

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>
UR & CRU (RAs)	16 March 2020	<del>Standard</del> Urgent	CMC_05_20 v2
Contact Details for Modification Proposal Originator			
<b>Name</b>	<b>Telephone number</b>	<b>Email address</b>	
Utility Regulator & CRU		karen.shiels@uregni.gov.uk	
Modification Proposal Title			
Implement amendments as required by the Clean Energy Package Regulation EU 2019/943			
<b>Documents affected</b> <i>(delete as appropriate)</i>	<b>Section(s) Affected</b>	<b>Version number of CMC used in Drafting</b>	
SEM Capacity Market Code	Various	Version 3 10 October 2019	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>The Energy Regulation (EU 2019/943), which forms part of the Clean Energy Package (CEP) came into force on 4 July 2019. Chapter 4 of the Regulation sets out specific requirements for resource adequacy, including the general principles and design principles of any capacity mechanism.</p> <p>This Regulation impacts on the capacity auctions which take place after 31 December 2019, commencing with the T-4 CY2023/24 capacity auction. The process for this capacity auction is well underway and so this modification is focused on this imminent capacity auction together with updating the qualification requirements for future auctions.</p> <p>The key focus of this modification is in relation to Article 22 (4) and (5) of the Regulation which states:</p> <p>“4. <i>Capacity mechanisms shall incorporate the following requirements regarding CO<sub>2</sub> emission limits:</i></p> <p>(a) <i>from 4 July 2019 at the latest, generation capacity that started commercial production on or after that date and that emits more than 550 g of CO<sub>2</sub> of fossil fuel origin per kWh of electricity shall not be committed or to receive payments or commitments for future payments under a capacity mechanism;</i></p> <p>(b) <i>(b) from 1 July 2025 at the latest, generation capacity that started commercial production before 4 July 2019 and that emits more than 550 g of CO<sub>2</sub> of fossil fuel origin per kWh of electricity and more than 350 kg CO<sub>2</sub> of fossil fuel origin on average per year per installed kW<sub>e</sub> shall not be committed or receive payments or commitments for future payments under a capacity mechanism.</i></p> <p><i>The emission limit of 550 g CO<sub>2</sub> of fossil fuel origin per kWh of electricity and the limit of 350 kg CO<sub>2</sub> of fossil fuel origin on average per year per installed kW<sub>e</sub> referred to in points (a) and (b) of the first subparagraph shall be calculated on the basis of the design efficiency of the generation unit meaning the net efficiency at nominal capacity under the relevant standards provided for by the International Organization for Standardization.</i></p> <p><i>By 5 January 2020, ACER shall publish an opinion providing technical guidance related to the calculation of the values referred in the first subparagraph.</i></p> <p>5. <i>Member States that apply capacity mechanisms on 4 July 2019 shall adapt their mechanisms to comply with Chapter 4 without prejudice to commitments or contracts concluded by 31 December 2019.</i>”</p>			

The ACER technical guidance referred to in the extract of the Regulations above was published on 19 December 2019.

The purpose of the Article 22 (4) of Regulation 2019/943 in the context of the EU Clean Energy Package, is to facilitate a transition towards a more environmentally sustainable electricity system.

As the T-4 CY2023/24 qualification process is due to be completed early April 2020, the focus for this auction is on the obligations for awarded capacity, minimum completion and substantial completion.

To assist with future auctions, commencing with the T-4 CY2024/25 scheduled for January 2021, the focus of this modification is on the development of [a CO<sub>2</sub> Limits Methodology and various qualifications requirements](#).

The Regulation impacts on a number of sections of the Code and each section is identified in the legal drafting section below.

#### Legal Drafting Change

*(Clearly show proposed code change using **tracked** changes, if proposer fails to identify changes, please indicate best estimate of potential changes)*

*Add to Glossary*

**CO<sub>2</sub> Limits** means the limits on CO<sub>2</sub> emissions which apply in relation to participation in capacity mechanisms as set out in Article 22(4) of Regulation 2019/943/EU [and as further elaborated in ACER Opinion 22/2019](#).

*Add new para E.2.1.6:*

E.2.1.6 A Participant with a Candidate Unit that does not, or will not, comply with the CO<sub>2</sub> Limits shall not apply for the Candidate Unit to be Qualified in a Qualification Process.

*Add a new para E.7.2.3:*

E.7.2.3 The System Operators shall reject an Application for Qualification for a Capacity Year in respect of each Candidate Unit, or each Generator Unit forming part of each Candidate Unit, which does not, or will not, comply with the CO<sub>2</sub> Limits.

