type: none"> i) Security of Supply as well as ii) Barrier to participation <p>We also note that the relevant impact assessment of CMC 14_23 is absent in that no account is taken that cost of VOLL lost load far exceeds the cost of having some additional capacity on the system. This provision is not in the consumers’ interests.</p> <p>We further note that CMC 14_23 is not aligned with the recommendations and considerations within the EY capacity market report which recognised explicitly measures needed to bring in suitable capacity – rather than to restrict its chances of success:</p> <ul style="list-style-type: none"> v) Pointing to Evidence across auctions suggesting inadequate participation 	<p>We do not wish to propose alternative drafting as we do not believe that the Mod is aligned with the Capacity Code Objectives. On this account we believe the Mod to be entirely inappropriate.</p>
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	<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>If this Mod is approved, the Consumer will be unduly exposed to security of supply, lack of reliability and poor quality of supply across the Island of Ireland.</p> <p>‘(d) 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>This will result if this Mod is approved and the auction is allowed to resolve at LCCA volumes in breach of the Minimum LCCA MW volume.</p>	<p>vi) Recognising the need for the auction process to more gas units, including CCGTs (as observed by the SOs)</p> <p>vii) Questioning whether the Auction Price Cap is too low</p> <p>viii) Recognising that Ireland’s Loss of Load Expectation of 8 hrs is out of kilter with the EU, meaning that the market is automatically tighter than other EU countries by virtue of its design</p> <p>Furthermore, CMC_08_22 introduced LCC Maximum Quantities into the capacity auction from end September ’22 which, when introduced to an Auction has the potential, if introduced for other than System overload and technical reasons, to provide a further barrier to projects (such as CCGT) which are required for the delivery of the path to zero carbon being successful at auction. This barrier could arise</p>	
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		<p>due to the scale/lumpiness of a CCGT, as well as its necessity to offer in at close to the Auction Price Cap. Such a barrier would not be in the interests of the Consumer.</p> <p>We strongly encourage that due care is exercised whenever introducing LCC Maximum Quantities to ensure that they are applied ONLY for System overload and technical reasons. We are acutely conscious of the need to avoid the inadvertent potential positioning of barriers which could prevent from effective market participation projects of scale and technology which are required to underpin the pathway to zero carbon.</p>	

NB please add extra rows as needed.

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Detailed CMC Drafting Proposed Amendments to Deliver Modification CMC_10_23

All additional text amendments (relative to the Original CMC_10_23) are *shown in purple italics*

J.5.5 Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review or Eligible 3rd Party Gas Connection Delay

J.5.5.1 Subject to the requirements of paragraph J.5.5.2, a Participant or an Enforcing Party (on behalf of a Participant) may apply to the System Operators to extend the date of Substantial Financial Completion (*and/or other relevant milestones, including, Mechanical Completion & Substantial Completion*) and Long Stop Date associated with a Capacity Market Unit by a period equal to the Third Party Extension Period where that Capacity Market Unit is subject to a Third Party Judicial Review or Third Party Planning Appeal **or Eligible 3rd Party Gas Connection Delay**.

J.5.5.2 The System Operators shall extend the date of Substantial Financial Completion (*and/or other relevant milestones, including, Mechanical Completion and Substantial Completion*) and Long Stop Date under paragraph J.5.5.1 subject to the requirements of paragraph J.4.2.5 and the Participant submitting the following proofs to the System Operators:

a)....

b)....

(c) Documentary evidence showing:

J.2 Content of Implementation Plans

J.2.1.2.....

(a) Mechanical Completion: this milestone is achieved:

(i) in respect of a new or refurbished Generator Unit, when the primary mechanism to generate electricity (whether this is via a turbine, any mechanical or electrical device or installation of any other technology, e.g. photo voltaic) is installed on-site; and

(ii) in respect of a new or refurbished Interconnector, when the necessary cabling is installed;

(iii) in respect of Gas Connection, when the necessary gas connection 'AGI – Above Ground Installation' is installed

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Add the following definitions to the Glossary:

Eligible 3rd Party Gas Connection Delay means, In the first instance the delay period to the Substantial Financial Completion (SFC) milestone, as submitted by the Participant, caused by either an executable gas connection contract not being available within the SFC milestone or by a delay in the provision of an executable version of the contract beyond the timeframe permitted under the offer version of the contract, where such delay is demonstrably attributable to the Connection provider. This delay in SFC would contribute to the knock on delay of the Mechanical Completion milestone which involves linking of the AGI to the exit point by the Connection Provider, thereby pushing out the Mechanical Completion milestone to the ‘target completion date’ (or equivalent meaning) as stated within the executable contract. *We term this ‘Delay Type 1’ which is the eligible 3rd party gas connection delay in the Substantial Financial Completion Milestone.*

Delay Type 1 is known at the time of signing the Gas Connection Agreement (GCA) – and is therefore already incorporated within the setting of the ‘Target Completion Date’ within the GCA.

