



**Single Electricity Market
(SEM)**

**Capacity Market Code Working Group 12
CMC_09_19, CMC_07_20 and CMC_08_20**

Consultation Paper

SEM-20-040

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1. OVERVIEW

1.1 ABSTRACT

- 1.1.1 The purpose of this consultation paper is to invite industry participants to provide feedback and comments in regards to the proposed modifications to the Capacity Market Code (CMC) discussed at the Working Group held on 31 March 2020.
- 1.1.2 During this Working Group, six modifications were presented. This consultation paper relates to:
- CMC_09_19 – Supplementary Interim Secondary Trading (Version 2)
 - CMC_04_20 – Providing greater flexibility for New Capacity to combine Candidate Units into a single Capacity Market Unit
 - CMC_05_20 – Implement amendments as required by the Clean Energy Package Regulation EU 2019/943
 - CMC_06_20 – Combining Capacity Units into a Capacity Market Unit - Proposed Changes
 - CMC_07_20 – Change in Technology Class for Awarded New Capacity
 - CMC_08_20 – Change of Awarded Existing Capacity to Awarded New Capacity
- 1.1.3 Following the conclusion of the Working Group and given a number of factors, including the large volume of modifications discussed, requirements relating to EU Regulations and the ongoing COVID-19 situation, the Regulatory Authorities had made the decision to progress these Modifications in three batches.
- 1.1.4 CMC_04_20, CMC_05_20 and CMC_06_20 therefore do not form part of this consultation, instead falls under the scope of the consultation papers SEM-20-023¹ and SEM-02-025². Therefore the SEM Committee are not asking for feedback in regards to this proposal.

1.2 CHANGES RELATING TO THE PROCESSING OF THE PROPOSED MODIFICATION PROPOSALS

Process for Modification CMC_05_20

- 1.2.1 With regard to modification *CMC_05_20 – Implement amendments as required by the Clean Energy Package Regulation EU 2019/943* had been marked “Standard”, the Regulatory Authorities submitted this proposal marked as “Standard” under the terms of B.12.4.

¹ <https://www.semcommittee.com/publications/sem-20-023-capacity-market-code-working-group-12-urgent-modification-consultation-paper>

² <https://www.semcommittee.com/publications/sem-20-025-cmc0420-cmc0620-consultation>

The Modification Proposal was initially not deemed 'urgent', given the proximity of the scheduled Working Group, however, as noted at the Working Group, given the proximity to the upcoming T-4 CY2023/24 Capacity Auction, this modification has now been deemed Urgent.

As compliance with the CEP for the forthcoming CY2023/24 T-4 Auction requires this modification to be in place prior to the Auction, the RAs determined the Modification Proposal as Urgent as it is aimed at dealing with a matter that could reasonably be anticipated would imminently and unduly interfere with, disrupt, or threaten the proper operation of the Capacity Market.

- 1.2.2 The consultation paper relating to CMC_05_20 (SEM-20-023³) which was published on 8 April 2020 with the decision paper (SEM-20-026⁴) subsequently published on 24 April 2020.

Therefore the SEM Committee are not asking for feedback in regards to this proposal as part of this consultation paper.

Process for Modifications CMC_04_20 and CMC_06_20

- 1.2.3 Were proposals CMC_04_20 and CMC_06_20 to be approved and implemented, they would have an impact on the processes involved with qualifying to participate in a Capacity Auction.

- 1.2.4 The Qualification process for the T-4 CY2024/25 Capacity Auction is due to begin in June 2020. With this being the case, the RAs had deemed it prudent to consult on these proposals to ensure any negative impacts on the qualification process for this auction would be avoided.

- 1.2.5 The consultation paper relating to the above proposals (SEM-20-025⁵) was published on 22 April 2020 with the period for consultation due to close on, and responses due by 22 May 2020.

Therefore the SEM Committee are not asking for feedback in regards to this proposal as part of this consultation paper.

Process for Modifications CMC_09_19 / CMC_07_20 / CMC_08_20

- 1.2.6 Given the justification for the separation of the modifications mentioned above, the RAs are consulting on CMC_09_19, CMC_07_20 and CMC_08_20 in a separate Consultation paper.