*Add new paras E.7.4.4:*

E.7.4.4 The System Operators shall reject [that element of](#) an Application for Qualification for a Capacity Year for an Aggregated Generator Unit [in respect of where](#) any of the Generators comprising it [that does](#) not, or will not, comply with the CO<sub>2</sub> Limits.

E.7.4.5 The System Operators shall reject [that element of](#) an Application for Qualification for a Capacity Year for a Demand Side Unit [in respect of where](#) any of the Demand Sites comprising it [that does](#) not, or will not, comply with the CO<sub>2</sub> Limits.

*Modify para E.7.5.1 as follows:*

E.7.5.1 The System Operators shall reject an Application for Qualification for a Capacity Year in respect of New Capacity for a Generator Unit or Interconnector comprising a Candidate Unit unless they consider that:

- (a) where New Capacity is under development, the information provided reflects an accurate view of the state of that development;
- (b) the Implementation Plan dates are achievable;
- (c) Substantial Completion of the Generator Unit or Interconnector can be achieved prior to the start of the relevant Capacity Year; ~~and~~
- (d) all Qualification Data required to be provided in the Application for Qualification is provided and is accurate; ~~and~~
- (e) **the New Capacity will comply with the CO<sub>2</sub> Limits.**

*Modify I.1.2 as follows:*

I.1.2.1 In addition to its other obligations under this Code, a Participant shall, with respect to each of its Capacity Market Units:

- (a) in respect of Awarded New Capacity:
  - (i) use reasonable endeavours to achieve each Milestone by the date indicated in respect of that Milestone in the relevant Implementation Plan for delivery of the Awarded New Capacity;
  - (ii) provide Implementation Progress Reports to the System Operators in accordance with section [Error! Reference source not found.J-4](#);
  - (iii) maintain adequate Performance Security in accordance with section [Error! Reference source not found.J-3](#);
- (b) dedicate and use its reasonable endeavours to make available the Awarded Capacity;
- (c) for each Imbalance Settlement Period within the Capacity Year:
  - (i) for each Capacity Market Unit that is an Interconnector, maintain a level of availability for imports into the SEM for each Imbalance Settlement Period not less than the Obligated Capacity Quantity and be subject to Difference Charges in accordance with the Trading and Settlement Code;
  - (ii) for each Capacity Market Unit comprising one or more Generator Units, through its participation in the day-ahead market, intraday trade and/or Balancing Market, schedule or provide sufficient energy for each Imbalance Settlement Period to satisfy its Obligated Capacity Quantity and be subject to Difference Charges in accordance with the Trading and Settlement Code; ~~and~~
- (d) [use reasonable endeavours](#) **to comply with the CO<sub>2</sub> Limits.**

*Modify J.2.1.1(c) as follows:*

- (c) **Substantial Completion:** this milestone is achieved when:
  - (i) all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity are substantially complete

- (subject only to snag or punch list items or any other matters which do not prevent substantial completion or taking over the works taking place under the applicable Major Contracts);
- (ii) a Final Compliance Certificate, Operational Certificate or Final Operational Notification has been issued under the applicable Grid Code in respect of each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity;
  - (iii) the Proportion of Delivered Capacity in respect of the Awarded New Capacity is not less than 90%; ~~and~~
  - (iv) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has met all Trading and Settlement Code and Grid Code requirements for participating in the Balancing Market; ~~and~~
  - (v) ~~each new or refurbished Generator Unit providing Awarded New Capacity complies with the CO<sub>2</sub> Limits.~~

Modify J.6.1.1(a) as follows:

- (d) **Minimum Completion:** Awarded New Capacity achieves Minimum Completion when:
  - (i) all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity are substantially complete (subject only to snag or punch list items or any other matters which do not prevent substantial completion or taking over taking place under the applicable Major Contracts);
  - (ii) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has undergone commissioning testing;
  - (iii) a Final Compliance Certificate, Operational Certificate or Final Operational Notification has been issued under the applicable Grid Code in respect of each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity;
  - (iv) the Proportion of Delivered Capacity in respect of the Awarded New Capacity is not less than 50%; ~~and~~
  - (v) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has met all Trading and Settlement Code and Grid Code requirements for participating in the Balancing Market; and
  - (vi) ~~each new or refurbished Generator Unit providing Awarded New Capacity complies with the CO<sub>2</sub> Limits; and~~

Add a new Section D.4 as follows:

#### **D.4 Compliance with CO<sub>2</sub> Limits**

~~D.4.1.1 — From time to time the Regulatory Authorities may request the System Operators to prepare a proposed methodology for determining whether a Candidate Unit complies, or will comply, with the CO<sub>2</sub> Limits (the ‘CO<sub>2</sub> Limits Methodology’).~~

