



Energy for
generations

ESB Generation and Trading Response SEMC Consultation Paper on Capacity Market Code Modifications (Workshop 37)

02/08/2024



Contents

1.	Summary information	3
2.	Introduction	3
3.	ESB GT Responses	3
3.1	CMC_06_24: Performance Securities for Extended Projects	3
3.1.1	Proposed Modification and its Consistency with the Code Objectives	3
3.1.2	Impacts Not Identified in the Modification Proposal Form	4
3.1.3	Detailed CMC Drafting Proposed to Deliver the Modification	5
3.2	CMC_07_24: Treatment of Capacity Contracts of Varying Duration in Constrained Auction Solution	5
3.2.1	Proposed Modification and its Consistency with the Code Objectives	5
3.2.2	Impacts Not Identified in the Modification Proposal Form	6
3.2.3	Detailed CMC Drafting Proposed to Deliver the Modification	8
3.3	CMC_08_24: Widening of Longstop Extension Process to Awarded Capacity for 2023-24 Auction	8
3.3.1	Proposed Modification and its Consistency with the Code Objectives	8
3.3.2	Impacts Not Identified in the Modification Proposal Form	9
3.3.3	Detailed CMC Drafting Proposed to Deliver the Modification	9
3.4	CMC_09_24: Amendment to J.6.1.6 to recognise extensions granted under SEM-23-101 and SEM-23-108	9
3.4.1	Proposed Modification and its Consistency with the Code Objectives	9
3.4.2	Impacts Not Identified in the Modification Proposal Form	10
3.4.3	Detailed CMC Drafting Proposed to Deliver the Modification	10
4.	CAPACITY MARKET CODE OBJECTIVES	11

1. SUMMARY INFORMATION

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2. INTRODUCTION

ESB Generation and Trading (GT) welcomes the opportunity to respond to SEMC Workshop 37 Consultation Paper on the following Capacity Market Code (CMC) modification proposals:

- **CMC_06_24:** Performance Securities for Extended Projects
- **CMC_07_24:** Treatment of Capacity Contracts of Varying Duration in Constrained Auction Solution
- **CMC_08_24:** Widening of Longstop Extension Process to Awarded Capacity for 2023-24 Auction
- **CMC_09_24:** Amendment to J.6.1.6 to recognise extensions granted under SEM-23-101 and SEM-23-108

3. ESB GT RESPONSES

3.1 CMC_06_24: Performance Securities for Extended Projects

3.1.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT agrees that the proposed modification is consistent with CMC objectives (b), (c), (d), and (f).

Currently, market participants must typically post their penultimate Performance Security from 13 months prior to the start of the relevant Capacity Year (or as otherwise set out in the relevant Final Auction Information Pack).

We note that in SEM-23-069, the RAs linked Performance Securities and termination payments to extensions granted under J.5.5 (Extension of Long Stop Date by Third Party Planning Appeal or Judicial Review) (and J.5.6 (Extension of Capacity Quantity End Date and Time)) of the CMC, for projects which cleared in the T-3 2024/25 and T-4 2025/26 capacity auctions.

This proposal seeks to align the timelines associated with the posting of Performance Securities with such extensions, for all projects. This proposal seeks to link the timelines associated with the posting of Performance Securities with such extensions, for all projects regardless of which auction they were awarded a capacity contract.

ESB GT supports the proposed modification as it ensures equal treatment for all projects granted an extension under J.5.5 and J.5.6 and mitigates undue risk exposure for new capacity due to Third-Party Planning Appeal or Judicial Review, for which the timelines for resolution are uncertain and are outside the control of participants.

We believe that the current arrangements risk deterring investment in the capacity market where project developers facing delay are expected to post a disproportionately large Performance Security without regard to project maturity and progression, for reasons beyond their control.

3.1.2 Impacts Not Identified in the Modification Proposal Form

We would urge the RAs to consider widening the applicability of this proposal to extensions granted under J.5.7 and J.5.8 of the CMC, as was discussed during the recent Workgroup meeting. We reiterate the importance of ensuring that the level of Performance Security posting required is aligned with relative project maturity and progression, as far as can reasonably be expected.

We believe that it is vital that the decisions taken by the RAs do not unduly discriminate between market participants or create undue disparities in risk exposure which could lead to project termination or deter future investment in the capacity market. This is especially important given the security of supply issue facing the market.

