

MODIFICATION PROPOSAL FORM			
<b>Proposer</b> <i>(Company)</i>	<b>Date of receipt</b> <i>(assigned by System Operator)</i>	<b>Type of Proposal</b> <i>(delete as appropriate)</i>	<b>Modification Proposal ID</b> <i>(assigned by System Operator)</i>
EPDEL		Urgent	CMC_16_23
Contact Details for Modification Proposal Originator			
<b>Name</b>	<b>Telephone number</b>	<b>Email address</b>	
Harry Molloy	0860785534	h.molloy@tynaghenergy.ie	
Modification Proposal Title			
Amendment to Performance Securities for Extended Projects			
<b>Documents affected</b> <i>(delete as appropriate)</i>	<b>Section(s) Affected</b>	<b>Version number of CMC used in Drafting</b>	
Capacity Market Code			
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>This modification proposes an amendment to the timelines associated with posting Performance Securities for projects which have received an extension under CMC_15_22 or any other extensions granted under any other delay modifications. Currently, Performance Security posting dates are set based on the beginning of the relevant Capacity Year. Specifically, the highest Performance Security is required to be posted 13 months prior to the beginning of the Capacity Year.</p> <p>CMC_15_22, as approved by the SEMC, enables Participants with New Capacity projects to seek extensions to their capacity contracts under Section J.5.5 and J.5.6 of the Capacity Market Code. There are a number of other modifications currently under consideration by the SEMC which propose to seek extensions under the same Sections of the CMC. Such extensions can be sought where a third-party challenge to a planning determination incurs delays to New Capacity, verifiable by an independent assessor. This mitigates against contract erosion which would impede the economic feasibility of New Capacity projects. Extensions under J.5.5 and J.5.6 are reserved for instances where the delay is the result of a third-party action beyond the control of the Participant.</p> <p>New Capacity projects which receive an extension under J.5.5 or J.5.6 will become misaligned with the timings for Performance Security postings (i.e., 13 months prior to expected delivery). This increases the magnitude of risk associated with termination for these projects, which in turn creates challenges for investment decisions. This risk is compounded by the fact that projects seeking these extensions will be facing a planning challenge and thus will be more exposed to possible termination. For example, if a project is required to post Performance Securities 13 months prior to the Capacity Year, it may be the case that a project is posting full Performance Security before a decision is made with respect to its planning and/or extension request. This will mean greater termination charges for these projects relative to where they are in the capacity delivery process.</p> <p>This modification seeks to amend the dates for Performance Security postings, to reflect extensions approved by the SEMC under the CMC.</p>			
Legal Drafting Change <i>(Clearly show proposed code change using <b>tracked</b> changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<p>This modification proposes to introduce a new subsection to the CMC under Section J.3.2.</p> <p><b>J.3.2 Obligation to Provide</b></p> <p>[...]</p>			

*J.3.2.9 Where an extension has been granted to Awarded New Capacity in accordance with Section J.5.2, Section J.5.5, or under any other relevant sections of the Code, the Performance Security Posting Dates/Events applicable to that Awarded New Capacity as determined in accordance with paragraph J.3.2.2 shall be extended by a period equal to the Third Party Extension Period or Inflationary Extension Period granted to the Awarded New Capacity.*

This drafting would be accompanied by the following amendment to the CMC glossary:

**Performance Security Posting Date/ Event**

*means a date or event from which a specified €/MW rate shall be applied to Awarded Capacity in setting Performance Securities. There may be multiple different Performance Security Posting Dates/ Events. The Performance Security Posting Dates/ Events applicable to Awarded Capacity allocated in a Capacity Auction are determined by the Regulatory Authorities and provided to the System Operators subject to any extensions under this Code.*

*This modification will also require changes to the Termination Charges of the CMC.*

**J.7 Termination Charges**

[...]

