



## **Single Electricity Market**

**(SEM)**

### **Capacity Market Code Urgent Modifications**

#### **Workshop 37B Consultation Paper**

- CMC\_10\_24:** Introduction of Intermediate Length Contracts
- CMC\_11\_24:** Implementation of Early Delivery Incentives according to SEMC decision SEM-24-037

**SEM-24-052**

**22 July 2024**

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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 regarding the two Proposed Urgent Modifications to the Capacity Market Code (CMC) discussed at Workshop 37B, held on 10 July 2024.

1.1.2 The two Modification Proposals this consultation paper relates to are:

**CMC\_10\_24: Introduction of Intermediate Length Contracts**

**CMC\_11\_24: Implementation of Early Delivery Incentives According to SEMC Decision SEM-24-037**

## 1.2 BACKGROUND

1.2.1 On the 04 July 2024, the Regulatory Authorities (RAs) submitted two Urgent Modification Proposals (CMC\_10\_24 and CMC\_11\_24) under the terms of B.12.9.1 of the CMC, having assessed and deemed them Urgent as per B.12.9.3 of the CMC.

1.2.2 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.”*

1.2.3 On the 04 July 2024, the RAs instructed the System Operators to convene a Workshop, as per B.12.9.5 (b) of the CMC.

1.2.4 On the 11 July 2024, the RAs determined the procedure to apply to the Urgent Modification Proposals. This is shown in Appendix A. An overview of the timetable is as follows:

- i. The System Operators convened Workshop 37B where the Urgent Modification Proposals were considered on 10 July 2024.

- ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, prepared a report<sup>1</sup> of the discussions which took place at the workshop, provided the report to the RAs, and published it on the Modifications website promptly after the workshop.
- iii. The RAs are now consulting on the Urgent Modification Proposals (as per B.12.9.5), from the date of publication of the consultation until the closing date of Monday 12 August 2024.
- iv. As set out in B.12.11, the RAs will make their decision as soon as reasonably practicable following the conclusion of the consultation and will publish a report in respect of their decision by 11 September 2024.

## 1.3 PURPOSE OF THIS CONSULTATION PAPER

- 1.3.1 The purpose of this paper is to consult on the Proposed Urgent Modifications. Further detail is set out in the appended Urgent Modification Proposals in Appendix B.
- 1.3.2 The Regulatory Authorities hereby give notice to all Parties and to the Market Operator of a consultation on the Urgent Modifications Proposals.
- 1.3.3 Interested Parties and the Market Operator are invited to make written submissions concerning the proposed Urgent Modifications by no later than 17:00 on Monday 12 August 2024.
- 1.3.4 **Please note that late submissions will not be accepted.**
- 1.3.5 Upon closure of the consultation process, the Regulatory Authorities intend to assess all valid submissions received and form a decision to make a modification, not make a modification or undertake further consideration of each modification proposal.

## 2. MODIFICATION PROPOSAL

### 2.1 CMC\_10\_24 – INTRODUCTION TO INTERMEDIATE LENGTH CONTRACTS

Proposer: RAs

CMC\_10\_24: Proposal Overview

- 2.1.1 This Modification Proposal seeks to set out the proposed approach to implement the policy decisions set out in SEM-24-035<sup>2</sup>, which was published on 02 May 2024.

<sup>1</sup> [Capacity-Modifications-Workshop-37B-Report-V1.0.pdf \(sem-o.com\)](#)

<sup>2</sup> [SEM-24-035 Intermediate Length Contract Decision Paper | The Single Electricity Market Committee \(semcommittee.com\)](#)