Decisions should apply consistently to all capacity auctions and projects insofar as possible to mitigate the negative impacts of regulatory uncertainty and discourage speculative behaviours.

3.1.3 Detailed CMC Drafting Proposed to Deliver the Modification

No proposed additions to drafting.

3.2 CMC_07_24: Treatment of Capacity Contracts of Varying Duration in Constrained Auction Solution

3.2.1 Proposed Modification and its Consistency with the Code Objectives

The updated proposal published alongside the SEMC consultation seeks to codify the priority of clearing Intermediate Length Contracts (ILC, 2–5-year contract length) in the capacity auctions before the New Capacity which to date have typically been 10-year contract duration.

The rationale for the introduction of ILCs into the CRM is primarily targeting aging thermal generators potentially in need of extensive refurbishment in order to improve reliability, availability and extend the operating life of the asset. This rationale was included in the Decision Paper by the RAs.

“Promoting investment in existing units should help improve efficiency and availability, decreasing the volumes of New Capacity needed, which would be beneficial to consumers and may have positive environmental benefits. Extending the life of existing CCGTs, for example, may help avoid locking-in new fossil fuel capacity with an economic life stretching into the late 2030s, and possibly beyond.”

While ESB GT agrees with the rationale for the introduction of ILCs, we believe the proposed modification is likely unnecessary as the desired outcome should already occur under existing CMC provisions as ILCs are expected to have lower bid prices than New Capacity.

The existing provisions of the CMC related to auction clearing considers price quantity pairs in the delivery year for the auction.

In seeking to assess total cost of projects, the proposal does not consider that a project awarded an ILC for up to five years could continue to obtain 1 year capacity contracts in future years which should be considered if the modification was to be progressed in order that all competing projects are assessed on an equal basis. Those 1-year contracts could also be subject to USPC which add to the total cost of the project over a specified time period.

In assessing the proposed modifications, the RAs should satisfy themselves that the use of total cost (Price x Quantity x Duration) as a deciding factor in clearing an auction is consistent with the State Aid decision¹ in respect of the CRM which was based on the marginal clearing price of auctions which is currently the case in the Capacity Remuneration Mechanism (CRM).

The State Aid decision also states that:

“(47) The permanent solution is based on a sealed bid combinatorial auction, whereby bidders simultaneously submit one or more bids, per capacity unit, with each bid consisting of a single price / quantity pair for that Capacity Year.”

Also, the State Aid decision specifically references Capacity Year as being the delivery period being addressed by an auction.

“(44) The first T-4 auction will cover the delivery period of the Capacity Year 2022/23”

3.2.2 Impacts Not Identified in the Modification Proposal Form

ESB GT believes that the proposal would not be necessary if it were not for the continued requirement for Locational Capacity Constraints (LCCs) within the SEM.

¹ [SEM-24-035 ILC Decision Paper.pdf \(semcommittee.com\)](#)

¹ [Microsoft Word - SA.44464 2017N WLAL WLWL.docx \(europa.eu\)](#)

The intention at outset of the creation of the CRM was that the use of LCCs should be an interim measure until such time as network reinforcement allowed for a fully market-based clearing of the Capacity Auctions. This point was acknowledged in the EU Commissions State Aid Approval decision as highlighted by the Proposer.”

“(155) There are two main reasons why the interim solution of contracting locationally important capacity on top of the capacity requirement was selected as the preferred option. First, the origin of the locational constraints lies in concrete grid congestions which are in the process of being addressed by grid expansion projects and are expected to be gradually resolved to a large extent by the end of the transitional period, i.e., 2024.”

The TSOs and the RAs should prioritise the removal of physical network constraints and demonstrate a clear implementation plan of projects to do achieve this and regularly update industry as to progress to ensure maximum transparency in relation to future auctions.

Incentivisation of low carbon generation

ESB GT also wishes to express our concerns regarding the future investment signals for the procurement of new low carbon capacity within the CRM.

The only requirement with regard to qualification for an ILC for the forthcoming auction that relates to emissions is that the generator should have emissions no greater than what pertained before the refurbishment.

ILCs are likely to allow to enable the retention of existing capacity and potentially allow some of that capacity to proceed with conversion to low carbon fuels however there will be still a significant amount of new low carbon thermal capacity necessary to account for intermittency of the renewable sources as the current fleet reaches end of life.

