

## APPENDIX D – RESPONSE TEMPLATE

### SUMMARY INFORMATION

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| <b>Respondent's Name</b>              | CEWEP Ireland  |
| <b>Type of Stakeholder</b>            | Trade association - Generators   |
| <b>Contact name (for any queries)</b> | Catherine Joyce-O'Caollai  |
| <b>Contact Email Address</b>          | <a href="mailto:catherine.joyce.ocaollai@indaver.com">catherine.joyce.ocaollai@indaver.com</a> |
| <b>Contact Telephone Number</b>       | 087 122 1874   |

### CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS:

CEWEP Ireland would like to make the following points:

1. The technical guidance note is a “published from time to time by the Regulatory Authorities”. CEWEP suggests that drafting should be added to add the guidance as a formal appendix under the Code, or that there is an obligation to consult on any changes to the document. We have drafted our proposed modification to CMC\_05\_20 based on including the technical guidance as a new Appendix J to the Capacity Market Code.
2. The technical guidance note excludes equivalent provisions such as those made for CHP relative to the Acer Opinion. We note that the SEM Committee have acknowledged the treatment of waste to energy landfill gas emissions in SEM/13/006, and this should be included to maintain a consistent methodology for the assessment of emissions across all SEM Committee decisions.

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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_05_20</b><br/>Modification to Implement amendments as required by the Clean Energy Package Regulation EU 2019/943</p> | <p>The technical guidance note is “published from time to time by the Regulatory Authorities”. CEWEP suggests that drafting should be added to add the guidance as a formal appendix under the Code, or that there is an obligation to consult on any changes to the document. We have drafted our proposed modification to CMC_05_20 based on including the technical guidance as a new Appendix J to the Capacity Market Code.</p> <p>Slight changes to the drafting of the technical note have been made to avoid repetition with the provisions of the CMC.</p> <p>While it is called a “technical guidance document” it is clear that it forms a set of obligations on parties on how to interpret the contract. It is not usual or typical for Irish or Northern Ireland contracts to be drafted at a high principle level of “Directive” or “Regulation” level, which are then subject to subsequent material interpretative requirements.</p> | <p>Appropriate efficient operation of the Capacity Market Code by creating a set of obligations (the technical guidance) outside the governance of the CMC.</p> <p>To ensure consistency of application of calculation of CO<sub>2</sub> limits across other SEM Committee decisions.</p> | <p>D.4.1.1 When determining CO<sub>2</sub> emissions and their compliance with the CO<sub>2</sub> Limits, Parties shall take account of the principles set out in Appendix J of the Code.</p> <p>D.4.1.2 If any determination of CO<sub>2</sub> emissions and their compliance with the CO<sub>2</sub> Limits is not covered by Appendix J, Parties shall take account of the ACER Opinion.</p> <p>ACER Opinion or AO the technical guidance published by ACER pursuant to Article 22(4) of EU Regulation 2019/943.</p> <p>APPENDIX J: PRINCIPLES FOR THE DETERMINATION OF CO<sub>2</sub> EMISSIONS</p> <p>J.1. Where, for existing capacity, less than three calendar years but more than one calendar year of historical data is available, determinations shall be performed on the basis of the Acer Opinion with the available calendar years of historical data.</p> |

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J.2 Where less than one calendar year of historical data is available, any determination of CO<sub>2</sub> emissions shall be made on the same basis as for new capacity.

J.3. When making a determination of CO<sub>2</sub> emissions to compare with the 350kg of CO<sub>2</sub> per installed kWe limit, only the most recent calendar year of historic data shall be used. If a Party believes that this most recent historic year is not representative then they may submit an additional determination of CO<sub>2</sub> emissions on an alternative basis. A fully reasoned and evidenced justification for such alternative basis shall be submitted.

J.4. Where a secondary fuel is burned on an exceptional basis when the primary fuel is unavailable for a unit, individual CO<sub>2</sub> emission rates shall not be determined for the primary and secondary fuels but an average CO<sub>2</sub> emission rate over historic usage of both fuels shall be determined.

J.5. For CHP capacity, CO<sub>2</sub> emissions shall be determined on the basis of the relevant ISO standard, if such a

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|  |  |  | <p>standard exists, or otherwise on the same basis as is (or would be) applied under the EU ETS.</p> <p><b>J.6. For Waste to Energy capacity, the extent to which such capacity results in avoided emissions from landfills shall be reflected in the determination of that capacity's CO<sub>2</sub> emissions.</b></p> <p>J.7. For aggregated units (i.e. DSUs and AGUs), each element comprising the aggregated unit shall be considered separately on the basis of its CO<sub>2</sub> emissions.</p> <p>J.8. For aggregated units, each element comprising a unit shall be considered to have “started commercial production” under Article 22(4) of EU Regulation 2019/943 when it is first coupled with an aggregated unit.</p> <p>J.9. For any situation not covered by this Technical Guidance Note, a Party shall make their own determination complying so far as possible with the guidance provided. The Party shall submit a fully reasoned and</p> |
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|  |  |  | evidenced justification for the basis of such determination. |
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NB please add extra rows as needed.