- 1.2.7 In the case of CMC_09_19, the RAs were of the view that the existing text needed to be converted into near final legal drafting prior to consultation. Given the substantial nature of the proposed Modification and the likelihood that some elements will need to be phased in given constraints on the ability of the SOs to modify their systems, the RAs considered it is important to allow sufficient time to enable robust drafting to be produced and to ensure that the consulted Modification is deliverable by the SOs.

³ <https://www.semcommittee.com/publications/sem-20-023-capacity-market-code-working-group-12-urgent-modification-consultation-paper>

⁴ https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-026%20%20CMC%20Mods%20WG12%20CMC_05_20%20Decision%20Paper.pdf

⁵ <https://www.semcommittee.com/publications/sem-20-025-cmc0420-cmc0620-consultation>

- 1.2.8 In the case of CMC_07_20 and CMC_08_20, delaying the start of the consultation process allowed the SOs time to consider the feedback from the Working Group and for the RAs to prepare an appropriate basis for consultation.
- 1.2.9 The delay to the start of the consultation process for these three Modifications allowed time for the Urgent Modification (CMC_05_20) and for the aggregation-related modifications (CMC_04_20 and CMC_06_20) to be considered and processed as they impacted on the T-4 CY2023/24 Capacity Auction as well as T-4 CY2024/25 Capacity Auction Qualification Process.
- 1.2.10 Taking account of the above, this consultation paper relates only to:
- **CMC_09_19 – Supplementary Interim Secondary Trading (Version 2)**

The purpose of this modification is to implement Supplemental Interim Secondary Trading measures in the absence of a Secondary Trading platform
 - **CMC_07_20 – Change in Technology Class for Awarded New Capacity**

This modification proposal aims to allow for a change in Technology Class associated with Awarded New Capacity, where such a change has been accompanied by a new or modified connection agreement that reflects the change.
 - **CMC_08_20 – Change of Awarded Existing Capacity to Awarded New Capacity**

This modification proposal aims to allow for the introduction of a means by which Substantial Completion can be reversed such that Existing Capacity that is not delivering is considered as Awarded New Capacity again.

1.3 BACKGROUND

- 1.3.1 Decisions made during the development of the I-SEM CRM Detailed Design were translated into auction market rules to form the Capacity Market Code (CMC) (SEM-17-033) which was published in June 2017. The most recent version was published on 10 October 2019. The CMC sets out the arrangements whereby market participants can qualify for, and participate in, auctions for the award of capacity. The settlement arrangements for the Capacity Remuneration Mechanism (CRM) form part of the revised Trading and Settlement Code. The most recent version of the Trading and Settlement Code was published on 12 April 2019. Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the handling of proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

Process for modification of the CMC

- 1.3.2 Section B.12 of the CMC outlines the process used to modify the CMC. In particular, it sets out processes for proposing modifications, as well as the consideration, consultation and implementation or rejection of modifications.

- 1.3.3 The purpose of the Modifications process is to allow for modifications to the CMC to be proposed, considered and, if appropriate, implemented with a view to better facilitating code objectives as set out in Section A.1.2 of the CMC. (B.12.1.2).
- 1.3.4 Modifications to the CMC can be proposed and submitted by any person, (B.12.4.1), at any time. Unless the modification is urgent modifications are subsequently discussed at a Working Group held on a bi-monthly basis. Each Working Group represents an opportunity for a modification proposer to present their proposal(s) and for this to be discussed by the workshop attendees.
- 1.3.5 For discussion at a Working Group, Modification proposals must be submitted to the System Operators at least 10 working days before a Working Group meeting is due to take place. If a proposal is received less than 10 working days before a Working Group and is not marked as urgent it is deferred for discussion to the next Working Group.
- 1.3.6 Following each Working Group, and as per section B.12.5.6 of the CMC, the RAs are required to publish a timetable for the consideration, consultation and decision relating to the Modification(s) proposed during a Working Group.
- 1.3.7 If a proposal is received and deemed to be contrary to the Capacity Market Code Objectives or does not further any of those objectives, the Regulatory Authorities (RAs) will reject the proposal on the grounds of being spurious, as set out in section B.12.6 of the CMC.