J.7.1.3 The amount of the Termination Charge payable under this section **Error! Reference source not found.** in respect of each Capacity Market Unit shall be determined in accordance with the formula:

$$TC = TFR \times ACO$$

where:

- (a) TC is the Termination Charge payable;
- (b) TFR is the termination fee rate for calculating Termination Charges per MW applicable at the time the Awarded New Capacity is terminated or adjusted or the Defaulting Participant is Terminated, as determined by the Regulatory Authorities and specified in the Initial Auction Information Pack, **with relevant Date / Events used to calculate the applicable** termination fee rate **each extended by a period equal to any extension period granted under this Code including the Third Party Extension Period and Inflationary Period**, for the relevant Capacity Auction in which the relevant Awarded New Capacity was allocated (and, for this purpose, where the Defaulting Participant's designated currency is Sterling, that termination fee rate shall be converted to Sterling based on the Annual Capacity Payment Exchange Rate specified in the applicable Final Auction Information Pack) ; and
- (c) ACO (expressed in MW) is the amount of the relevant Awarded New Capacity, or, if the relevant Awarded New Capacity has been reduced, the amount by which it has reduced.

**Where a Capacity Market Unit has received multiple extensions under this Code, the extension applied to each of the Date / Events used to calculate the applicable TFR, will be equal to the longest single extension period.**

**Modification Proposal Justification**  
*(Clearly state the reason for the Modification)*

CMC\_15\_22 allows extensions to projects which incur delays as a result of third-party challenges to planning applications, which are beyond the control of the participant. Such instances would result in these New Capacity projects becoming misaligned with the timing for Performance Security postings. In effect, projects which receive an extension under CMC\_15\_22 will be required to commit to provision of Performance Securities at a stage where they are less progressed relative to projects which have not been subject to third-party challenge.

This represents a greater risk for these projects. Typically, the highest rate of Performance Security posting occurs 13 months out from the expected delivery date. Under CMC\_15\_22, a project's expected delivery date is amended. This would mean that a project would need to post the highest Performance Security when it is less developed and at greater risk of termination. This requirement to post a high level of Performance Security, at a point when a project is not substantially progressed, is disproportionate and will make it very difficult to secure investment sign-off.

This is problematic as an extension under CMC\_15\_22 is reserved for instances where the delay is beyond the control of a Participant and has occurred solely due to a challenge from a third-party. It would thus seem unfair that the consequences of such an extension are detrimental to a project's feasibility. This appears to be an unintended consequence of CMC\_15\_22.

Implementing this modification would ensure consistency with the timing for Performance Security postings for CMC\_15\_22 projects, relative to their delivery progression.

**Code Objectives Furthered**  
*(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)*

- J.7.1.4 This Code is designed to facilitate achievement of the following objectives (the “**Capacity Market Code Objectives**”):
- (b) to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity Market and the provision of adequate future capacity in a financially secure manner;
  - (c) 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;
  - (d) to promote competition in the provision of electricity capacity to the SEM;
  - (e) to provide transparency in the operation of the SEM;
  - (f) 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.

**Implication of not implementing the Modification Proposal**  
*(State the possible outcomes should the Modification Proposal not be implemented)*

Failure to implement this modification will result in undue risk exposure for New Capacity projects which have received a no-fault extension under CMC\_15\_22. This is detrimental to Security of Supply and unfair on projects which have been delayed as a result of unsuccessful third-party challenges. This risk exposure may ultimately result in projects being unable to secure investment which is an impediment to Security of Supply and consumer good.

**Impacts**  
*(Indicate the impacts on systems, resources, processes and/or procedures)*

*Please return this form to the System Operators by email to [CapacityModifications@sem-o.com](mailto:CapacityModifications@sem-o.com)*



### Notes on completing Modification Proposal Form:

1. If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.
2. Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Regulatory Authorities.
3. Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.
4. For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:

CMC / Code:	means the Capacity Market Code for the Single Electricity Market
Modification Proposal:	means the proposal to modify the Code as set out in the attached form
Derivative Work:	means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal

The terms "System Operators" and "Regulatory Authorities" shall have the meanings assigned to those terms in the Code.

In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section B.12 of the Code, which I have read and understand, I agree as follows:

1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:
  - 1.1 to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
  - 1.2 to the Regulatory Authorities to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;
  - 1.3 to the System Operators and the Regulatory Authorities to incorporate the Modification Proposal into the Code;
  - 1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.
2. The licences set out in clause 1 shall equally apply to any Derivative Works.
3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.
4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.
5. I hereby acknowledge that the Modification Proposal may be rejected by the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.