ESB GT encourages the RAs and TSOs to review the use of ILCs for future auctions with a view to further incentivising a transition low carbon generation.

While ILCs will help to retain the availability of some the aging plants, these will ultimately reach the end of their life in mid 2030s and at that point the system must start to see the commissioning of the new low carbon generation necessary to meet national policy expectations with respect to carbon intensity.

According to Generation Capacity Statement 2023-2032 there is currently approx. C.3.5GW of capacity older than 20 years (c. 47% of overall thermal capacity) and c.30% of the overall thermal capacity is older than 30 years. The TSOs have stated that they do expect the majority of this aging fleet to be available for the study period (up to early 2030).

ESB GT urges regulatory authorities to open the discussion with stakeholders regarding future of Capacity Market to ensure the system will not rely on assets with over 40 years of service without appropriate replacement or adaptation for the future. These discussions should take place in tandem to the preparation for a new application in respect of State Aid for the CRM.

3.2.3 Detailed CMC Drafting Proposed to Deliver the Modification

No proposed changes.

3.3 CMC_08_24: Widening of Longstop Extension Process to Awarded Capacity for 2023-24 Auction

3.3.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT agrees that the proposed modification is consistent with CMC objectives (a), (b), (f) and (g).

The proposal seeks to widen the applicability of J.5.8 of the CMC (Extension to Long Stop Date and Capacity Quantity End Date and Time after achieving Substantial Financial Completion) to projects which have been awarded capacity contracts for the Capacity Year beginning on 1 October 2023 and beyond. Currently, only projects awarded contracts for the Capacity Year beginning 1 October 2024 are eligible for extensions under J.5.8.

Consistent with responses to multiple previous modification proposals and consultation, including SEM-23-101, ESB GT is supportive of the proposed modification as it ensures equitable treatment for all projects which had cleared in their respective capacity auctions prior to the publication of the SEM-23-101 in September 2023. It was not clear at the time why the RAs did not allow for projects holding capacity contracts awarded in the T-1 and T-4 2023/24

Auctions to avail of extensions under J.5.8, given that the relevant Long Stop Date had not yet lapsed.

In their decision, we note that the RAs did not consider the changes to the CMC introduced by SEM-23-101 to be retrospective. As such, we agree that the current proposal should not be considered retrospective, even where the Capacity Year has already started as the relevant date, the Long Stop Date remains in the future.

3.3.2 Impacts Not Identified in the Modification Proposal Form

This modification proposal underlines the importance of ensuring that any RA Decisions uphold the principle of equitable treatment for all project developers and have due regard to the operating environment facing project developers. Indeed, the challenges facing project developers in the SEM were widely recognized by market participants long before the introduction of SEM-23-101.

ESB GT believes that it would be ill-advised for RAs to overlook this modification proposal where projects may be forced to terminate or become if unable to deliver by the relevant Long Stop Date. This risks exacerbating the existing capacity adequacy shortfall in the SEM, particularly as it is uncertain that terminated projects would be able to secure capacity contracts in upcoming capacity auctions.

3.3.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional changes in proposed drafting identified.

3.4 CMC_09_24: Amendment to J.6.1.6 to recognise extensions granted under SEM-23-101 and SEM-23-108

3.4.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT is supportive of the proposed modification which we believe to be in the spirit of code objectives (b), (c) and (g).

The modification seeks to amend J.5.8.2 of the CMC to allow Multi-Year New Capacity to apply for an extension to their LSD and/or CQEDT even if it expects to achieve Minimum Completion by the LSD, in addition to introducing minor legal drafting to J.5.7 and J.5.8 to allow market participants to apply for an extension to either their LSD and/or CQEDT.

We believe the proposed substantive change promotes fairness in the application of J.5.8 of the CMC where projects facing delay, but still expected to meet Minimum Completion by their LSD, should have the same recourse to apply for an extension to their CQEDT as other market participants facing delay.

3.4.2 Impacts Not Identified in the Modification Proposal Form

N/A.

3.4.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional changes in proposed drafting identified.

4. CAPACITY MARKET CODE OBJECTIVES

A.1.2.1 *This Code is designed to facilitate achievement of the following objectives (the “Capacity Market Code Objectives”):*

- a) 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;
- b) to promote competition in the provision of electricity capacity to the SEM;
- c) to provide transparency in the operation of the SEM;
- d) to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and
- e) 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.
- f) become parties to the Capacity Market Code; and
- 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.