Urgent Modifications

- 1.3.8 A proposer may choose to mark a Modification proposal as “Urgent”. (B.12.9.1). In this case, the RAs, as per section B.12.9.3 of the CMC, will assess whether or not the proposal should be treated as urgent. If the RAs deem a proposal to be urgent they have the power to fast-track the proposal.
- 1.3.9 In this regard B.12.9.5 provides:

“If the Regulatory Authorities determine that a Modification Proposal is Urgent, then:

- a) the Regulatory Authorities shall determine the procedure and timetable to be followed in assessing the Modification Proposal which may vary the normal processes provided for in this Code so as to fast-track the Modification Proposal; and
- b) subject to sub-paragraph (a), the System Operators shall convene a Workshop.”

- 1.3.10 The RAs may request the SOs to convene a Working Group to discuss the proposed Modification.

Process for these Modifications

- 1.3.11 On 19 March 2020 the SOs notified the RAs of the six proposed modifications for discussion at WG12 held on 31 March 2020.
- 1.3.12 Following a review of the proposals, the Regulatory Authorities determined that the none of the Modification Proposals for discussion at WG12 are spurious

1.3.13 On the 16 June 2020 the RAs determined the procedure to apply to the Modification Proposals CMC_09_19, CMC_07_20 and CMC_08_20, for the reasons outlined above. The procedure is shown in detail in Appendix A. An overview of the timetable is as follows:

- i. The System Operators convened Working Group 12 where the Modification Proposal was considered on 31 March 2020.
- ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, are to prepare a report of the discussions which took place at the workshop, provide the report to the RAs and publish it on the Modifications website promptly after the workshop.
- iii. The RAs will then consult on the Proposed Modification, with a response time of 30 Working Days from the date of publication of the Consultation.
- iv. As contemplated by B.12.11 the RAs will make their decision as soon as reasonably practicable following conclusion of the consultation and will publish a report in respect of their decision.

1.4 PURPOSE OF THIS CONSULTATION PAPER

- 1.4.1 The purpose of this paper is to consult on the three proposed modifications CMC_09_19, CMC_07_20 and CMC_08_20 discussed at Working Group 12. More detail about the modifications are set out in the appended modification proposals (Appendix B).
- 1.4.2 The Regulatory Authorities hereby give notice to all Parties and the Market Operator of a consultation on the proposed Modification.
- 1.4.3 Interested Parties and the Market Operator are invited to make written submissions concerning the proposed Modifications by 31 July 2020.
- 1.4.4 Upon closure of the consultation process, the Regulatory Authorities intend to assess all valid submissions received and form a decision to either implement or reject a modification or undertake further consideration as regards to matters raised through the consultation process in regards to the proposed modifications.

2. MODIFICATION PROPOSALS

2.1 CMC_09_19 - SUPPLEMENTARY INTERIM SECONDARY TRADING (VERSION 2)

Proposer: Regulatory Authorities / Tynagh Energy Limited

Proposal Overview

- 2.1.1 This Modification is an updated version of that submitted for and discussed at Working Group 10 that took place on 21 November 2019, and subsequently deferred for further updating.
- 2.1.2 The purpose of this modification is to implement Supplemental Interim Secondary Trading measures in the absence of a Secondary Trading platform. The justification for the proposing this modification is given as the fact that secondary market was not available at go-live nor would it be accessible until at least 2021.
- 2.1.3 The modification has been proposed as according to Recital 51 of the State aid Decision, Reliability Options were expected to be tradable on the Secondary Market by Q4 2018. Given that this date has passed the proposer states this modification will allow the Code to comply with the Decision.
- 2.1.4 The proposal highlights that this modification aims to provide greater security of supply by ensuring that sufficient capacity is available in the Market whilst allowing parties to trade obligations and reduce their exposure which the proposer states is considered a necessary supplement to the existing interim solution. The proposal further elaborates that it is not intended to replace the current Interim Secondary Trading Arrangements
- 2.1.5 Further detail on the Modification Proposal is set out in the appended Modification Proposal (Appendix B).

Working Group Feedback

- 2.1.6 The System Operator advised that they were broadly supportive of the proposal in terms of providing the opportunity to allow for secondary trading by way of enhancing the current interim provisions. In terms of the drafting there were several elements the System Operator wished to highlight would require system development that would require a longer timescale for implementation, however also advised that this shouldn't hinder moving forward with an initial take on the proposal.
- 2.1.7 The System Operator highlighted one such example being the one working day turnaround, which they would be unable to implement without the development of the current supporting systems.

