



Energy for
generations

ESB Generation and Trading
Response SEMC Consultation Paper
on Capacity Market Code
Modifications Workshop 43 (Part A)

SEM-25-023

03/07/2025



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1. SUMMARY INFORMATION

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Confidential Response	No

2. INTRODUCTION

ESB Generation and Trading (GT) welcomes the opportunity to respond to the SEMC Workshop 43A Consultation Paper on the following Capacity Market Code (CMC) modification proposals:

- **CMC_04_25:** Adjustment of CMC Auction Qualification Criteria to facilitate complex projects with 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 ILCs
- **CMC_07_25:** Maintaining NPV in new capacity market contracts for no fault delays
- **CMC_08_25:** Ensuring robust transparent and objective qualification criteria in the Capacity Market
- **CMC_09_25:** Registration and Qualification Auction Timetable Milestones

3. ESB GT RESPONSE

3.1 CMC_04_25: Adjustment of CMC Auction Qualification Criteria to facilitate complex projects with State Aid Approval

3.1.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT does not agree that the proposed modification is consistent with CMC objectives (b), (c), (d), and (f).

The purpose of the proposed change is to ensure that the assessment of qualification applications for auctions is better aligned with decisions related to State Aid. Specifically, if a project scheduled for delivery in four years (T-4) faces delays in network connections that make delivery by the start of the calendar year infeasible, the System Operator (SO) should not automatically reject the application. Instead, rejection should only occur if the necessary connections cannot be completed by the Long Stop Date (LSD). This approach acknowledges the complexity of certain projects and aims to give them a fair chance to qualify for auctions. The rationale is that the 18-month LSD was originally introduced to accommodate such complex developments, allowing them sufficient time to meet requirements and participate effectively.

We believe that the modification proposal does not align with the objective of the CMC in ultimately providing a secure supply of capacity, and that introducing a T-5 or better a T-6 would be much more beneficial. In its current form, the proposal does not contribute to security of supply in the way that a T-5 or T-6 auction would.

Finally, ESB GT continues to encourage SEMC to hold future auctions of up to T-6 to reflect real-world timelines associated with major infrastructure projects.

3.1.2 Impacts Not Identified in the Modification Proposal Form

None.

3.1.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional drafting proposed

3.2 CMC_05_25: Early Termination of Intermediate Length Contract Capacity

3.2.1 Proposed Modification and its Consistency with the Code Objectives

The proposed change aims to introduce more flexibility into the management of multi-year capacity contracts, specifically those beyond Year 2 (Y2+) of an Intermediate Length Contract (ILC). Parties may become aware early in the development stage that their project will not reach completion. The suggested approach would allow early termination in such cases, allowing a participant to secure single-year contracts for subsequent years sooner than otherwise and return to contributing to security of supply. This could be acknowledged in the Progress Implementation Report.

ESB GT believe that the modification proposal will still enable security of supply since existing capacity should still be able to contribute its capacity where it has an ILC that is has deemed itself unable to fulfil.

We would like to express our preference for a more definite termination trigger to streamline the process of ILC exit and reduce any potential administrative burden.

3.2.2 Impacts Not Identified in the Modification Proposal Form

None.

3.2.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional drafting proposed.

3.3 CMC_06_25: Amendment of ARHL De-rating Factor Definition to Exclude ILCs

3.3.1 Proposed Modification and its Consistency with the Code Objectives

The proposal suggests excluding ILCs from the definition of the ARHL De-Rating Factor to prevent them from being significantly de-rated. Currently, ILCs are categorized as New Capacity, which subjects them to stricter de-rating criteria. This classification can unfairly reduce their capacity value, even though they may not carry the same risks or uncertainties typically associated with new projects. By removing ILCs from this definition, the aim is to ensure a more accurate and equitable assessment of their contribution to system reliability.

ESB GT believe that the impact of this is not clear from this proposal. It is our view that it is necessary to carry out an assessment on the impacts on revenue of run-hour limited assets, before a judgement on the impact can be made. The ARHL de-rating factors for new gas turbines in the 28/29 T-4 ranged from 0.14 to 0.43. This might mean that a unit's derating could be cut in half by opting for an ILC. This is counter-intuitive since the improved performance that would likely result from the ILC refurbishments would negate the justification for a reduction in de-rating.

3.3.2 Impacts Not Identified in the Modification Proposal Form

None.

3.3.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional drafting proposed.

3.4 CMC_07_25: Maintaining NPV in new capacity market contracts for no fault delays

3.4.1 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).

The proposal seeks to preserve Net Present Value (NPV) for a project receiving an extension to its Capacity Quantity End Date and Time (CQEDT) due to third party delay under Section J.5 of the CMC. It would introduce a separate, parallel process through which a project may apply to the RAs for an adjustment of its Capacity Payment Price (CPP) to preserve the lost NPV associated with the delay, and subject to RA approval on a case-by-case basis.

If approved, lost NPV would be calculated using an 'NPV Adjustment Factor' which uses the Best New Entrant Weighted Average Cost of Capital (BNE WACC (7.27%)) as set out in *SEM-23-016*, as a generic reference for application across all projects availing of this option. The cost of NPV adjustment would then be spread evenly over the duration of the capacity contract, assuming Minimum / Substantial Completion is achieved.

We note that the proposal builds on *CMC_04_24 Recovery of Net Present Value Lost as a Result of No-Fault Delays to New Capacity Projects* which was recently rejected by the SEMC due to concerns regarding the additional administrative burden associated with accurately assessing individual project NPV and 'fault' attribution. The SEMC further considered that the modification could weaken delivery incentives.