- 2.1.2 This Modification Proposal has been raised as an urgent modification to ensure implementation of the relevant policy decisions ahead of the T-4 2028/2029 auction.
- 2.1.3 Under the pre-existing market design, market participants can only bid for a contract of one year in duration, or, in the case of New Capacity which has successfully applied to the RAs to obtain a New Capacity Exception, a contract of up to 10 years.
- 2.1.4 The decision published in SEM-24-035 allows both Existing and New Capacity to apply to the RAs to obtain a contract length of up to five years where they can demonstrate the following:
1. That the unit will be investing more than €100,000/MW<sub>d</sub> (the Intermediate Contract Investment Rate Threshold (ICIRT)), and that this investment will be efficiently incurred and delivers relevant benefits to consumers.
  2. That, post-investment, the unit will emit no more than 550gCO<sub>2</sub>/kWh. If a unit is subject to run-hour limits, investment made under an ILC contract should aim to remove the emission restriction on run hours or, at the least, not exacerbate the restriction.
- 2.1.5 Further details on the Urgent Modification Proposal are set out in the appended Modification Proposal Appendix B, which includes the draft changes to the CMC.

#### [CMC\\_10\\_24: Working Group Feedback](#)

- 2.1.6 Capacity Market Code Modifications Workshop 37B took place on Wednesday 10 July 2024 where the modification was presented and discussed.
- 2.1.7 The RAs presented their proposal and stated that the proposal seeks to implement the policy decisions of SEM-24-035.
- 2.1.8 BGE noted that the proposal was complex and questioned whether the removal of 10 years as the Maximum Capacity Duration in the legal drafting in E.5.1.1 (a) was necessary. BGE stated that it would prefer industry consultation on this.
- 2.1.9 BGE then queried if section M.15 was necessary and posited that an urgent Modification Proposal could be raised to deal with any additional issues and would represent a more suitable approach to avoid investor concerns around regulatory uncertainty and investment signals.
- 2.1.10 BGE further queried if a unit with an Intermediate Length Contract could apply for an extension to its Long Stop Date (LSD) under the third-party delay mechanisms.
- 2.1.11 The RAs responded to the first point (2.1.8), noting that it was not the intention of the change to shorten the duration of a contract for New Capacity which is above the NCIRT.
- 2.1.12 To the second question (2.1.9), the RAs responded that even urgent modifications take some time to implement. They also opined that in the case of this Modification Proposal, the RAs are operating on compressed timelines and therefore, the provisions of M.15 are included to provide a backstop to mitigate any unforeseen scenarios not captured in this Modification

Proposal. Further to the question, the RAs also outlined that the remit of any directions issued on the basis of this legal drafting would be within the scope of the initial decision paper, SEM-24-035, and not beyond that.

- 2.1.13 To the third question asked by BGE (2.1.10), the RAs stated that at the time of the workshop and as set out in the decision paper, it was not clear if capacity applying for an ILC would experience the same delays as ten-year new capacity.
- 2.1.14 BGE followed up with two further questions. The first question asked if a definition of “refurbished capacity” would be added to the glossary. BGE’s second question requested that equations or formulas could be used for clarity purposes regarding F.7.1.1.
- 2.1.15 The RAs responded to the first question in 2.1.14 that further consideration could be given to this point, but that “refurbished” is a term currently used within the CMC.
- 2.1.16 The TSOs also clarified that the inclusion of “refurbished capacity” from the glossary would incur a large amount of text changes throughout the code, and this would create a significant risk of unintended consequences.
- 2.1.17 The RAs responded to the second question in 2.1.14 that it was open to exploring this and suggested that industry respondents could submit such details in their consultation responses for the RAs to consider for the final drafting.
- 2.1.18 ESB GT suggested a legal drafting edit to remove ‘New’ before ‘Capacity Investment Rate Threshold’ in D.3.1.3 of the CMC to be consistent with proposed drafting in D.3.1.2 and E.5.1.1(a). ESB GT further requested consistent wording in the FAIP definition of this too. ESB GT additionally queried if the IAIP refers to the capacity duration in relation to E.5.1.1 (a) and if that is the case, where is this set out and whether it outlines the maximum years.
- 2.1.19 The RAs responded that consistency was necessary and it would further examine D.3.1.3.
- 2.1.20 The TSOs clarified that the maximum capacity duration would be linked to the investment threshold published in Section 2.8 of the IAIP as set out in D.3.1.2(h) of the Capacity Market Code (CMC).
- 2.1.21 ESB GT also asked what the targeted intention of changes is to section B.9.1.2.
- 2.1.22 The RAs noted that the changes were to restate and reemphasise the concern of market manipulation, particularly from portfolio investors. In this regard, bid and clearing prices could potentially be pushed upwards via manipulation.
- 2.1.23 ESB GT responded to this answer and noted that they understood that response. They also commented that unit-based bidding on USPC gave an individual bid price, meaning it was unlikely for a market participant to exert market power. ESB GT also underlined that the existing market design prevented this.
- 2.1.24 ESB GT queried if the language around M.15 could be clarified and asked if this legal drafting would allow the RAs to make retrospective changes.