2.1.8 They further elaborated that work on systems developments could be initiated now, however in the meantime, they could potentially facilitate a five working day turnaround. Whilst this isn't as quick as set out in the proposal, the System Operators would subsequent to system developments, move towards the faster process.

2.1.9 In relation to the 70 day limit, this would also be a component of the enduring secondary trading process and would need development of the supporting systems to allow for implementation of this limit. The System Operator stated that it is something which can be done, but as with the above points, would require development.

2.1.10 The System Operator also set out that in regard to the publication of the Capacity and Trade register, any associated publication would need system development. They have advised that they could provide some basic information with regards to the trade initially.

They advised that implementation of system developments to facilitate the above requirements would likely require 12 to 18 months to complete.

2.1.11 Tynagh have stated that with the 5 working days limit the intention is to make the process as simple as possible to allow the System Operator to perform their validations and therefore should be as simple to update. They also expressed that they hope the System Operator would be in a position to reduce the 5 day limit, as close to 1 day as possible by the time the consultation is finalised.

2.1.12 Tynagh also referred to the requirement for developing the systems to facilitate the 70 day limit, stating they were of the opinion that this shouldn't require the level of system development as the System Operator envisage.

2.1.13 ESB agreed with the points made by Tynagh, advising that the System Operator should ensure that the timeframes discussed should be reduced, as the main benefit of this proposal is that it provided fast flexibility that the interim solution does not provide.

2.1.14 The System Operator advised that they are supportive of the proposal, but reiterated that they must be realistic as to the timeframes involved, further elaborating that the validation process would be more substantive than discussed during the Working Group. They did however advise they are keen to increase flexibility and this could occur via a phased approach, but highlighted that they must ensure that all the correct systems are in place and can operate as required.

2.1.15 Energia queried whether the validation of trades performed by the SOs was based on what is set out in section M.10.3.1 and M.10.3.2 of the CMC that is taken into consideration. The RAs advised that there still may be requirements to include Buyer Limits within the validation process. Energia concluded advising that it would be beneficial to have all the requirements included and listed clearly to avoid ambiguity.

2.1.16 The SOs advised it would be their preference that all checks are made explicit and that there wouldn't be any other considerations. They highlighted that transparency here is key.

- 2.1.17 With regard to the publication of trades Tynagh advised they had intended on this being relatively simple, possibly being in the form of a report that would be published periodically and sets out the events that have occurred in a given time period.
- 2.1.18 Energia raised a query in regards to the System Operator comments on the publication of the Capacity and Trade Register, with specific focus on transparency. They advised that there could be information included in this that would be considered confidential, and would call for this to be as transparent as possible, given the confidential nature.
- 2.1.19 Tynagh advised it was their opinion that the reason for this logic was to reduce the possibility of market power issues occurring. They have elaborated that they would be supportive of the inclusion and full publication of prices should be facilitated to ensure full transparency.
- 2.1.20 BGE stated they would be of the view that the original design of the platform was intended to be central that included both counterparty and price data. They elaborated that this interim process should aim to do the same and therefore contain the same elements.
- 2.1.21 Tynagh have advised that the proposal is designed to work in parallel to the interim process and is viewed as supplementary to.
- 2.1.22 Energia highlighted that with regard to the interim and this proposed process working in parallel, there is a strong argument that the interim solution must require a greater degree of flexibility. They have stated that the current solution could be deemed binary, but this shouldn't be the case. Tynagh advised that whilst this is a valid point it may be beneficial that this would be covered by a separate modification to this proposal.
- 2.1.23 The System Operator commented that there is already certain amount of flexibility in the current arrangements whereby you can specify the quantity that you wish to trade out. When notifying an interim secondary trade, participants can specify whether they wish to trade all of, or a portion of the awarded capacity. However, they acknowledged that may be difficult to facilitate given that it works on a monthly resolution and may not work with this proposal. But there is functionality in place which could allow for a simple version of this mechanism to operate, however with the addition of more complexities, the supporting systems would require development.
- 2.1.24 Energia advised that it would be preferential to have this proposed process and the existing interim process aligned.
- 2.1.25 ESB referred to, at the start of the Capacity market, the contract reporting for Secondary Trading would be via REMIT and upon moving to the enduring process would be financial reporting. They advised as an industry there should be discussions as to what way do these Secondary trades fall. However did advise that what the modification is aiming to do is something that they would be supportive of.

