

## APPENDIX C – RESPONSE TEMPLATE

### SUMMARY INFORMATION

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|---------------------------------------|-------------------------------------|
| <b>Respondent's Name</b>              | <i>Captured Carbon</i>              |
| <b>Type of Stakeholder</b>            | <i>Market Consultant</i>            |
| <b>Contact name (for any queries)</b> | <i>Cormac Daly</i>                  |
| <b>Contact Email Address</b>          | <i>cormacdaly@capturedcarbon.ie</i> |
| <b>Contact Telephone Number</b>       | <i>0864101943</i>                   |
| <b>Confidential Response</b>          | N                                   |

### CAPACITY MARKET CODE MODIFICATIONS WORKSHOP 43 (PART B) CONSULTATION COMMENTS:

| ID                           | Proposed Modification and its Consistency with the Code Objectives | Impacts Not Identified in the Modification Proposal Form | Detailed CMC Drafting Proposed to Deliver the Modification |
|------------------------------|--------------------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------|
| CMC_10_25: Amendments to E.7 |                                                                    |                                                          |                                                            |

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| ID                                                                                                                        | Proposed Modification and its Consistency with the Code Objectives                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Impacts Not Identified in the Modification Proposal Form | Detailed CMC Drafting Proposed to Deliver the Modification |
|---------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------|
| <p><b>CMC_11_25:</b> Clarification on provisions relating to ‘final and binding’ and dispute resolution under the CMC</p> | <p>We believe that the SEMC should reject this modification. Participants need to have the ability to go to the courts, this mod reduces opportunities for JRs in reasonable cases.</p> <p>Vexatious court cases are not ideal in the Irish market, but there is potentially greater damage to the Irish power system if the ability to challenge incorrect decisions is removed.</p> <p>It is generally accepted that there are five grounds for bringing a judicial review:</p> <ol style="list-style-type: none"> <li>1. Error and illegality</li> <li>2. Unfair Procedure</li> <li>3. Breach of Fundamental Rights</li> <li>4. Unreasonable and Ultra Vires</li> <li>5. Breach of European Law</li> </ol> <p>By seeking to replace these grounds with just ‘malice’ and ‘dishonest’ is inappropriate.</p> <p>We hope that the RAs will change their minded to position and reject this modification.</p> |                                                          |                                                            |

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| <b>CMC_12_25:</b> RAs' role in relation to FQDs                |                                                                    |                                                          |                                                            |
| <b>CMC_13_25:</b> Amendments to the Capacity Auction Timetable |                                                                    |                                                          |                                                            |
| <b>CMC_14_25:</b> New Dates in the Capacity Auction Timetable  |                                                                    |                                                          |                                                            |

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| <p><b>CMC_15_25:</b> Performance Securities for Extended Projects in T-4 2026/7</p> | <p>We encourage the RAs to approve this modification.</p> <p>In SEM-23-069 the RAs stated:</p> <p><i>3.1.3 The measures implemented under SEM-23-001 were important in that they helped mitigate against third party planning delays, particularly at a time when there are real and current security of supply challenges in the SEM. Unless the Performance Securities arrangements are changed:</i></p> <p><i>1) a participant will be entitled to extensions of time following a largely unpredictable third-party planning delay.</i></p> <p><i>2) at the same time, be exposed to a series of Performance Charges that have a timeline structured on the basis that no significant delay has occurred. This is undesirable, because the underlying delays may make it more difficult for projects to be financed on an ongoing basis, and raising finance for additional Performance Securities will likely be more challenging. The SEMC believes</i></p> |  |  |
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|  | <p><i>that it would be undesirable to permit extension of time for a third-party delay under SEM-23-001 without recognising that the underlying delay can lead to issues in respect of Performance Securities.</i></p> <p>This is an excellent summary of the issue. It is <u>undesirable</u> and it does threaten the financial viability of a project where that project does not have definitive Planning permission. This in itself challenges Irish Security of Supply.</p> <p>Secondly the RA's in their CMC_06_24 Decision stated that the Decision for CMC_15_23 (to link the Performance Increases to project extensions) was influenced by the global events and exceptional circumstances. The auctions in 26/27, 27/28 and 28/29 usually had 3.5 years from final results to start of Capacity Year. In each of these cases there was a Direction from the RAs to Eirgrid which permitted those projects that were successful in the auction to be granted a Connection Offer without</p> |  |  |
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|  | <p>having first achieved planning permission. The EY Report stated ‘<i>Achieving consents and building project in the 3.5 year lead time from auction results to the start of the capacity year is unrealistic.</i>’</p> <p>The EY Report pointed out the benefits of changing the timeline to five years and also that consents should be included as part of prequalification. The RAs have in the past sought to introduce longer auctions and have resolved the requirement for consents in the 29/30 auction.</p> <p>Extending this point, the planning system (particularly An Bord Pleanála) has been in disarray since 2021. An Bord Pleanála finally imploded in 2024. It is reasonable to state that there have been exceptional circumstances in the planning system since 2022, couple this with the Direction and many of those projects that were awarded contracts in that period – since T-3 2024/25 have had significant delays primarily because of planning.</p> |  |  |
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|    | <p>We think however that the modification should be amended by the RAs. For the sake of simplicity it should just refer to the J.5.5. Equally the modification could be for more than one capacity year. It is reasonable to include 2027/28 and 2028/29 auctions as well in the modification. Both of these auctions had less than four years delivery time, and those units without planning would not have feasibly been able to build in time.</p> |                                                          |                                                            |

NB please add extra rows as needed.