- 2.1.25 The RAs confirmed that inclusion of this legal drafting would be to enact a backstop to fulfil all objectives of the decision paper. The RAs commented that as per the proposed legal drafting, it would only apply to the T-4 2028/2029 auction.
- 2.1.26 Energia expanded on a point raised by BGE regarding extensions applying to ILCs. Energia opined that treating refurbished capacity as New Capacity would mean that extensions could be applied for by those with ILCs. Energia further stated that a carve out may be necessary if the RAs did not want this to happen.
- 2.1.27 Energia also asked a question around the Unit Specific Offer Price Cap Breakpoint and if the RAs could give an example of such a scenario.
- 2.1.28 The RAs responded that this breakpoint was not a new measure and that this wording was already present in the Code. Conceptually, this change envisioned a scenario whereby part of a unit would be subject to ECPC and the other part subject to a USPC. The RAs commented that they were not aware of this structure ever having been applied.
- 2.1.29 The TSOs further explained that this change was initially intended for auto-producers to reflect higher costs and was never used in this sense.
- 2.1.30 FERA noted that refurbished capacity would be treated as New Capacity and queried whether, in the case that a Director's Certificate was not provided in time, refurbished capacity would be treated as existing capacity, and whether it would be terminated in time to enter the T-1 auction in that case.
- 2.1.31 The RAs noted that the timelines were dependent on when the capacity is terminated. In the case that the termination occurred at the Long Stop Date (LSD), it would be unlikely that the terminated capacity could enter the T-1 auction in time.
- 2.1.32 The RAs clarified that in the event of the absence of a director's certificate, the unit would be paid at the Auction Clearing Price and that the second and subsequent years of the ILC would be terminated.
- 2.1.33 FERA responded and asked whether the LSD would be brought forward and occur before T-1 auction to allow for timely entry. It further noted that this could mean Existing Capacity may be terminated without recourse to the T-1 auction.
- 2.1.34 The RAs responded and said that it is an investor's decision on whether to terminate before the LSD, and whether to terminate early enough to enter a T-1 auction, if there was a significant risk that the LSD would be missed.
- 2.1.35 ESB GT suggested that the Early Delivery Incentive (EDI) modification may help in this regard.
- 2.1.36 The RAs stated that this would be kept in mind going forward.
- 2.1.37 FERA also expressed concern regarding the powers of M.15, that it represented an 'estoppel' and was not satisfied with its inclusion.
- 2.1.38 The RAs reiterated that the scope of M.15 would be within the decision paper of SEM-24-035.

