Single Electricity Market

(SEM)

Capacity Market Code Modifications

Workshop 43 (Part A)

Decision Paper

CMC_04_25:	Adjustment of CMC Auction Qualification Criteria to Facilitate Complex Projects within State Aid Approval
CMC_05_25:	Early Termination of Intermediate Length Contract Capacity
CMC_06_25:	Amendment of ARHL De-Rating Factor Definition to Exclude Intermediate Length Contract
CMC_07_25:	Maintaining Net Present Value in New Capacity Market Contracts for No-Fault Delays

SEM-25-045

29 August 2025

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decisions relating to four of the six Proposed Modifications to the Capacity Market Code (CMC) discussed at Workshop 43 (Part A), held on the 28 May 2025:

CMC_04_25: Adjustment of CMC Auction Qualification Criteria to Facilitate Complex Projects within State Aid Approval

CMC_05_25: Early Termination of Intermediate Length Contract Capacity

CMC_06_25: Amendment of ARHL De-Rating Factor Definition to Exclude Intermediate Length Contract

CMC_07_25: Maintaining Net Present Value in New Capacity Market Contracts for No-Fault Delays

The RAs require further consideration on CMC_08_25 and CMC_09_25 and will issue a decision in the coming months. No changes regarding CMC_08_25 or CMC_09_25 will be implemented for the T-4 2029/30 auction. The decisions within this paper follow on from the associated consultation (SEM-25-023), which closed on 03 July 2025.

A consultation period followed where 14 responses were submitted, one of which was marked as confidential.

Summary of Key Decisions

Following consideration of the proposals and the responses received to the consultation, the SEM Committee have decided:

Modification		Decision	Implementation Date
CMC_04_25:	Adjustment of CMC Auction Qualification Criteria to Facilitate Complex Projects within State Aid Approval	Not make a Modification	N/A
CMC_05_25:	Early Termination of Intermediate Length Contract Capacity	Not make a Modification	N/A
CMC_06_25:	Amendment of ARHL De-Rating Factor Definition to Exclude Intermediate Length Contract	Not make a Modification	N/A
CMC_07_25:	Maintaining Net Present Value in New Capacity Market Contracts for No-Fault Delays	Not make a Modification	N/A

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1. OVERVIEW

1.1. BACKGROUND

1.1.1. The SEM CRM detailed design and auction process has been developed through a series of consultation and decision papers, all of which are available on the SEM Committee's (SEMC) website. These decisions were translated into legal drafting of the market rules via an extensive consultative process leading to the publication of the Trading and Settlement Code (TSC) and the Capacity Market Code (CMC). Current versions of the CMC and the TSC are published on the SEMO website.

1.1.2. Process and Timeline for this Modification Proposals discussed at Workshop 43 (Part A).

1.1.3. On the 14 May 2025, Lumcloon Energy submitted a Modification Proposal (CMC_04_25); EPUKI submitted two Modification Proposals (CMC_05_25 and CMC_06_25); Bord Gais Energy submitted one Modification Proposal (CMC_07_25) and the System Operators (SOs) submitted two Modification Proposals (CMC_08_25 and CMC_09_25) all under the terms of B.12.4 of the CMC. These were deemed to be Standard.

1.1.4. This decision paper deals with CMC_04_25, CMC_05_25, CMC_06_25, and CMC_07_25 only. The RAs require further consideration on CMC_08_25 and CMC_09_25 and will issue a decision in the coming months. No changes regarding CMC_08_25 or CMC_09_25 will be implemented for the T-4 2029/30 auction.

1.1.5. The RAs reviewed each Modification Proposal submitted to this workshop and determined that they were not spurious as per B.12.6.1 of the CMC .

1.1.6. On the 14 May 2024, the RAs determined the procedure to apply to the Modification Proposals. An overview of the timetable is as follows:

1.1.7. The System Operators convened Workshop 42 where the Modification Proposals were considered on 28 May 2025.

1.1.8. The System Operators, as set out in B.12.7.1 (j) of the CMC, prepared a report[1] 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.

1.1.9. The RAs then consulted on the Modification Proposal from the date of publication of the Consultation until the closing date of Friday 30 May 2025.

1.1.10. As set out in B.12.11.6, the RAs shall make their decision as soon as reasonably practicable following conclusion of the consultation and publish a report in respect of their decision. The purpose of the decision paper is to set out the decision relating to the Standard Modification Proposals discussed during Workshop 43 (Part A) to:

[1] Capacity Modifications Workshop 43A Report.pdf

a) Make a Modification;

b) Not make a Modification; or

c) Undertake further consideration in relation to the matters raised in the Modification Proposal.

1.1.11. This decision paper provides a summary of the consultation proposals and sets out the SEM Committee's decision.

1.2. RESPONSES RECEIVED TO CONSULTATION

1.2.1. This paper includes a summary of the responses made to Capacity Market Code Workshop 43A Consultation Paper (SEM-25-023) which was published on 05 June 2025 and closed on 03 July 2025.

