Single Electricity Market

(SEM)

Capacity Market Code Modifications

Workshop 47

Decision Paper

CMC_22_25: Termination and re-entry

SEM-26-055

03 September 2026

INTRODUCTION

The purpose of this decision paper is to set out the decision relating to the proposed Modification to the Capacity Market Code (CMC) discussed at Workshop 47, held on 21 January 2026:

- **CMC_22_25:** Termination and re-entry

The decision within this paper follows on from the associated consultation for Workshop 47, SEM-26-009, which closed on 06 February 2026.

Seven non-confidential responses were received to the consultation.

Summary of Key Decisions

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

Modification	Decision	Implementation Date
CMC_22_25: Termination and re-entry	Make a Modification	Effective on publication

Contents

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 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.

Process and Timeline for the Modification Proposal

1.1.2. On 22 December 2025, the Regulatory Authorities (RAs) submitted one Modification Proposal (CMC_22_25) under the terms of B.12.4 of the CMC.

1.1.3. On 28 January 2026, the RAs determined the procedure to apply to the Modification Proposal. An overview of the timetable is as follows:

i. The System Operators (SOs) convened Workshop 47 where CMC_22_25 was discussed on 21 January 2026.

ii. The SOs, as set out in B.12.7.1 (j) of the CMC, prepared a report[1] of the discussions which took place at Workshop 47, provided the report to the RAs, and published it on the Modifications website promptly after.

iii. The RAs then consulted on the Modification Proposal from the date of publication of the consultation paper until the closing date of Tuesday, 31 March 2026.

iv. 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 this decision paper is to set out the decision relating to the Modification Proposal discussed during Workshop 47 to:

a) Make a Modification;

b) Not make a Modification; or

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

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

[1] Capacity Modifications Workshop 47 Report v1.0.pdf.

1.2. RESPONSES RECEIVED TO CONSULTATION

1.2.1. This paper includes a summary of the responses made to Capacity Market Code Modifications Workshop 47 Consultation Paper (SEM-26-009).

1.2.2. A total of seven non-confidential responses were received to consultation SEM-26-009. The responses are from:

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

2. CMC_22_25 – TERMINATION AND RE-ENTRY

2.1. CONSULTATION SUMMARY AS PRESENTED BY THE RAS

2.1.1. This Modification Proposal seeks to increase the robustness of the Code and mitigate potential gaming opportunities for projects that have achieved Substantial Financial Completion (SFC). It aims to do this by seeking to prevent these units from terminating and re-entering the same capacity that was terminated into the next two subsequent T-1 auctions held in the two years after termination, potentially to receive a higher Capacity Payment Price.

2.1.2. The change is proposed to be achieved by splitting J.6.1.10 into two parts. The first part clarifies that if termination occurs prior to a unit achieving SFC, the existing clause applies. The second part states that if it occurs after achieving SFC, a two T-1 Capacity Auction suspension will apply, where a Participant shall not submit an Application for Qualification for the same capacity that was terminated for two consecutive T-1 Capacity Auctions held in the next 24 months only.

2.1.3. Two new clauses are also proposed to be introduced; J.6.1.10A to define 'same capacity' for the purposes of J.6.1.10, and J.6.1.10B to clarify that the definition of 'same capacity' set out in J.6.1.10A shall not apply if the unit terminating holds an Intermediate Length Contract.

2.2. RESPONSES TO MODIFICATION PROPOSAL

2.2.1. BGE is not supportive of the proposal as drafted and states that asset stranding for at least two years, as well as capex costs incurred after SFC, is high enough to disincentivise Participants from executing the RAs' gaming concerns. According to BGE, this, taken together with existing CMC provisions that the RAs have to mitigate gaming concerns such as the Exceptions Application Process and Section B.9 of the Code, would render the identified T-1 gaming risk redundant.

2.2.2. BGE also notes that a strong regulatory and reputational risk exists for a project and the Market Participant behind that project if it were to terminate its contract to game in line with the concern raised in the proposal. In its view, the range of current CMC provisions and the practical realities of projects warrant rejection of the Modification.

2.2.3. If the RAs do proceed with the proposal, however, BGE states that the Modification should preclude projects that have applied for a Long Stop Date (LSD) extension but had such an application rejected by the RAs and suggests alternative legal drafting to give effect to this.

2.2.4. In EPUKI's view, any termination arising would need to be genuine and demonstratable given any action taken by the SOs to terminate under J.6.1.2 (b) or J.6.1.3 (a) to (c) must be after consulting with the RAs, as per J.6.1.5. Furthermore, it states that the qualification threshold provides a further protection from the perceived risk this Modification seeks to address and states it is of the view that the series of events that must occur for a project to terminate and subsequently qualify and re-enter into the next T-1 auction is not feasible where the RAs and SOs are acting prudently, and particularly in instances where a Participant is acting in a manner which is misleading or attempting to manipulate the market.

2.2.5. EPUKI also notes that the balance of incentives means that projects would be heavily discouraged from terminating and re-entering into a T-1 auction due to having to pay Termination Charges and uncertainty around securing a contract.