- 2.1.26 They also queried a possible error in regards to section M.10.2.2 (f) of the proposal drafting. Tynagh have advised that when this goes into the consultation there will be a number of things that will require tidying up, given that it is a large portion of new information that is proposed to be added to the CMC. Tynagh also advised that this would be relevant to the ESB comment around reporting type.
- 2.1.27 With regards to FSQC, ESB queried whether a product load following factor is being used. Tynagh stated that it would be needed to determine the Seller Limit to apply to a trade.
- 2.1.28 ESB queried if the RAs envisage that the load following factor would be similar to what has been calculated for the FSQC. The RAs advised that as per the updated version of the proposal that has been circulated, which included comments made by the RAs.
- 2.1.29 The RAs elaborated that there are areas whereby the current drafting could be usefully made tighter and better integrated with the main body of the CMC. They noted that there is currently a method for calculating the load following factor that is applied to the FSQC. Where possible, the RAs advised it could be beneficial to reuse current text and concepts already in place within the Capacity Market Code.
- 2.1.30 ESB referred to the requirement to submit a trade ID, querying how this would be created.
- 2.1.31 Tynagh advised that it intended this to be a relatively simple process that could be created by using the unit ID of the seller and the Start time/date. This would result in a unique reference number that could be utilised.
- 2.1.32 Further to this, ESB queried whether it would be the intention to have both the buyer and seller submit the same trade request to the SOs. Tynagh confirmed this would be correct and would ensure that the trade can be validated.
- 2.1.33 ESB referred to section M.10.5.3(c) of the CMC which refers to the calculation of the Seller Limit and requested clarity in regards to the bullet points

The RAs advised that ESB are correct to request this and further stated that the text appears to be taken from Chapter H and upon publishing the consultation this area will be tidied up to ensure clarity is provided.

Additional Submission of Comments Following WG12

- 2.1.34 Several submissions were received in regards to the provision of additional comments whilst also reiterating the points discussed during the Working Group.
- 2.1.35 A number of responses highlighted their concern that there is still no facility for this, given it is a requirement under state aid rules. It was also stated that it is of the utmost importance that progressing system changes should be made a priority.
- 2.1.36 One respondent was concerned that the proposal doesn't provide detail in regards to the treatment of Stop-Loss limits.

Minded to Position

- 2.1.37 Following the working group and subsequent feedback, the RAs have re-drafted the proposed CMC text of the Modification to integrate it more fully into the Code. This re-draft also incorporates the RAs comments that were included in the draft discussed at the working group.
- 2.1.38 In re-drafting the CMC text, the RAs have taken the view that market participants would prefer an enhanced form of secondary trading in the near term than a more complete solution that may require significant systems development and would not be deliverable for a much longer time.
- 2.1.39 Following feedback from the SOs at the working group, the draft text providing the ability to trade above de-rated capacity and the 70 day limit on such trade has been de-scoped as it could not be delivered in the near term. The RAs will continue to engage with the SOs to look at introducing this additional trading capability in the medium term.
- 2.1.40 Given the feedback from the SOs about the time needed to process Alternative Secondary Trade Notifications, the time limit of 1 WD for proposed Secondary Trades to be written into the Capacity and Trade Register in the proposed drafting has been modified to read “as soon as reasonable practicable” in M.11.3.1(d) of the revised text. This allows a longer time for the SOs to initially process proposed trades before new systems can be put into place. The RAs will engage with the SOs to ensure the appropriate systems can be put in place to allow “as soon as reasonably practicable” to converge to 1 WD.
- 2.1.41 While the intention remains for the new Secondary Trading arrangements in M.11 to operate in parallel with the existing Interim Trading arrangements in M.7, the RAs have concerns about the ability of a single CMU to use both sets of trading arrangements in the same period.
- 2.1.42 M.7 was drafted with the expectation that the only pre-existing trades would be from primary auctions and so the capacity to be traded would be the same for the whole period of the trade. If trades are also occurring under M.11 then this assumption will no longer be valid and the drafting of M.7 is not clearly robust to this situation. Of greater concern is the ability of the SOs systems for Interim Secondary Trading to handle the situation where a unit has already entered into a trade under M.11.
- 2.1.43 If the existing Interim Secondary Trading arrangements are unable to handle the situation where a unit already has a secondary trade in place for part of the period covered, then it will be necessary to prohibit trading using both M.7 and M.11 in the same period. This will require a further, minor modification to each of M.7 and M.11. Were this to prove the case, the RAs will engage with the SOs to see if their systems can be updated in the medium term to allow trades under both M.7 and M.11, even where they overlap.
- 2.1.44 In the working group, the SOs indicated that there would be limitations to the data on secondary trades that could readily be published in the near term. While the RAs will continue to explore what could be published in the near term, this consultation offers an opportunity to consider what should be published.