1.2.2. A total of 9 responses were received to CMC_04_25, CMC_05_25, CMC_06_25, and CMC_07_25 to consultation SEM-25-023 with one marked as confidential. The non-confidential responses to these modifications are from:

- Energia
- ESB Generation and Trading (ESB GT)
- SSE
- Bord Gáis Energy Limited (BGE)
- EP UK Investments (EPUKI)
- Federation of Energy Response Aggregators (FERA)
- EirGrid plc and SONI Limited (TSOs)
- iPower Flexible Energy (iPower)

2. CMC_04_25 – ADJUSTMENT OF CMC AUCTION QUALIFICATION CRITERIA TO FACILITATE COMPLEX PROJECTS WITHIN STATE AID APPROVAL

2.1. CONSULTATION SUMMARY AS PRESENTED BY LUMCLOON ENERGY LIMITED

2.1.1. This Modification Proposal seeks to introduce a new definition of 'applicable time frame' to the Capacity Market Code (CMC) glossary for the purposes of assessing an Application for Qualification and to insert this new definition into E.7.2.1(f) and E.7.5.1(c) accordingly. The Modification Proposal also seeks to introduce a new definition of 'complex project' into the glossary. The proposed definition of 'complex project' is suggested as 'New Capacity where the assessment of feasibility under E.7.2.1 (f) and E.7.5.1 (c) determines that there is a reasonable likelihood that the delivery of new Transmission System or Distribution System to the Connection Point, or new gas network connection infrastructure, will not be achieved by the start of the relevant Capacity Year.'

2.1.2. The proposer argues that complex generation projects require longer lead times to commission, rendering complex projects unable to qualify within the four-year commissioning window. Therefore, this Modification Proposal seeks to extend the delivery window from the start of the relevant Capacity Year to the 'applicable time frame' i.e. the Long-Stop Date. The change would be limited to T-4 auctions only.

2.2. RESPONSES TO MODIFICATION PROPOSAL

2.2.1. Of those that commented, most respondents were not supportive of the proposal in their responses, but most supported longer auction lead times in the form of a T-5/T-6 for future auctions.

2.2.2. iPower noted in its consultation response that recent T-4 auctions have not provided a full four years for delivery and welcomes the proposed extended timeframes. It also proposed for lead times to be increased to at least four years and welcomed the RAs' openness to longer lead times while also recognising the practical challenges in doing so.

2.2.3. FERA supported this Modification Proposal and agreed that the current auction timelines do not facilitate all of the potential projects, with an average of 3.5 years from contract award to start of the capacity year.

2.2.4. SSE supported the Modification Proposal. It opined that there are strong incentives in place to deliver on time, using Implementation Progress Reports, which determine the status of projects at all stages. SSE further noted that new projects often require longer lead times to deliver, resulting from delays to third-party network infrastructure delivery. SSE also referenced the SEM-22-054 report authored by EY, which notes that new capacity projects should be afforded sufficient lead time for build out.

2.2.5. EPUKI supported the Modification Proposal on the basis that the proposed amendments conform with the design and EU State aid approval for the Capacity Remuneration Mechanism. It also opined that this Modification Proposal is consistent with the SOs' approach to grid connection delivery. EPUKI noted its understanding that, historically, the SOs have taken the position that grid connections need to be delivered by the Long Stop Date, rather than the start of the Capacity Year. This reality, in EPUKI's view, is an inconsistent application of the rules and represents an inappropriate balance of risk between parties.

2.2.6. EPUKI also noted the temporary emergency generation which has been procured at a greater cost than a competitive auction, as out-of-market generation. Therefore, EPUKI considered that supporting greater participation of units (who otherwise would not have qualified due to wider network development issues outside of the participants purview) via this proposed Modification would result in more competitive pricing and, by extension, a greater contribution to security of supply. EPUKI also noted that strong delivery incentives still exist, particularly due to the value of capacity payments in the earlier years of a contract. EPUKI added that the SOs should take steps to procure additional capacity in the T-1 auction to mitigate risk of a capacity shortfall should a 'complex project' be successful at auction.

2.2.7. BGE supported the principle of this modification but did not support codifying an additional eighteen-month delivery window. BGE opined that, in principle, auctions should be held with sufficient delivery timeframes ideally at least or in excess of five years before the month delivery is initially required. BGE noted that the longer lead time would help mitigate the major supply chain, planning and gas/electricity grid connection challenges that developing projects are currently enduring.

2.2.8. BGE also shared the concerns raised by the RAs of the impact on volumes calculations for capacity auctions if the delivery window for some projects is extended by eighteen months, undermining the expected security of supply for a given capacity year where, ultimately, the cost would be borne by the consumer. BGE further urged the RAs to consider longer auction lead times of five years or more, and understood it to comply with the EU State Aid Framework.

2.2.9. Energia opposed CMC_04_25 where it stated that it would instead be preferable for the RAs to ensure auction lead times were at least four years. Energia further opined that allowing some capacity - that is expected to deliver after the start of the relevant capacity - to qualify would create an unlevel playing field.

2.2.10. ESB GT did not agree with the intention of this Modification Proposal and considered it did not align with the CMC objectives. It opined that introducing a T-5/T-6 auction would better contribute to security of supply objectives and reflect real world timelines with major infrastructure projects. ESB GT stated that it continues to encourage the SEM Committee to hold future auctions of up to T-6 to reflect real-world timelines associated with major infrastructure projects.