‘Delay Type 2’ and ‘Delay Type 3’ are the eligible delays which both apply to the Substantial Completion milestone.

Delay Type 2 is the delay between the Mechanical Completion Milestone (set within the Qualification document) and the ‘Target Completion Date’ stated within the GCA. The Target Completion Date is not known to the participant right up to until the GCA is executed. The participant can demonstrate non attribution of delays by having the generation equipment ready once the gas connection is provided to operate on gas and a deliverable plan for the generation unit to be connected to the AGI.

Delay Type 3 is any subsequent eligible delay between the ‘Target Completion Date’ and the ‘Actual Completion Date’ within the GCA.

As stated in J.5.5.2 (c), in case of doubt regarding the existence of a relevant delay in Gas connection, and the attribution of this between the Connection provider and the Participant, this will be decided, when required (in the absence of agreement between the Participant and the Gas Connection party), within the process and terms of the Gas Connection Agreement, which can be used as evidence.

Third Party Extension Period means, in respect of date of Substantial Financial Completion (*and/or other relevant milestones, eg, Mechanical Completion and Substantial Completion*) and Long Stop Date extension under paragraph J.5.5.1, the period from the date on which the relevant Participant has either

i. in respect of Ireland, been served with an originating notice or, in respect of Northern Ireland, been served with an application for leave to apply for judicial review, in respect of the Third Party Judicial Review to the date on which the Third Party Judicial Review is concluded, either by order, direction or decision of the court (not appealed by the third party to the Third Party Judicial Review), or otherwise; or

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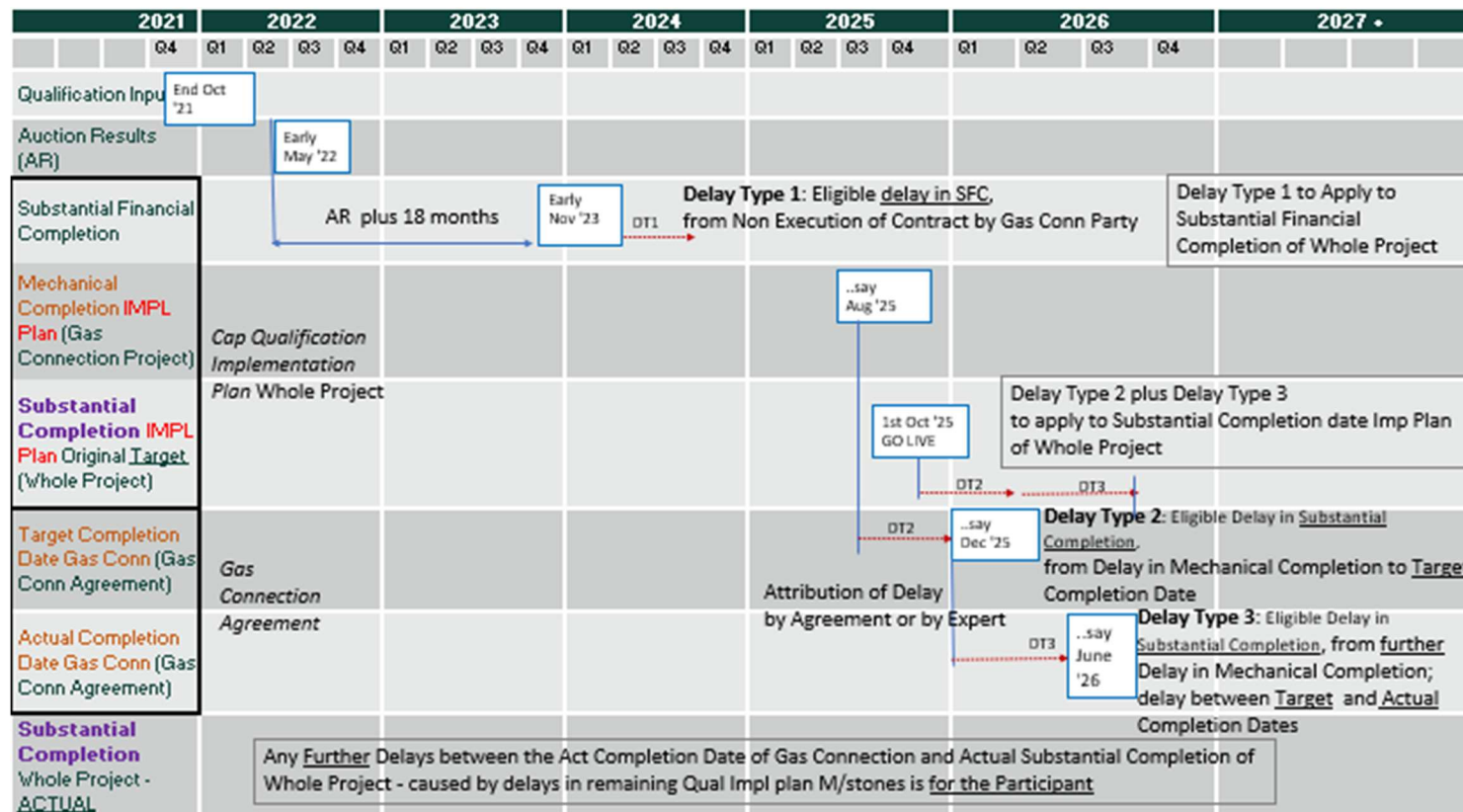
- ii. received a copy of the Third Party Planning Appeal to the date of the determination by An Bord Pleanála in respect of the Third Party Planning Appeal.
- iii. a determination of **Eligible 3rd Party Gas Connection Delay**, following due process (using any appropriate determinations from an Expert or ‘first independent engineer’, within the process and terms of the Gas Connection Agreement of attribution of subsequent delays between the Gas Connection provider and the Participant or by agreement between the Participant and the Gas Connection party.