- 2.1.45 The enduring Secondary Trading arrangements set out in Chapter H, publish the price achieved for each Product. Given that the price for a secondary trade under M.11 makes little sense without the period covered by the trade (analogous to the Product in Chapter H), this would seem to represent the minimum information to be published. Additional information could include the counterparties, CMUs involved and the volume. The RAs would be interested in respondents' views on how much data on secondary trades could be published without intruding too far into confidential data.
- 2.1.46 The RAs would note that while M.11 creates a different mechanism for entering into a Secondary Trade than the enduring solution set out in Chapter H, the result is basically the same, i.e. a Secondary Trade is written into the Capacity and Trade Register. As a result, the algebra around stop-loss limits set out in Chapter F of the TSC does not require any modification to cope with implementation of M.11.
- 2.1.47 Given the strong support for the extension of secondary trading and the delay to the implementation of the enduring solution set out in Chapter H, the RAs are minded to approve the modification. However, as noted above, some additional minor changes may be needed to ensure that the Modification can be put into effect as soon as possible.
- 2.1.48 Once implemented, the RAs will monitor the new secondary trading arrangements in terms of liquidity and the ability of all parties to gain equal access to this liquidity when required.

2.2 CMC_07_20 – CHANGE IN TECHNOLOGY CLASS FOR AWARDED NEW CAPACITY

Proposer: System Operator

Proposal Overview

- 2.2.1 This modification proposal aims to allow for a change in Technology Class associated with Awarded New Capacity, where such a change has been accompanied by a new or modified connection agreement that reflects the change.
- 2.2.2 The proposal sets out changes to sections C.3, G.3.1.4A and J.5.4 of the CMC.
- 2.2.3 The System Operator highlighted that Connection offers, and the associated works, are based on assumptions relating to the operating regime of a proposed generator based on its technology type and that whilst the capacity market code considers all De-rated Capacity to be effectively equivalent, in reality different technology classes can have a multitude of different impacts on the power system.
- 2.2.4 The proposal further states that where a Participant secures a new or modified Connection agreement, in regards to Technology Class, this modification would ensure that all required conditions continue to be met.

- 2.2.5 This Modification Proposal aim to extend the flexibility introduced with modification *CMC_06_19 - Modification to the Proportion of Delivered Capacity Calculation* (implemented following the decision made in SEM-19-046⁶) by further allowing for Technology Class change in particular circumstances and also provides for situations where the participant delivers capacity that has a better derating factor without changing Technology Class.
- 2.2.6 Further detail on the Modification Proposal is set out in the appended Modification Proposal (Appendix B).

Working Group Feedback

- 2.2.7 Energia queried whether the System Operator has envisaged any scenarios or circumstances whereby a given unit changes its technology class, having already qualified for, and subsequently been awarded a multiyear Reliability Option, in a Capacity Auction.
- 2.2.8 The System Operator advised that whilst this hadn't been considered it is a valid point and would need to be captured within the proposal
- 2.2.9 They elaborated stating that it would be correct that if a unit with New Capacity was allowed to bid into an auction for a multiyear RO under certain investment criteria (where a multiyear RO would be warranted) and was awarded a multiyear RO, a change in technology class could result in a change to investment levels therefore meaning a unit would not then satisfy the requirements for a multiyear RO.