2.2.11. The TSOs believed that the Modification Proposal is not consistent with CMC objectives (b) and (g), and that a five-year commissioning window for complex projects would also not conform with the concept of a T-4 auction as detailed under the Code. They further stated that the burden of

late delivery falls on the end consumer through capacity shortfalls when required, particularly over the winter periods during the eighteen-month delay. This alone, in their view, is detrimental to overall security of supply objectives and may result in higher CRM costs via higher volumes at a subsequent T-1 auction to cover this capacity shortfall.

2.2.12. The TSOs also stated that there may be merit in adjusting auction delivery timelines and to further consider how complex projects which may provide capacity but require additional time to deliver can be facilitated.

2.3. SEM COMMITTEE DECISION

2.3.1. The SEM Committee welcomes the feedback provided by participants both as part of the Workshop and through the consultation process.

2.3.2. This Modification Proposal seeks to amend definitions in relation to assessment of qualification, including deliverability, to better align the Capacity Market Code with the intended design of the CRM (as set out in the CMC Detailed Design Decision Paper). The Modification Proposal seeks to extend the delivery window for 'Complex Projects', based on the TSOs' reasonable assessment of likelihood of delay, from the start of the relevant Capacity Year to the 'applicable time frame' i.e. the Long-Stop Date, particularly for T-4 auctions.

2.3.3. The SEM Committee's view is that this Modification Proposal, and its associated rationale, omits relevant context which was included in the Capacity Remuneration Mechanism's detailed design decision (SEM-16-022). At the time, it was acknowledged that more complex generation plant would require a lead time of 5 years from auction to complete their financing and construction. However, at the time, the more complex plant was contrasted to established technologies such as an CCGT, solar and batteries[2]. It was widely accepted, through the consultation process with industry, that a CCGT can complete its financing, then be built and be operational in 4 years. While solar and battery plant may be operating within a year. The proposed definition for 'complex projects', if implemented, has the potential to extend ex-ante the deliverability window for a large number of plants, including CCGT, which would clearly be inconsistent with the intended design of the Capacity Remuneration Mechanism.

2.3.4. Furthermore, the SEM Committee is of the view that the proposed definition for 'Complex Projects' is not sufficiently deterministic and the SEM Committee agrees with one respondent's view that it could lead to an unlevel playing field for those bidding participants, where some are granted more delivery time than others based on an ambiguous definition of 'Complex Projects'. This is inconsistent with the Capacity Market Code Objectives.

2.3.5. The existing delay modification mechanism, set out in J.5 of the Capacity Market Code, is designed to apply to individual units post-auction on a case-by-case basis, in line with CMC objectives, where events outside of the control of the developer have led to delay in delivery. However, this

[2] SEM-16-022 – Capacity Remuneration Mechanism – Detailed Design, Decision Paper 2, 10th May 2016, p.82.

Modification Proposal could apply to multiple units, provided the proposed definition of a 'Complex Project' is achieved. This would likely exacerbate security of supply risks.

2.3.6. In addition, the TSOs calculate the Required Quantities for each T-1 and T-4 auction based on forecast needs for the Capacity Year in question. If the SEM Committee accepted this Modification Proposal and a significant volume of projects met the broad proposed definition, there would likely be a volume mismatch between system needs and volumes procured for a particular Capacity Year. This is a suboptimal outcome and one contrary to security of supply objectives and would also place an additional cost on the consumer.

2.3.7. The SEM Committee notes industry's request for a longer lead time to delivery, in the form of a T-4 auction, with four years for delivery, or in the form of a T-5 or T-6 auction.

2.3.8. In terms of a T-4 auction, the SEM Committee has acknowledged the recommendation of the EY report to increase the lead time of auctions to at least four years from announcement of auction results to the start of the capacity delivery year. The ambition of the SEM Committee is to run capacity auctions in line with this recommendation. The decision to have a shorter lead-in time for the T-4 2029/30 was made in light of a number of practical realities, inter alia that RA resources were diverted due to legal matters for a significant period of time in 2024, impacting the planning and development of the subsequent auction, and the need for a 'lessons learned' process following the T-4 2028/29.

2.3.9. Regarding a T-5/T-6 auction, the SEM Committee does not oppose the premise; however, such a deviation in the commissioning window, which was consulted upon in the high-level design (SEM-16-022[3]), could potentially be subject to State aid renotification. The SEM Committee will continue to assess the feasibility and merits of introducing such a timeline for a future review of the Capacity Remuneration Mechanism.

2.3.10. Finally, as per the correspondence issued to EirGrid on 29 April 2025 (D/25/9470), the Commission for the Regulation of Utilities (CRU) directed EirGrid to issue a grid connection offer to any applicant located in Ireland that is successful in the T-4 Capacity Auction for 2029/30 and that has provided evidence of granted planning permission for the unit by the Qualification Application Date for the 2029/30 T-4 Capacity Auction. This is a change in approach from previous years, where submission of planning permission was sufficient, and will reduce the extent to which less underdeveloped projects progress through qualification.