2.2.6. While EPUKI states that it supports the objective of the Modification, it is of the view that a Modification to the Code is not strictly required. It states that there is a lack of evidence provided by the RAs of examples of instances of market abuse and a risk of potential unintended consequences by codifying a restriction on T-1 participation. As such, it is opposed to the proposal as currently drafted.

2.2.7. ESB GT states that a number of risks and features of the market limit the scope for gaming to a significant extent. In its view, this includes the risk to developers associated with terminating a T-4 contract and re-entering the same capacity into a T-1 auction where clearing is not guaranteed. It notes this could increase the risk of asset stranding also for some projects. Furthermore, ESB GT note that monitoring of milestone dates under Implementation Progress Reports and the existing termination fee regime provides for sufficient oversight and financial deterrent to prevent gaming identified by the RAs.

2.2.8. ESB GT also states that it would welcome further clarification from the RAs as to the choice of SFC as the relevant milestone, noting such a commitment of financial capital at this stage should also be viewed as a genuine commitment to project delivery. It also states that a need for project termination post-SFC may arise for legitimate commercial reasons, including where a project faces unforeseen challenges which means it cannot meet its LSD, including where an extension to the LSD is not guaranteed under the CMC.

2.2.9. According to ESB GT, given that a large number of terminations have been of DSUs, it would welcome a view from the RAs and SOs as to whether existing rules around project delivery are suitable for all technology classes within the context of the Modification Proposal.

2.2.10. ESB GT also questions whether the introduction of CMC_22_25 could be considered retrospective if applicable to contracts already awarded in recent CRM auctions which are yet to deliver.

2.2.11. FERA states that applying the proposed Modification to DSUs and AGUs without exemption would, in practice, undermine the intent of the Proof of Contract pathway to SFC for these technologies and introduce unnecessary barriers to participation for precisely the type of flexible, responsive resources that are most suited to T-1 auctions.

2.2.12. Furthermore, FERA states that the definition of 'same capacity' proposed presents practical challenges for DSUs and AGUs given they are dynamic aggregators by nature and their composition can evolve over time as individual sites are added, removed or substituted.

2.2.13. FERA also notes that the misalignment of the proposal and drafting is not limited to DSUs and AGUs alone and states that as the energy landscape evolves, new technologies and participation models, such as Demand Consumption Units (DCUs), are emerging that share the same dynamic and aggregated characteristics. Therefore, FERA proposes that DSUs, AGUs, and comparable emerging technology unit types like DCUs should be exempt and suggests legal drafting for this.

2.2.14. iPower considers the proposal to introduce the same restriction to DSUs and AGUs as FERA and states that absent an explicit restriction for them, this would create barriers for participation.

2.2.15. iPower also notes that the proposed definition for 'same capacity' points to a fundamental misalignment with the operational reality of aggregated demand-side resources and notes this is not limited to DSUs and AGUs alone, as new technologies such as DCUs emerge. Like FERA, iPower suggests these technologies should be exempt from the Modification and proposes legal drafting to give effect to this.

2.2.16. The SOs note that the timelines between a T-4 auction and other subsequent 'top up auctions' such as T-2 and T-3 may also be sufficiently close to present potential arbitrage opportunities and as such, state the RAs may wish to consider extending the 'two-year preclusion window' to include these auctions.

2.2.17. The SOs state it is also important that projects which terminate after SFC for genuine commercial reasons are not precluded from participating in subsequent 'top up' auctions where the commercial situation has been remedied. For instance, in the SOs' view, this would primarily apply to projects related to an insolvency event and where the project is subsequently sold to a third party to continue development / operation.

2.2.18. The SOs note that the proposed legal drafting applies the two-year preclusion to 'a' Participant and as the underlying restriction applies to the 'same capacity', the SOs consider this drafting would preclude 'any' Participant from applying with the same capacity even in instances where that capacity was sold or transferred to a third party. The SOs state they would welcome clarity if this was the intent of the proposal or whether a different Participant should be facilitated in applying with the 'same capacity' and state in their view, it would be more prudent to provide an exemption for the insolvency event scenario.

2.2.19. The SOs also query how 'precluded' capacity would be monitored to prevent application by the Participant to applicable auctions during the two-year window and suggest amendment may be required to E.7.2 of the Code to refer to a unit being rejected if they are subject to an exclusion under the proposed J.6.1.10 amendments. The SOs state some monitoring mechanism outside of the Code would be required as well if the preclusion applies to the 'initial' Participant but the terminated units are transferred or sold to a third party, to verify that this event has taken place.

2.2.20. The SOs also note the proposed legal drafting outlines that affected units would be precluded from participating in subsequent T-1s 'held in the two years following termination' rather than 'for two consecutive T-1 Capacity Auctions held in the next two years only' as set out in the Modification Proposal Form justification and asks for clarity on this. In their view, the legal drafting currently would preclude a unit from participating in all T-1s which occur within the two years following termination.

2.2.21. SSE considers there are sufficient regulatory checks and balances in place via Performance Securities, Market manipulation rules, twice-yearly Developer forums, Progress Reports and RA approvals of terminations that prevent the need for this Modification.