The System Operator advised that it could be beneficial to introduce a step covered by the RAs, whereby they would be linked into the RAs exception applications process.

- 2.2.10 The RAs advised that there are currently various aspects within Chapter J of the Capacity Market Code, specifically within J.2.1.6, that are associated with the amendment of major contracts, however at the moment these go through the System Operators processes. However, the RAs acknowledged there may be a need to review this. The RAs advised that a problem would be that any potential change to technology class would be likely to happen a substantial amount of time after the Capacity Award (and multiyear contract) is awarded. This would require additional modifications to the qualification data for a unit.
- 2.2.11 BGE requested the System Operator provide the rationale behind this proposal. Further querying if the System Operator has, from its forecasting, seen something that is driving this issue.
- 2.2.12 The System Operator stated they didn't have any particular rationale for proposing this modification and have not received any questions from participants in advance of the auctions to date. In terms of looking at commitments to deliver the System Operator stated they are interested in the levels of flexibility there is available.

⁶ <https://www.semcommittee.com/sites/semc/files/media-files/SEM-19-046%20-%20CMC%20Mods%20WG6%20Decision%20Paper.pdf>

They acknowledged that at the time of qualification all participants should have a clear vision in regards to the delivery of the capacity, however they have stated that flexibility should be available, given that there may be required changes to mitigate unforeseen circumstances.

The System Operator elaborated that, in their opinion, it would be beneficial to have some form of capacity than none at all and believe the addition of this proposal would reduce the level of risk placed on a party by allowing technology class to change, thus ensuring that reliable capacity can still be delivered to the system.

2.2.13 The System Operator, in response to one attendee, stated that the proposal does not include any planned addition of restrictions to new technology developments and it is their intention to have this proposal open to all potential solutions to be able to be introduced.

2.2.14 BGE asked if the System Operator could provide clarity in regards to at what stage(s) in the development process parties would be able change technology class, given the lag in times around development.

2.2.15 In response to this the System Operator stated the proposal is written to be taken in the same section as the remedial actions of the code. They highlighted that it is not envisaged that this proposal would be utilised under normal circumstances, instead being used when there are delays, or various events in the implementation plan e.g. insolvency events or issues with contractor.

They further stated that this proposal would be used in the event of a serious risk of non-delivery and represents an attempt to de-risk this and make the process more attractive to developers while increasing the likelihood of capacity being delivered for consumers.

2.2.16 ESB advised that they fundamentally support modifications that provide flexibility, however asked that with regard to the reasoning behind requiring to change technology class ultimately two of the three reasons provided by the System Operator would, if likely to happen at all, be after Substantial Financial Completion.

2.2.17 They requested clarity as to whether the System Operator thinks that if technology class were changed would the Substantial Financial Completion of the unit require revisiting.

2.2.18 The System Operator stated that this is a valid point and that if the information provided to originally satisfy the Substantial Financial Completion milestone changed in a material way then there would be the need to revisit this. They advised it may be required that this is included within the draft text of the proposal.

2.2.19 A query was raised stating that under J.5.4.3, and with regards to modified connection agreements would it be correct to assume that if a unit qualified in a specific location and proposed to change its technology class it would then be unable to subsequently change its location.

2.2.20 The System Operator advised that the intention would be that changing the technology class would have no impact on any ability to change the location permitted under the CMC.

- 2.2.21 In regards to impact assessments, ESB stated their belief that a change to technology class may have an impact of the USPC process carried out by the RAs, especially if a change to technology class results in a material impact on the units running regime.
- 2.2.22 The RAs advised that it would most likely be improbable that this would occur, however recognised that whilst the probability would be low any impact could be high.
- 2.2.23 Another participant agreed that implementation, and the subsequent occurrence of this issue could result in distortion within that wider market.
- 2.2.24 The System Operator took this opportunity to clarify that they are continually taking a wider view of what the likely conditions will be on the system going forward, which involves making a number of assumptions and that this point should be considered, given that if there were an impact caused by this it could be high.