2.3.11. Based on all of the above reasoning, the SEM Committee has decided not to make a Modification.

[3] SEM-16-022 I SEM CRM Detailed Design Decision Paper 2 | The Single Electricity Market Committee

3. CMC_05_25 – EARLY TERMINATION OF INTERMEDIATE LENGTH CONTRACT CAPACITY

3.1. CONSULTATION SUMMARY AS PRESENTED BY EP UK INVESTMENTS

3.1.1. This Modification Proposal seeks to introduce a new remedial action to the CMC to allow a participant with an Intermediate Length Contract (ILC) to terminate the second and subsequent years of their contract. The proposed legal drafting would introduce a new section J.5.9 to the CMC, which aims to allow those with an ILC contract to have years 2-5 of their contract terminated if they acknowledge in an Implementation Progress Report that they don't expect to achieve Substantial Completion by the LSD. The proposal would see the contract revert to a one-year contract.

3.1.2. The proposer argues that this will allow participants who are no longer able to meet the requirements of their ILC contract to continue to provide capacity in subsequent Capacity Years.

3.2. RESPONSES TO MODIFICATION PROPOSAL

3.2.1. Feedback to this Modification Proposal was mixed. Five respondents supported the proposal (ESB GT, EirGrid and SONI, BGE, and SSE), although challenges were recognised by some, and two respondents (iPower and FERA) were not supportive or had concerns regarding the Modification Proposal.

3.2.2. ESB GT, EirGrid and SONI, BGE, and SSE agreed with the aim of the modification. ESB GT argued that it supports more flexibility in managing multi-year capacity contracts, the TSOs agreed that the modification is in line with the Code objectives, and BGE flagged that this proposal addresses the risk of investment challenges faced by participants. EPUKI, as proponent, also expressed its support for the modification.

3.2.3. ESB GT, BGE and SSE were of the opinion that there is currently no route to terminate early. ESB GT, BGE, SSE and EPUKI stated that this modification is needed to trigger an early termination which would allow an opportunity for participation in the next T-1 or T-4 auctions that would otherwise be missed. ESB GT expressed preference for a more definite termination trigger to streamline ILC exit and reduce administrative burden.

3.2.4. EPUKI commented on the risks to security of supply if subsequent years are terminated. ESB GT noted that the modification would enable security of supply since existing capacity should still be able to contribute its capacity where it has an ILC that it has deemed itself unable to fulfil.

3.2.5. EPUKI argued that the termination issue creates a disincentive for units to undertake refurbishment and seek an ILC due to the increased associated risk.

3.2.6. On the timelines for termination, EPUKI were of the view that ILC contracts awarded for the 2028/2029 T-4 Capacity auction are likely to commence refurbishment work in Q2 2028 for delivery in October 2028. Therefore, they argued that if any issues arose which resulted in the

project being unable to deliver, it would be too late for the participant to terminate and participate in the T-1 2028/29 auction and possibly other auctions.

3.2.7. However, BGE argued that in the case of units realising close to delivery that the LSD will not be met, extensions are equally applicable to ILC units which should help mitigate concerns of missed capacity revenues.

3.2.8. iPower stated its support for the rationale of this Modification Proposal but agreed with the RA position that current rules already allow for a project to state in an Implementation Progress Report an inability to meet Substantial Completion by the LSD and choose to terminate.

3.2.9. iPower argued that options for market participants to terminate early and re-enter capacity auctions need to be more clearly laid out so that the contract duration of existing capacity could be maintained at the clearing price. iPower also flagged that longer duration capacity contracts for existing capacity would be welcomed.

3.2.10. BGE proposed additional changes to this modification if it were approved. These proposals were increased scrutiny to be applied to ILC units' Implementation Progress Reports considering the lack of milestones and related penalties and considering termination charges with a view to deterring short notice ILC terminations.

3.2.11. Potential misuse and gaming concerns were flagged by iPower, FERA and BGE. BGE stated there is further scope to regulate against the flagged gaming opportunities including robust requirements for ILC applications and mitigation of high price benefits for a Party's portfolio.

3.2.12. However, SSE noted that rigorous demonstration of investment is already needed in ILC exception application process as well as a signed Director's certificate confirming the application is not for purposes of market manipulation.

3.2.13. iPower flagged the potential for early terminations to reduce future capacity and drive prices up and the TSOs noted that the loss of incremental refurbished capacity would impact capacity requirements and may result in a MW gap.

3.2.14. The TSOs suggested a series of amendments to the legal drafting proposed by EPUKI which include amendments to J.6.1.6A instead of J.5, referring to J.6.1.3(f) to link to consultation with RAs, describe 'New Capacity that is repowered or refurbished capacity based on previous Existing Capacity' instead of referring to length of the contract. Additionally, the TSOs suggested that any amended text should be clear that termination excludes the first CY and to consider regard to G.3.1.9 that refers to paying first year at the auction clearing price.

3.3. SEM COMMITTEE DECISION

3.3.1. The SEM Committee welcomes feedback from participants from both the initial workshop and the subsequent consultation period.

3.3.2. In relation to the comments received from participants, the SEM Committee notes agreement with the aim of the proposal amongst most participants but also notes concerns regarding market power abuse raised by some participants, and shared by the SEM Committee in its Consultation Paper SEM-25-023, that have not been alleviated in the responses by participants.

