



127 Baggot Street Lower,
Dublin 2,
D02 F634
Ireland.

DATE: 22nd of February 2017

By e-mail to tquinn@cer.ie and karen.shiels@uregni.gov.uk

RE: EAI Response to Capacity Market Code Consultation

Dear Thomas and Karen,

EAI welcomes the opportunity to provide comments on the Draft Capacity Market Code, but has concerns that its timing is premature. First, there are significant and important sections of the Code missing and yet to be completed. Second, important decisions which may have a material effect on the Code have yet to be made. This is in particular the case as regards the CRM Parameters. It is of great concern to EAI that the Regulatory Authorities appear to have pre-empted the outcome of the consultation and decision-making process by presenting as decided issues which have clearly yet to be decided.

Notwithstanding the above constraints, and considering the compressed timeline available we have endeavoured to provide comments on the code and trust you find our contribution of benefit. We would further recommend that a marked-up version of the Capacity Market Code be published for further consultation in due course before it is finalised.

Auctions timetable and sequencing

With reference to section 4.4 (page 18) of the CMC Consultation Paper, the RAs have proposed the following:

- December 2017: Transitional Auction for Capacity Year 2017/18 (i.e. May-18 to Sept-18) and CY2018/19 (Oct-18 to Sept-19);
- August /September 2018: T-4 Auction for CY2022/23; and
- March 2019: Transitional Auction for CY2019/20 (Oct-19 to Sept-20).

The RAs then expect to hold:

- Transitional auctions for each of the remaining transitional years on an annual basis in advance of the relevant CY. These may be consistent with T-1 auction timeframes for each CY, but in line with CRM Decision 3 (SEM-16-039), once lessons learnt from the first

transitional auction have been appropriately reflected, the SEM Committee will consider further the possibility of holding subsequent transitional auctions in sequence at an earlier stage; and

- T-4 and T-1 auction for each subsequent year in line with the standard timeframes set out in the current CMC draft.

With reference to the above, EAI:

- Agrees that the first transitional auction should be for balance of CY 2017/18 and full CY2018/19
- Would prefer to have all subsequent transitional auctions (for CY 2019/2020, CY 2020/21 and CY 2021/22) before the first T-4 Auction in order to provide greater certainty for participants.
- Agrees that the first T-4 Auction should now be in respect of delivery CY2022/23.

Detailed timetable for each auction

The timetable for each auction should be clearly specified, providing sufficient certainty and time for participants to carry out their assessments and activities. A timetable similar in format to Section 2.2 of the GB Capacity Market Code should be applied to Appendix C of the CMC, but tailored for I-SEM, to provide this clarity and certainty.

Within this, there are certain key dates that specifically need to be ensured. For example, the Auction Information Pack should be published at least four months before the auction in order to provide participants sufficient time to carry out their activities ahead of the qualification phase and auction. Also, there seems to be an inconsistency between the deliverables in D.3.1.2 and F.5.1.2. There are a number of items stated as “indicative” in D.3.1.2 and which are not confirmed as final in F.5.1.2 e.g. ASP and SP parameters. If F.5.1.2 is supposed to provide final figures to supersede what were originally “indicative” figures, then all the information from D.3.1.2 that are referenced as “indicative” should be updated with final figures. Include final figures for the FASP and the ASP Curve and the parameters listed in F.16.1.1.

Moreover, the 5 Working Day timeframe for publishing any final parameters is too short and should be at least 15 Working Days before the auction. Again, this would provide adequate time to market participants for conducting their business ahead of the capacity auction.

In relation to the above, we would suggest that the information pack is published four months before the auction. We also suggest that a distinction is made between BAU and transitional auctions and that a timetable for the transitional auction should be a priority document given that the first auction is in December 2017. With the above in mind, EAI propose the following timetable for each auction.

Key Dates	Proposed Timetable	Notes
RAs provide SOs with Qualifying Info. for CAIP		RAs to SOs step
Capacity Auction Information Pack Date	T-24 weeks	
Apply for Exception (Opens)	T-24 weeks	There should be a requirement for RAs to have decision (or involved in negotiation with participant) within [x] days from submission
Apply for Opt-out (Opens)	T-24 weeks	5 WD to get result of opt-out, then reapply if required
SO's organise stakeholder meeting	T-22 weeks	
Participants told Key Qualification deadline Dates	T-20 weeks	
Exception Application Date (Closes)	T-15 weeks	
Opt-out Notification Date (Closes)	T-11 weeks	
Qualification Application Date	T-10 weeks	Final Opt-Out Results
Provisional Qualification Approval Date		
Provisional Qualification Results Date	T-8 weeks	SOs to RAs step
Provisional Qualification Review Date		
Informing of Reconsideration Outcome	T-6 weeks	
Final Qualification Approval Date		
Final Qualification Results Date	T-5 weeks	SOs to RAs step
Qualification Results Publication Date	T-5 weeks	
Final Auction Parameter Date	T-4 weeks	The earlier the better
Capacity Auction Commencement Date	T	
Capacity Auction Completion Date	T	
Capacity Auction Provisional Results		
Capacity Auction Approval Date		RAs to SOs step
Capacity Auction Results Date	T+2 weeks	

Substantive feedback on the content of the CMC is provided in the table below:

Ref	Issue	Commentary
B.10/11	Role of Capacity Auction Monitor and Auditor	<p>There is a potential for conflict of interest if both monitor and auditor roles are carried out by same entity. They need to be separate and independent and this should be reflected in the CMC and the ToR for the CM Monitor and Auditor.</p> <p>The Capacity Auction Monitor and the Capacity Market Auditor play different roles in ensuring the integrity of the auction process. EAI does not believe that there are any synergies which would arise from having the same person or firm acting as both Monitor and Auditor. Instead we believe that the role of the Capacity Market Auditor will be significantly undermined if it is not independent of the Capacity Auction Monitor.</p> <p>The CMC drafting should be amended and this should be reflected in the ToR for Auction Monitor and Auditor</p> <p>Revise drafting of B.10.1.3 to read “...The Capacity Auction Monitor shall be and is to be independent of the System Operators and Participants and of the Capacity Auction Auditor”.</p>
	Cost recovery (e.g. for funding of Market Auditor and Monitor)	<p>In the interests of transparency, accountability and independence it is not appropriate for the TSO to fund regulatory costs. RAs should recover costs through their own budget or through Licence Fees in a transparent manner.</p>
B 10	Role of Monitor	<p>See B.10.1.5, first sentence p30: “Nominated representatives of the System Operators shall be entitled to attend such meeting”. CRMDB is the entity being monitored and therefore it is entirely inappropriate for it have an entitlement to attend meetings that take place between the RAs and the Monitor.</p> <p>Revise drafting to read ‘may’ attend such meeting ‘at the request of the Regulatory Authorities’.</p>
H.2	Design, review, variation and suspension of products traded through secondary auctions	<p>Section 3.10.2 of the RA consultation paper (SEM-14-004) identifies a number of areas where the current balance of responsibilities assigned to the RAs and the TSOs may not be appropriate. One such area relates to the design, review, variation and suspension of products traded through secondary auctions and it is stated that this would reasonably require RA approval in H.3.1.6.</p>

		This is welcome but does not go far enough. The RAs and Participants should also have a role in designing and reviewing product types and auction timings.
B.12	Modifications	<p>Proposed process has a number of shortcomings that need to be addressed in the CMC. For example, the process as proposed gives rise to:</p> <ul style="list-style-type: none"> • Inconsistency in respect of modifications under the TSC and CMC • Lack of clarity and certainty, particularly in respect of the vague “Workshop approach” • The “Workshop approach” does not adequately ensure the two jurisdictions of the market are appropriately represented • The procedures themselves do not seem to cater adequately for steps to be taken in relation to “urgent” modifications
B.13.6.1	Termination	<p>There should be additional specifications that apply once a party is suspended/terminated in the preceding timeframes, (e.g. proof of evidential breach of the TSC rules themselves) before automatic suspension applies under the CMC</p> <p>It is good process that termination from the Capacity Market is only triggered where a Party is evidently in breach of this Capacity Market Code, and not for e.g. in circumstances where it has been terminated pursuant to day ahead and/ or intraday market (i.e. under NEMO rules). Instead of automatic termination occurring in the way outlined, a transparent firm set of rules/ hurdles should apply before termination from the DAM/ IDM transfers to the capacity market.</p>
B.16	Force Majeure	<p>EAI has a concern that parties to the CMC will be exposed to RO exposure in circumstances beyond their reasonable control.</p> <p>Specifically, in relation to Force Majeure provisions, EAI has a concern that parties to the CMC will not be afforded Force Majeure protection under CMC in circumstances where their counterparties (typically TSOs) will be afforded Force Majeure protection under other industry codes and agreements (such as the Gas Code of Operations and the Transmission Connection Agreement) in respect of the same event. Example includes any unavailability of relevant network infrastructure (gas or electricity) at any time. These provisions must be harmonised in the drafting of FM provisions of the CMC.</p>

D.2	Timetable	Reference F.5.1.1 Publication of Final Auction Parameters: use of “reasonable endeavours” is not appropriate. Remove reference to “reasonable endeavours”
	New Capacity	The definition doesn’t capture replacement capacity where a unit is re-furbished or fully re-powered with replacement capacity which thereby excludes such capacity from securing a contract of greater than 1 year. This CRM decisions provided for such investment being able to secure a longer-term contract and hence the drafting in the CMC does not align with the decisions. Correct drafting of New Capacity Investment Rate Threshold and Appendix D: paragraph 4(m).
F	Conduct of Auction	Concern that Locational Constraints can be reduced if the TSOs deem there to be insufficient capacity to meet the requirement. Minimum de-rated capacity for a local constraint should only be changed if approval has been given by the Regulatory Authorities.
	Accession and Participation Fees	Incorporate in TSC schema to minimise participant costs. Consideration should be given to combining the fees process with the TSC fee structure. All revenue requirements could be calculated separately but could be collected by SEMO MO invoices. A separate process would be needed for qualification fees but this should be implementable. A single charging regime will reduce administrative burden on participants and will halve the number of invoices compared to the current proposals in the TSC and CMC.
	Standard Templates	Standard templates for Qualification, Exceptions, Capacity Auction Offers and possibly in other areas would help participants, the SOs, RAs and the Capacity Market Auditor and Monitor.

Conclusion

In this response EAI has proposed a detailed timetable for each CRM auction and made substantive commentary on a number of key aspects of the Capacity Market Code. Our response is made without prejudice to the number of key decisions still pending and we would therefore welcome that a marked-up version of the Capacity Market Code be published for further consultation before finalisation.

Please do not hesitate to contact me for any further information in relation to this response.

Yours sincerely,



Stephen Douglas
Senior Advisor
Electricity Association of Ireland (EAI)