Project delays erode capacity contract value and present additional cashflow risks, deterring investment in the CRM and contributing to terminations. ESB GT is supportive of the current modification proposal in principle, as a fair and proportionate protection for projects facing contract erosion and potential termination due to delays outside of their control, which have already gone through a process of being approved as a necessary extension to the delivery of the project. This modification is especially important given that the challenging economic conditions facing project developers in recent years have not abated.

The recent CRU Direction to EirGrid (D/25/9470) regarding grid connections for projects successful in the L1-2: Ireland Locational Capacity Constraint Area (LCCA) in the T-4 2029/30 Auction requires all applicants seeking to qualify for next year's auction to provide evidence of *granted* planning permission, and is intended to ensure that projects are at a sufficiently mature stage of delivery at a sufficiently mature stage of delivery at qualification stage to avoid the risk of delays and project terminations.

Despite this change, delays in the delivery of gas and electricity grid connections will likely continue to pose a significant risk to project timelines due to factors beyond the control of the developer. This modification proposal is therefore vital to avoid unduly penalising projects, especially where an extension has been granted by the RAs under section J.5 of the CMC.

We believe that the modification proposal is in line with the decisions set out in SEM-23-001 and SEM-23-101 and provides a practical solution to SO concerns in relation to assessing discount rates and NPV for individual projects. As stated in previous engagements, we would like to re-iterate the call for a fundamental review of the BNE pricing methodology to ensure it is still fit for purpose.

Furthermore, we do not believe that NPV adjustment under the proposal would require the RAs to attribute 'fault' for any delay, and that the RAs maintain significant discretion in this regard, as in the case of the current J.5 extension process.

On concerns around the additional administrative burden and FTE required to administer the approvals process, we understand that the workload would be largely limited to an assessment of the merits of granting NPV adjustment under the current modification proposal. We would expect much of the supporting evidence and background information to have been reviewed by the RAs during the J.5 extension process. While we do not have sight of the number of project extensions assessed by the RAs, we believe that the benefits to the consumer associated with avoiding potential terminations due to NPV erosion would far outweigh the costs of the additional administrative load.

We would like to remind the SEMC that delays in the construction process inevitably leads to cost escalation and loss of infra-marginal rent / DS3 revenues, providing a strong incentive for projects to deliver on time. Under the Code, approved extensions provide clear extended milestones for delivery, therefore preserving the incentives of these milestones and associated consequences (e.g. termination). We therefore do not believe that the current modification proposal would weaken delivery incentives.

Finally, ESB GT continues to encourage SEMC to hold future auctions even further in advance of delivery years in the format of at least T-5 or T-6 auctions to reflect the real-world timelines associated with major infrastructure projects.

3.4.2 Impacts Not Identified in the Modification Proposal Form

None.

3.4.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional drafting proposed.

3.5 CMC_08_25: Ensuring robust, transparent and objective qualification criteria in the Capacity Market

3.5.1 Proposed Modification and its Consistency with the Code Objectives

ESB GT agrees that the proposed modification is consistent with CMC objectives (e) and (g).

The proposal seeks to align the entry criteria which a unit must satisfy in order to qualify to participate in a capacity auction, currently set out in Section E.7 of the CMC and, separately, on the Capacity Market page of the SEMO website. The modification would also incorporate relevant elements from the recent CRU Direction to EirGrid, letter reference *D/25/9470*, which requires all applicants seeking to qualify for the coming T-4 2029/30 Capacity Auction to provide evidence of *granted* planning permission. We understand that the proposal does not fetter RA powers under B.4.1.1 to issue such a Direction in the future.

ESB GT is supportive of the modification proposal as a much-needed reconciliation of commonly understood application criteria for auction qualification. This is to ensure regulatory transparency and reduce barriers to market entry, with the outcome of fostering wide participation in the CRM.

As stated in our response to *CMC_7_25*, we believe that the changes to the qualification criteria stemming from the CRU Direction (letter reference *D/25/9470*) will reduce non-delivery by ensuring that applicant projects are sufficiently mature at qualification stage.

We note that the CRU does not intend to issue Grid Directions from the T-4 2031/32 Auction, as stated in its 2024 Decision on the *Electricity Connection Policy – Generation and System Services CRU2024101*. We would welcome clarification as to

the connection pathways available to prospective applicants as per EY's 2022 *Review of the Performance of the SEM CRM SEM-23-036*, and greater transparency as to the ongoing work to bring timelines associated with the grid connection process in line with standard expectations.

3.5.2 Impacts Not Identified in the Modification Proposal Form

None.

3.5.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional drafting proposed.

3.6 CMC_08_25: Ensuring robust, transparent and objective qualification criteria in the Capacity Market

3.6.1 Proposed Modification and its Consistency with the Code Objectives

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

The proposal seeks to introduce two new Capacity Auction Timetable (CAT) milestones; (i) to clarify the deadline by which Applicants must provisionally register a proposed unit as a Candidate Unit and obtain the relevant party ID (Participation Notice Closing Date) and, (ii) the Qualification Application Closing Date. Minor changes have also been proposed to clarify the requirement to submit all application material via the Capacity Market Platform (CMP).

ESB GT understands that the proposed modification is required to facilitate a seamless transition to the CMP, which will facilitate the batch processing of qualification applications from and including the T-4 2029/30 Auction and allow for more efficient

engagement. This is a welcome development in the administration of the CRM and understand that the existing processing timelines will continue to apply.

We would appreciate an indication as to whether applicants can expect communications from the SOs via the CMP or email.

3.6.2 Impacts Not Identified in the Modification Proposal Form

None.

3.6.3 Detailed CMC Drafting Proposed to Deliver the Modification

No additional drafting proposed.

5. 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.