3.3.3. In response to comments from participants flagging that there is currently no clear route to terminate early, the SEM Committee notes that, as per J.4.2.1, participants with awarded new capacity (including ILC based on existing capacity) 'shall submit an Implementation Progress Report to the System Operators' which includes 'identified or potential delays in achieving outstanding Milestones' as described in J.4.2.6(c). This would allow for early termination of awarded new capacity when 'the Participant acknowledges in an Implementation Progress Report that it does not expect to achieve Minimum Completion by the Long Stop Date' as described in J.6.1.3(f).

3.3.4. It was flagged by one participant that refurbishment works for delivery in CY 28/29 is likely to commence in Q2 2028; however, as per SEMO's published Provisional Outage Programme for 2027 and 2028 (as of 23rd July 2025), most outages concerning ILC refurbishment works to deliver in CY2028/29 are scheduled in 2027, one in 2026, and only two units have scheduled outages in 2028. The SEM Committee acknowledges this outage programme is provisional and subject to change but illustrates widespread intent to finish the main refurbishment works before Q2 2028.

3.3.5. In response to concerns that ILC units should be able to terminate for legitimate reasons without risking revenues, the SEM Committee thinks it is reasonable to expect that participants should have an informed opinion on whether they will be able to deliver before the LSD in advance of commencement of the main refurbishment works and should flag potential delays at Implementation Progress Reports, which may allow for early termination.

3.3.6. In relation to the risk of existing units not being able to contribute to security of supply if this modification is not implemented, which was raised by two respondents, the SEM Committee notes that clause PC.4.5 of the EirGrid Grid Code and PC6.1.6 of the SONI Grid Code places an obligation on generators above 50 MW to provide the TSO with three-year's notice prior to closing (or two years when less or equal to 50 MW).

3.3.7. The SEM Committee also notes that, as described in the Guidance Note SEM-25-024, while ILC projects typically come with lower delivery risk than new build projects, they will still be eligible to apply to the RAs for extensions under J.5.5, J.5.6, J.5.7 and J.5.8. The SEM Committee notes that, as per J.5.7.1, these provisions are in place until such time as the RAs consider appropriate. As noted by a participant, the SEM Committee also considers that these provisions should help mitigate concerns of missed capacity revenues due to late delivery and around loss of incremental refurbished capacity potentially resulting in a MW gap.

3.3.8. Additionally, in response to increased risk associated with terminating and ILC investment challenges flagged by participants, the SEM Committee notes that, as per SEM-24-035, existing units awarded an ILC contract are not subject to termination fees, which should alleviate some of the participant's concerns. However, the SEM Committee also notes that it is minded to keep this issue (of not applying termination payments and performance security to ILC units based on

existing capacity) under review, 'particularly if there is a failure by market participants to deliver the investment as envisaged'.

3.3.9. The SEM Committee notes comments from a participant requiring enhanced scrutiny to be applied to milestones and Implementation Progress Reports for ILC units, and to consider termination charges with a view to deterring short notice ILC terminations. The SEM Committee reiterates that, as described in the Guidance Note SEM-25-024, ILC applicants for the 2029/30 T-4 and all subsequent auctions have to submit Implementation Plans and, while some milestones in the Implementation Plan may be excluded, this is only as an exemption when applicants are able to justify why certain milestones are not relevant. However, as mentioned above, the decision to not apply termination payments to ILC units based on existing capacity is not necessarily enduring and will be reviewed on an ongoing basis.

3.3.10. While a participant is of the opinion that this modification would not introduce additional gaming potential as enough provisions are in place to prevent market manipulation in the ILC Exception Application process, the SEM Committee reiterates its concerns flagged in the Consultation Paper SEM-25-023 and agrees with concerns raised by other participants around potential misuse and market power abuse if this modification was introduced.

3.3.11. The SEM Committee's concerns raised on the potential of driving prices up by entering into an ILC contract and then terminating but still benefiting from a higher price have not been alleviated by the responses received.

3.3.12. Based on the reasons outlined above, the SEM Committee has decided to not make a Modification.

4. CMC_06_25 – AMENDMENT OF ARHL DE-RATING FACTOR DEFINITION TO EXCLUDE INTERMEDIATE LENGTH CONTRACTS

4.1. CONSULTATION SUMMARY AS PRESENTED BY EP UK INVESTMENTS

4.1.1. This Modification Proposal seeks to exclude ILCs from the definition of Annual Run Hour Limits (AHRL) Derating Factor (DRF) total in the glossary of the CMC.

4.1.2. The proposer states that Existing Capacity entering the auction could enter with no AHRL derating, but for the purposes of calculating commissioned capacity, the capacity would be recategorized as new and therefore, the AHRL derating would apply for an ILC contract, potentially halving expected capacity revenue.

4.1.3. The proposer argues that without this change, significant derating could occur in the event of a possible ILC contract, dampening the economic incentives to apply for a refurbishment ILC contract.

4.2. RESPONSES TO MODIFICATION PROPOSAL

4.2.1. Feedback to this Modification Proposal was mixed. Of those that commented, four respondents signalled support for the proposal, two respondents were not supportive of the proposal and one signalled support for the rationale behind the proposal but indicated that further assessment is needed.

4.2.2. iPower, EPUKI, FERA and SSE indicated support to the change to exclude ILCs from the definition of ARHL DRF.

4.2.3. ESB GT indicated that a reduction in derating after ILC refurbishments is counterintuitive but indicated that the impact is not clear from the proposal and suggested that additional assessment should be carried out.