2.2.22. In relation to a comment made at the workshop around price being the driving factor and Participants taking on the risk to benefit from price arbitrage and the GB Capacity Market rules informing CMC_22_25, SSE states that its understanding is that the two-year ban on T-1 auctions in the GB market is related to a breach of rules, not to price issues.

2.2.23. SSE also notes that there is a risk with the proposal if implemented whereby a Market Participant does not secure an extension to its SFC or LSD due to a late request or one that was not approved and subsequently has to terminate, it would not have the option to re-enter into the T-1 auctions for the next 24 months, even though it may be possible to address the delay in that time and be ready to deliver. Furthermore, SSE states that if the terminated capacity did not receive a contract in a subsequent auction, there is a risk that construction has commenced and the project may be close to delivery so termination without the ability to enter into subsequent auctions could lead to stranded assets and costs.

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. The SEM Committee notes the concerns raised by respondents, in particular the views that existing provisions within the CMC, together with the inherent risks associated with termination and the uncertainty of successfully re-entering and clearing in a subsequent T-1 auction, already act as a deterrent to the identified gaming behaviour. The SEM Committee also notes the comment that the Modification Proposal, as consulted upon, does not explicitly cater for scenarios involving insolvency events or the sale or transfer of Awarded Capacity to another Participant, and that there may be legitimate reasons for termination post-SFC.

2.3.3. While the SEM Committee acknowledges these concerns, it does not consider it appropriate to amend the legal drafting for CMC_22_25 in this regard. In developing this Modification Proposal, the RAs carefully reviewed the existing framework and identified a gap relating to the potential for capacity that has exited the market post-SFC to re-enter within a short timeframe and potentially benefit from a higher Capacity Payment Price. The SEM Committee is of the view that permitting re-entry of the same capacity, including via a different Participant, would undermine the effectiveness of the proposal in addressing this risk.

2.3.4. The SEM Committee further considers that the proposal, as drafted, is a clear, targeted and proportionate mechanism. The scope is deliberately limited to post-SFC termination and to two T-1 auctions held within 24 months only. This design, in the SEM Committee's view, ensures that the measure remains effective in addressing the identified gap and ensures there are consequences for terminated capacity that has progressed to an advanced stage of project delivery seeking to then re-enter immediately after. At the same time, selecting SFC as the relevant milestone and not widening the scope to T-2 and T-3 auctions ensures that the proposal does not operate in an unduly punitive manner for projects that terminate at an earlier stage despite a genuine intention to deliver.

2.3.5. The SEM Committee also notes the suggestion that an exclusion for projects that have had an LSD extension application rejected by the RAs should be introduced. The SEM Committee emphasises that it reviews applications on a case-by-case basis, with the onus on the Participant to demonstrate that it is experiencing a legitimate delay which justifies an extension. The Participant is also responsible for submitting the application within the prescribed timelines set out in the Code. Within this context, the SEM Committee also considers that where a project has been unable to demonstrate sufficient justification for an extension to its LSD, it is not evident that such a project would be in a position to subsequently deliver within the timelines associated with a T-1 auction. As such, the SEM Committee does not consider it appropriate to provide a specific exclusion in these circumstances.

2.3.6. In response to the comment that the Modification Proposal may operate retrospectively if applied to already awarded contracts, the SEM Committee considers that, as the proposal relates to re-entry following termination of an existing contract, it does not amend or alter the terms of existing contracts, and thus does not constitute retrospective application.

2.3.7. The SEM Committee also acknowledges the comments from respondents regarding the treatment of DSUs and AGUs, including the fact that these units may achieve SFC through the Proof of Contract mechanism, which was introduced to support demand-side participation in the Capacity Market. While recognising the importance of this pathway, the SEM Committee is not persuaded that a full exemption from the proposed measures is justified. In particular, it considers that excluding specific technologies could give rise to concerns regarding fairness. However, the SEM Committee accepts that the definition of 'same capacity' consulted upon presents practical challenges for DSUs and AGUs and has therefore added legal drafting to reflect this. A modified J.6.1.10A clarifies where a DSU terminates after SFC, it cannot re-enter into a future T-1 auction with the same physical providers of capacity it was using at the time of achieving the Proof of Contract milestone and for AGUs, the same list of Generators at the time of SFC, the Proof of Contract milestone or the latest Implementation Progress Report.

2.3.8. The SEM Committee welcomes the SOs' comments regarding the practical implementation and monitoring of the proposed preclusion, including the suggestion to amend E.7.2 of the Code to explicitly provide for the rejection of a unit where it is subject to an exclusion under the proposed J.6.1.10 provisions. The SEM Committee agrees with this point and has included legal drafting under E.2.1 and E.7.2 to this effect.

2.3.9. Based on the reasons outlined above, the SEM Committee accepts CMC_22_25 and will make a Modification, with the amendments discussed, in line with B.12.11.6 (a).

3. NEXT STEPS

3.1.1. The SEM Committee will make the proposed Modification CMC_22_25, with the amendments discussed, using the legal drafting accompanying this Decision Paper.

3.1.2. All SEM Committee decisions are published on the SEM Committee website, available here: www.semcommittee.com.