*The relevant third party extension period for the Substantial Financial Completion milestone is Delay Type 1 as defined within the **Eligible 3rd Party Gas Connection Delay** definition in the Glossary.*

*The relevant third party extension period for the Substantial Completion milestone is the sum of Delay Type 2 plus Delay Type 3 as similarly defined within the **Eligible 3rd Party Gas Connection Delay** definition.*

Explanatory Note for the purposes of clarity: Using T-4 25_26 as an example

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Delay Type 1 is the Eligible delay in the Substantial Financial Completion milestone; this delay is known at the time of signing the Gas Connection Agreement (GCA) – and is therefore already incorporated within the setting of the ‘Target Completion Date’ within the GCA.

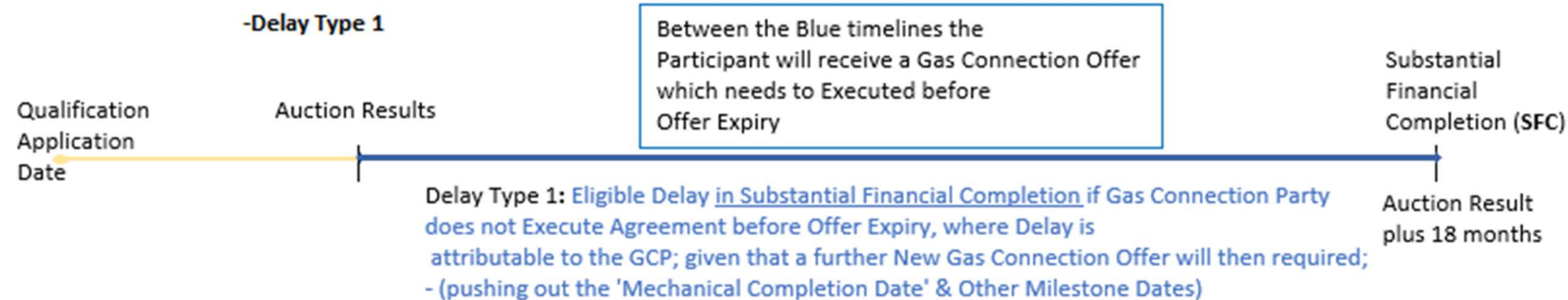
Delay Type 2 and Delay Type 3 are the eligible delays which both apply to the Substantial Completion milestone.

Delay Type 2 is the delay between the Mechanical Completion Milestone (set within the Qualification document) and the ‘Target Completion Date’ stated within the GCA. Very important to note that the Target Completion Date is not known to the participant right up to until the GCA is executed.

Delay Type 3 is any subsequent eligible delay between the ‘Target Completion Date’ and the ‘Actual Completion Date’ within the GCA.

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Eligible 3rd Party Gas Connection Delay Types:



-Delay Type 2 (post SFC)

On Execution of Contract - Participant is given a 'Target Completion Date'

Proposal is that Difference between 'Target Completion Date' and the original 'Mechanical Completion Date' within Participant Implementation Plan is Eligible delay (where attributable to GCP) towards the Substantial Completion M/stone

-Delay Type 3

In Practice the GCP can move the 'Target Completion Date' out - without being subject to Penalty

Proposal is that Difference between 'Target Completion Date' and 'Actual Completion Date' agreed as being attributable to the GCP is Eligible Delay towards the Substantial Completion M/stone