4.2.4. The TSOs and BGE were not supportive of this modification.

4.2.5. iPower argued that this change is necessary to maintain alignment with the objectives of the Capacity Market of ensuring security of supply, encouraging efficient investment, and facilitating the low-carbon transition.

4.2.6. EPUKI, as proponent, strongly supported this modification as it considers the risk of ILCs being heavily de-rated due to ARHLs to be an unintended consequence of the ILC implementation.

4.2.7. The TSOs commented that it is not clear that the Proposed Modification is consistent with the Code Objectives and argued that it is important to maintain balance between incentivising refurbishment investments and ensuring an accurate reflection of refurbished capacity's contribution to ARHL DRFs.

4.2.8. BGE also indicated that the proposal is not consistent with the Code objectives b, c, and g, as it undermines efficient, economic operation of the Capacity Market, creates questions of transparency in how units with run-hour limits that are technically “New” would be treated differently to other “New” units that aren’t the subject of an ILC, and the quality/reliability of the electricity supply across the Island.

4.2.9. iPower, ESB GT and EPUKI were of the opinion that policy is currently contradictory. iPower argued that applying ARHL DRFs penalises ILC assets, which contradicts policy intent and sends a mixed market signal. ESB GT argued that improved performance from ILC refurbishments would negate justification for a reduction in de-rating. EPUKI argued that a project undergoing ILC refurbishment may not have a lower ARHL than the ARHL at the time of capacity award, but existing capacity may have higher DRF than an identical unit without refurbishment.

4.2.10. iPower, EPUKI and SSE indicated that applying ARHL DRFs to ILC units would discourage investment and create other negative consequences. iPower noted that ARHL DRFs could lead to early retirement of plants, and that derating of refurbished assets may shift procurement to costlier options while applying this modification would encourage investment in reliability and efficiency. EPUKI noted that Existing Capacity would be disincentivised from undergoing

refurbishment due to the risk of incurring heavier de-rating, and SSE noted that a punitive derating could make a unit commercially unviable and create inefficient exit signals.

4.2.11. BGE argued that it is more important that an entry signal is not introduced for plants that are run-hour limited than the argument that refurbishing existing units with ARHLs should not be given a further exit signal. BGE also noted that ILC contracts offer considerable levels of remuneration such that investments should be aligned with decarbonisation targets.

4.2.12. FERA indicated that the extension (in terms of incremental capacity) of existing plant should not be viewed as different from the original position and therefore ARHL should not be applied to the complete plant.

4.2.13. EPUKI noted that ILCs were introduced in order to optimise Existing Capacity and to enable refurbishment of existing generation which delivers a benefit for electricity customers and considered that avoided carbon should be accounted for when Existing Capacity is refurbished as opposed to construction of New Capacity.

4.2.14. However, the TSOs indicated that is it unclear why refurbished capacity should be exempt from ARHL DRFs when new capacity is not. BGE noted that ILC investments should aim to remove the emission restrictions.

4.2.15. The TSOs also noted that, with this modification, contribution to reliability from awarded refurbished capacity could be overstated and this could result in distortion of future capacity auction modelling and volumes setting.

4.2.16. iPower and FERA indicated that the proposed drafting is clear and addresses the issues in question.

4.3. SEM COMMITTEE DECISION

4.3.1. The SEM Committee welcomes feedback from participants from both the initial workshop and the subsequent consultation period.

4.3.2. The SEM Committee notes comments from participants in support of the introduction of this modification due to concerns that applying ARHL derating to existing ILCs could or would disincentivise investment in refurbishment of Existing Capacity due to the risk of incurring heavier de-rating, sending a mixed market signal.

4.3.3. In response to these comments, the SEM Committee notes the intention, as stated in the ILC policy decision paper SEM-24-035, and noted in its 'minded to position' in the Workshop 43 (Part A) Consultation Paper, that a unit subject to run hour limits restrictions applying for an ILC contract 'should aim to remove emission restrictions or, at least, not exacerbate the restriction'.

4.3.4. The SEM Committee agrees with feedback against the introduction of this modification that argues that DRFs should accurately reflect refurbished capacity's contribution to reliability and that further entry signals for run-hour limited plant should not be introduced.

4.3.5. Additionally, as per SEM-22-063, the provision not to apply RHL DRFs to existing units was an exemption applied at a time of capacity shortage which may be subject to revision in the future as additional de-rating for run-hour limited plant is anticipated in the longer term. Furthermore, the SEM Committee considers it would be a significant policy decision to expand this exemption to a subset of new capacity which would have to be addressed through a policy consultation and design process.

4.3.6. The SEM Committee also notes that the introduction of ILCs is in line with decarbonisation targets and as described in Guidance Note SEM-25-024, 'the SEM Committee will keep the issue of utilising ILCs to further incentivise decarbonisation under consideration'. The SEM Committee considers that accepting this proposal could not clearly be in the spirit of this intention.

4.3.7. Based on the reasons outlined above, the SEM Committee has decided to not make a Modification. The SEM Committee does however intend to carry out further work in this area.