- 2.1.39 SSE asked what would occur if an existing unit applied for a USPC and submitted an opt-out notice for a planned outage to conduct refurbishment works, and the Exception Application was then rejected. SSE queried whether a unit would return to the one-year auction.
- 2.1.40 The RAs answered and noted that a market participant may apply for a five-year ILC with a USPC and/or a one-year USPC. If the ILC Exception Application is denied, the participant may receive a one-year USPC, or bid up to ECPC if they do not have a one-year USPC approved.
- 2.1.41 The TSOs clarified that the Qualification and Exception Application process are separate processes.
- 2.1.42 ESB GT expressed concern around the addition of text in J.2.1.1 as changes may be made during the implementation phase, which deviate from the director's certification. ESB GT further outlined that the wording on this clause was too precise and could result in director uncertainty on signing off on projects.
- 2.1.43 The RAs confirmed that the intention of the change was to prevent gaming and ensure refurbishment was delivered materially in line with the Exception Application.
- 2.1.44 ESB GT provided a scenario to gain clarity on when the LSD would apply for existing capacity and when it would apply for incremental capacity, added through the refurbishment. ESB GT raised the point that if awarded capacity achieved completion by the LSD in month thirteen, a scenario may arise where incremental capacity may be permitted to receive payments for subsequent years of the ILC contract, but the existing capacity would not receive payments for the same period.
- 2.1.45 The TSOs stated that the possibility of an analogous scenario already exists regarding an existing unit adding incremental capacity (i.e. if the incremental New Capacity is above the NCIRT, the applicable rules, including regarding the LSD apply).
- 2.1.46 ESB GT further sought a more refined definition of "Date of Start of Commercial Production."
- 2.1.47 Regarding clarity on the definition, the TSOs stated that this would begin once the refurbished and/or incremental capacity commences electrical output, to ensure that the CO2 limits that apply are those for New Capacity, fulfilling the decision regarding CO2 limits set out in SEM-24-035.

#### [CMC\\_10\\_24: Minded to Position](#)

- 2.1.48 The SEM Committee welcomes feedback and comments regarding the Proposed Urgent Modification.
- 2.1.49 The SEM Committee is minded to approve this proposal in order to ensure the implementation of ILCs ahead of the T-4 2028/29 auction. The SEM Committee considers this to be an important new mechanism, including to allow Existing Capacity to carry out refurbishment work and bridge the capacity gap between the late 2020s and early 2030s, which could both promote plant efficiency and avoid the need to lock-in additional high-carbon-emitting New Capacity, with a longer economic life than Existing Capacity.



## 2.2 CMC\_11\_24 – IMPLEMENTATION OF EARLY DELIVERY INCENTIVES ACCORDING TO SEMC DECISION SEM-24-037

Proposer: RAs

### CMC\_11\_24: Proposal Overview

- 2.2.1 This Modification Proposal seeks to implement the policy decision as set out in SEM-24-037.
- 2.2.2 The decision sets out the ability for a market participant to receive payment for early delivery for multi-year capacity at the same rate as its awarded capacity.
- 2.2.3 Early delivery payments will commence at most a year before the start of the capacity delivery year for the respective auction. EDIs will apply to all future auctions.

### CMC\_11\_24: Working Group Feedback

- 2.2.4 FERA identified a typo in drafting in section D.3.1.3 and F.5.1.3.
- 2.2.5 The RAs noted the typo and confirmed that the draft slides of both Modification Proposals would be published.

### CMC\_11\_24: Minded To Position

- 2.2.6 The SEM Committee welcomes feedback and comments regarding the Proposed Urgent Modification.
- 2.2.7 The SEM Committee is minded to approve this Modification Proposal. The SEM Committee holds the view that this is a pragmatic change to reward market participants that deliver capacity ahead of schedule.

## 3. CONSULTATION QUESTIONS

- 3.1.1 The SEM Committee welcomes views and responses on the proposed urgent modification raised within this consultation paper.
- 3.1.2 Respondents are invited to provide comments and feedback in respect of:
  - the proposed urgent modifications and its consistency with the Code Objectives.
  - any impacts not identified in the Modification Proposal Forms, e.g., to the Agreed Procedures, the Trading and Settlement Code, IT systems etc.; and
  - the detailed CMC drafting proposed to deliver the Urgent Modifications.

3.1.3 A template has been provided in Appendix C for the provision of responses.

## 4. NEXT STEPS

- 4.1.1 The SEM Committee intends to decide by 11 September 2024 on the implementation or otherwise of the Modification outlined within this consultation paper as per B.12.11.1 of the CMC.
- 4.1.2 Responses to the consultation paper **must** be sent to both the UR and CRU CRM Submissions inboxes ([CRMsubmissions@uregni.gov.uk](mailto:CRMsubmissions@uregni.gov.uk) and [CRMsubmissions@cru.ie](mailto:CRMsubmissions@cru.ie)), **by close of business 17:00 on Monday 12 August 2024. Please note that late submissions will not be accepted.**
- 4.1.3 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.