- ~~D.4.1.2 — For a Demand Side Unit, the CO<sub>2</sub> Limits Methodology shall set out the methodology that would apply to the individual Demand Sites comprising it.~~
- ~~D.4.1.3 — For an Aggregated Generator Unit, the CO<sub>2</sub> Limits Methodology shall set out the methodology that would apply to the individual Generators comprising it.~~
- ~~D.4.1.4 — The System Operators shall submit the proposed CO<sub>2</sub> Limits Methodology to the Regulatory Authorities for approval.~~
- ~~D.4.1.5 — The Regulatory Authorities may by written notice to the System Operators approve or reject the proposed CO<sub>2</sub> Limits Methodology submitted by the System Operators under paragraph D.4.1.4 and shall in the notice give reasons in case of rejection.~~
- ~~D.4.1.6 — If the Regulatory Authorities reject the proposed CO<sub>2</sub> Limits Methodology submitted by the System Operators, then the Regulatory Authorities may by written notice to the System Operators determine an alternative CO<sub>2</sub> Limits Methodology in substitution for that submitted by the System Operators.~~
- ~~D.4.1.7 — The System Operators shall publish the CO<sub>2</sub> Limits Methodology or an amended CO<sub>2</sub> Limits Methodology within two Working Days of it being approved, determined or amended by the Regulatory Authorities under this section D.4.~~

- 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 latest technical guidance published from time-to-time by the Regulatory Authorities.
- 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 the technical guidance published by the Regulatory Authorities, Parties shall take account of the technical guidance published by ACER pursuant to Article 22(4) of EU Regulation 2019/943 or any other applicable technical guidance issued by ACER.
- D.4.1.3 If a determination of CO<sub>2</sub> emissions and their compliance with the CO<sub>2</sub> Limits is not covered by either D.4.1.1 or D.4.1.2, then Parties shall make their own determination taking account of the principles underlying the technical guidance from the Regulatory Authorities and ACER.

*Add new sub-para to Appendix D (4)*

- (n) evidence that the Candidate Unit complies with the CO<sub>2</sub> Limits, [including details of any determination of CO<sub>2</sub> emissions](#);
- (o) in the case of Candidate Units using bioliquids and/or biomass fuels (as defined in Article 2 of Directive 2018/2001/EU), evidence that they meet the criteria set out in Article 29 of Directive 2018/2001/EU to be eligible for financial support.

The CMC requires modification to capture the requirements for capacity mechanisms set out in Regulation 2019/943 which forms part of the European Clean Energy Package arrangements, as currently there is a disconnect between the CMC and the legal requirement within Regulation 2019/943.

**Code Objectives Furthered**

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

(e) *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;*

This modification is to bring the Code up to date with the legal requirements for capacity mechanisms as set out in Regulation 2019/943. Having the Code aligned with these Regulations will allow for the application, qualification and overall auction process to be carried out in a coordinated way and ensure that adequate future capacity is secured which meets the emissions limits specified in the Regulation 2019/943.

(f) *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;*

This modification seeks to ensure that those capacity providers already engaged or seeking to engage in the provision of electricity capacity in the Capacity Market do so in a manner which meets the requirements set out in Regulation 2019/943, predominantly relating to adherence of the emissions limits specified.

(g) *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.*

This modification seeks to develop the Capacity Market in line with the requirements set out in Regulation 2019/943 and will promote the interests of consumers of electricity with respect to the quality of the electricity supplied due to the environmental benefits of lower emissions.

#### **Implication of not implementing the Modification Proposal**

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

If this Modification Proposal were not to be implemented then the CMC would continue not to reflect the Clean Energy Package requirements which relate specifically to Capacity Mechanism and risk being in conflict with the Regulation 2019/943.

In practical terms, the risk of not implementing this modification is that the Capacity Market process may award new capacity contracts to capacity providers who emit more than is allowed for within the Regulation 2019/943.

#### **Impacts**

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

The requirement that only capacity providers who meet the emissions limits set out in the Regulation can participate in the Capacity Market will require revisions to the TSOs Capacity Market application and qualification processes.

The RAs may need to update their exception application templates for New Capacity and possibly Unit Specific Price Cap applicants.

Specifically in respect of new capacity the TSOs processes will need to be updated to capture the additional emission limit requirements for assessing the Substantial Completion stage for new capacity in advance of Reliability Option payments being made.

The RAs will also seek to be reassured that the emissions limits are being adhered and sufficient information has been provided to the TSOs and/or RAs in advance of the SEM Committee approving both the qualification results and the auction results.

**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.