5. CMC_07_25 – MAINTAINING NET PRESENT VALUE IN NEW CAPACITY MARKET CONTRACTS FOR NO-FAULT DELAYS

5.1. CONSULTATION SUMMARY AS PRESENTED BY BORD GÁIS ENERGY LIMITED

5.1.1. This Modification Proposal seeks to insert a new section into the CMC (J.5.9), to allow for a Net Present Value (NPV) adjustment to a participant's Capacity Payment in the event of an approved extension delay under J.5.7 and/or J.5.8 of the CMC.

5.1.2. The NPV adjustment would be composed of the latest Best New Entrant (BNE) Weighted Average Cost of Capital (WACC), which would be added onto the capacity payment divided by the integer number of months, proportionate to the delay.

5.1.3. The proposer further notes that an approved Capacity Quantity End Date and Time (CQEDT) and/or a Long Stop Date (LSD) extension under J.5.7 and/or J.5.8 of the CMC does not mean this adjustment is automatically applied. Discretion will remain with the SEMC to adjudicate on awarding an NPV adjustment.

5.2. RESPONSES TO MODIFICATION PROPOSAL

5.2.1. Feedback to this Modification Proposal was mixed. Of those that commented, numerous respondents signalled support for the proposal.

5.2.2. FERA stated that it would be optimal to remove any concern that investors may have to attract ongoing development.

5.2.3. ESB GT considered that the Modification Proposal is consistent with CMC objectives (b), (c), (d) and (f) and was supportive of this Modification Proposal in principle to protect against contract

erosion, delays and possible termination of previously viable projects. ESB emphasised how important the acceptance of this Modification would be, in its view, given the challenging economic conditions faced by developers in delivering capacity.

5.2.4. ESB GT considered that this Modification Proposal is in line with the Modifications decided upon in SEM-23-001 and SEM-23-101, and it provides a practical solution to TSOs' concerns in addressing discount rates and the NPV for individual projects. It also called for a fundamental review of the BNE pricing methodology to ensure it remains fit for purpose.

5.2.5. ESB GT also contended that 'fault' attribution would not be required for any delay and that the RAs retain significant discretion in line with the extension process granted by section J.5 of the CMC. It also addressed the concerns raised at the workshop regarding the administrative burden to process these applications. ESB GT considered that most of the background information and supporting evidence for an NPV adjustment application would have already been reviewed through the extension process and that there is a benefit to consumers in avoiding termination due to NPV erosion relative to the cost of additional administrative load.

5.2.6. ESB GT further stated that delays would impact on other revenue streams via the loss of inframarginal rent and DS3 payments while increasing the cost of delivery. They considered that this would maintain strong incentives for the developer to deliver on time and therefore, that this Modification Proposal would have little impact on the weakening of delivery incentives.

5.2.7. EPUKI supported this Modification Proposal and noted that it continues to support the principle of 'no-fault delay'. EPUKI noted its understanding that the rejection of CMC_04_24 by the RAs was due to the necessity for fault attribution ahead of awarding compensation given the cost to the consumer. EPUKI disagreed with that assertion, noting there is no historical precedence for this and that the consumer has incurred significant cost via the procurement of TEG due to a shortfall in procurement in the Capacity Market.

5.2.8. SSE supported the modification as it considered that it achieved the objectives of the CMC. It also supported using the BNE WACC calculation and utilising the RA extension application adjudication process to ensure proper implementation. SSE also noted that if the actual auction lead times were four years instead of effectively 3.5 years (for the upcoming T-4 auction), this could reduce the need for extensions and NPV adjustments.

5.2.9. BGE urged the SEMC to strongly consider adopting this Modification Proposal to reinforce regulatory confidence in the Capacity Market and to value the delivery of capacity to end consumers pursuant to CMC_16_23. BGE reiterated the reasons set out in its original Modification Proposal and set out its view that acceptance is crucial for reinforcing regulatory confidence in the Capacity Market. BGE considered that it had addressed the reasons set out by the SEM Committee in its decision not to approve Modification Proposal CMC_04_24.

5.2.10. BGE also raised the point that, in its view, as per standard contract risk theory, risk should be allocated to the party most able to manage that risk. In this case, it did not consider that to be the project developer. In its view, a participant should not need to enter a contentious process to establish fault attribution and it is sufficient for the participant to not be at fault to be awarded

an NPV adjustment. BGE also clarified that only capacity payments are sought to be made whole and not the whole project, which is still exposed to loss of energy and ancillary service revenues during the delay period.

5.2.11. The TSOs remains concerned that acceptance of this Modification Proposal could introduce adverse impacts, namely the weakening of delivery incentives and shifting the risk of delay or non-delivery from the developer to consumers while also not being consistent with Code objectives (b) and (g). They also stated that this Modification Proposal does not fundamentally address the concerns that were reflected by SEMC in the rejection of CMC_04_24.

5.2.12. The TSOs considered that no clear rationale has been provided for why delivery risk should shift from the developer to the consumer as the developer is better positioned to manage the risks. They also noted that every single extension application would incur a parallel NPV application, impacting on RA resources to process NPV applications accordingly. They suggested that an impact assessment would be required to assess this further.

5.2.13. The TSOs also noted that tracking capacity delivery is becoming more complex with increased risk and uncertainty associated with modelling /accounting for future delivery. In its view, acceptance of this Modification Proposal would exacerbate that challenge.

5.3. SEM COMMITTEE DECISION

5.3.1. The SEM Committee welcomes feedback from participants from both the initial workshop and the subsequent consultation period.

5.3.2. The SEM Committee continues to have concerns regarding A) the extent to which delays are completely out of the control of developers and/or their ability to foresee and plan for, B) the resources and processes required from developers and for the SEM Committee to establish such instances, and C) the weakening of incentives on developers to manage delays wherever possible.

5.3.3. The SEM Committee recognises that there are numerous factors that lead to delays in the delivery of capacity and that not all of these factors are completely within the control of the developer. Nonetheless, the SEM Committee considers that there is a balance between a permissive approach to extension requests while maintaining strong incentives on developers to manage delivery risks wherever possible. The SEM Committee approved several Modifications under SEM-23-001 and SEM-23-101 in order to reflect this balance, noting that the SEM Committee will continue to keep this under review.

5.3.4. The SEM Committee considers that delays that are completely outside of developers' ability to manage (and/or to at least foresee in some degree) may not be frequent. Developers have a responsibility to plan and manage their project as well as possible and to anticipate critical milestones and dependencies which have the potential to drive delays, in turn managing them to the best of their ability. For example, the developer does have some control over the processes in seeking a connection offer to the electricity or gas network, including the timeliness of their application and how stringently they follow the project delivery timeline.

5.3.5. While the RAs continue to work with stakeholders to reduce the risk of delays – for example, in the issuing of directions to GNI and EirGrid by the CRU to rapidly complete work to connect successful CRM bidders to the gas and electricity networks - many of these causes are long-running. Hence, even where direct control over processes and timings may be more limited, developers are better able to identify and plan ahead for these delays than consumers, therefore, they are better placed than consumers to take on such risks.

5.3.6. The SEM Committee appreciates the intent of the Modification Proposal to retain the decision of whether to award an NPV with the SEM Committee. However, it is the SEM Committee's view that it would be very rare that it would be able to develop the necessary confidence that a delay was completely outside the control of the developer with sufficient certainty to reflect 'no fault' and approve NPV payments.

5.3.7. The SEM Committee considers that the amount of resource that would need to be dedicated to assessing the evidence submitted to the SEM Committee by a developer applying for a 'no fault' NPV award would be substantial. Furthermore, developers would need to dedicate resources to preparing the evidence in their application for a 'no fault' NPV award. Therefore, if the SEM Committee was to approve this Modification Proposal, this could lead to an unsatisfactory process for all parties involved in which significant industry resources are dedicated to the 'no fault' assessment process, but with the necessary high threshold for NPV awards meaning that only a small minority of applications might meet such a threshold.

5.3.8. The SEM Committee does not agree with those consultation respondents who suggested that 'no fault' could be attributed as part of the current process for extension applications. The process for considering the granting of an extension was not designed to establish the 'no fault' nature of a delay. Additional evidence would need to be prepared by developers and evaluated by the SEM Committee, resulting in a greater resource burden on both developers and Regulatory Authorities to assess a 'no fault' application.

5.3.9. Finally, the SEM Committee remains of the view that approval of the Modification Proposal could weaken incentives on developers to deliver their projects on time. If the threshold on approval of a 'no fault' NPV application was set too low, this may provide protection to developers against factors that remain within their control or their ability to foresee. This would transfer the risk of such factors from developers to consumers despite the fact that developers are better able to manage them.

5.3.10. The weakening of incentives to avoid delays could also exacerbate challenges with monitoring and forecasting the delivery of capacity as identified by the TSO in its consultation response. This introduces an additional cost on consumers as capacity may sometimes need be procured to cover anticipated late and non-delivery.

5.3.11. The SEM Committee notes the argument made that delays could cause developers to lose access to revenues from other markets, and in some cases, delays may lead the developer to incur additional construction costs. However, in many cases, revenue from the CRM is likely to reflect the most significant revenue stream for the developer, and thus represent the strongest incentive on developers to manage delays to the extent possible.

5.3.12. The SEM Committee also notes that each project will have a different set of circumstances. In some cases, the SEM Committee considers it possible that a developer could in fact benefit from a delay - if they were granted an NPV award but had reflected the extension in a delay to their capital outlay for example. Beyond a weakening of incentives, this could introduce perverse incentives to intentionally delay project delivery.

5.3.13. In summary, the SEM Committee is of the view that it has already struck an appropriate balance between a permissive approach to delays and the protection of consumers as a result of its approval of Modification Proposals under SEM-23-001 and SEM-23-101. The SEM Committee considers that provision of further protections through award of lost NPV would provide too much protection to developers and potentially weaken delivery incentives, particularly if the threshold for determination of 'no fault' is set too low. On the other hand, if the threshold for determination is set at an appropriate level, the SEM Committee would not expect the process to result in a large number of NPV awards while it would introduce resource burdens for both developers and the SEM Committee.

5.3.14. The SEM committee has therefore decided to reject this Modification Proposal and not make a Modification.

6. NEXT STEPS

6.1.1. The SEM Committee will make not make any changes to the CMC based on these Modifications. The SEM Committee will consider CMC_08_25 and CMC_09_25 further and will publish a decision in the coming months.

6.1.2. All SEM Committee decisions are published on the SEM Committee website: www.semcommittee.com.