Additional Submission of Comments Following WG12

- 2.2.25 Several submissions were received in regards to the provision of additional comments.
- 2.2.26 A number of respondents re-iterated comments that were made during the Working Group whereby it still remains unclear as to why the proposal was being raised as it did not appear to address any particular issue.
- 2.2.27 It was also commented that ahead of any progression, this proposal would require additional consideration in regards to the occurrence of any potential unintended consequences of implementation.
- 2.2.28 One respondent stated that, in the proposal does appear useful in theory, however there is a significant lack of detail on how this can be achieved and managed. They have stated more detail is required with regard to:
- How an awarded contract can still deliver to the same criteria but with a different technology;
 - How the clearing price for awarded capacity will still provide sufficient for those who need to change technology to be able to and still achieve the same expected return under new technology.
- 2.2.29 Concerns were raised that upon implementation of the proposal and unless the clearing price is healthy enough, particularly in relation to the specific cap and floor parameters, it could end up creating an exit signal for awarded capacity that cannot achieve similar returns if they were to change technology.

Minded to Position

- 2.2.30 Given that a number of potential issues that could arise from implementing this modification and the lack of a clear need from participants to change Technology Class after Qualification, the RAs are minded to reject this modification.

2.3 CMC_08_20 – CHANGE OF AWARDED EXISTING CAPACITY TO AWARDED NEW CAPACITY

Proposer: System Operator

Proposal Overview

- 2.3.1 The purpose of this proposal is to allow for the introduction of a means by which Substantial Completion can be reversed such that Existing Capacity that is not delivering is considered as Awarded New Capacity again.
- 2.3.2 The System Operator provided justification for the proposal stating that, in the Capacity Market, there are strong provisions regarding the delivery of Awarded New Capacity; however, once Substantial Completion has been achieved and the Awarded Capacity is considered as Existing, there are no provisions to deal with the instance where the Generator Unit has a Registered Capacity that is no longer >90% of the Awarded Existing Capacity.
- They further state that the proposal is necessary to ensure that Awarded Existing Capacity is treated on a similar basis to Awarded New Capacity, therefore creating a more level playing field.
- 2.3.3 The proposal aims to modify the CMC by way of the introduction of a new section *1.1.4 Non-delivery of Existing Capacity*.
- 2.3.4 Further detail on the Modification Proposal is set out in the appended Modification Proposal (Appendix B).

Working Group Feedback

- 2.3.5 Powerhouse Generation wished to clarify the System Operator understanding with regards to the Grid Code, disagreeing with the content within the slides that states a generator should achieve and declare their registered capacity in their Op Cert. They stated that the Grid Code states a unit must declare their technical capability.
- 2.3.6 The further elaborated their reading of the Grid Code is that it is ensuring that a unit does not declare a number that is lower than what a unit can technically provide.
- 2.3.7 The System Operator advised that this is a valid point and stated that the points contained within the slides are shorthand.

They highlighted that the more detailed provisions of the Grid Code do state what the attendee had raised and a unit should not be declaring what they cannot technically achieve.

They advised that within the slides it was intended to highlight that, where there are no conditions limiting the output of a unit, a unit should be operating at their registered capacity.

- 2.3.8 An attendee disagreed with this, stating that registered capacity would be the maximum value that any unit can provide, regardless of technology type and that after this a unit declares what it can do at a particular time.
- 2.3.9 Electricity Exchange advised that they understand the intention within the proposal is to include initiatives that drive both high performance and availability, however they have concerns with regards to the approach within taken here. They were concerned with part B of the proposal stating that, from their view, there is as perceived introduction of an availability measure within a delivery based mechanism. They believe any deviation from this mechanism could have State aid implications.
- 2.3.10 The System Operator advised that, with regard to the point around the delivery based mechanism they agree with this, however stated that it is not solely delivery based in the sense that physical backing is still required. There is a requirement in the Capacity Market Code to ensure that a participant ensures reasonable endeavours are taken to make their awarded capacity available.
- 2.3.11 The System Operator elaborated that the proposal has been put forward, at this stage, for discussion and highlighted that they believe there is an underlying issue given that the availability levels they are seeing are not aligned with what they have assumed should be available when taking into account their de-rating calculations. They are concerned that this could lead to a risk that with the operational security of the system and adequacy standards.
- 2.3.12 Electricity Exchange advised that they do see the motives behind the modification proposal however they believe the introduction of this proposal could lead to perverse outcomes that would impact on energy limited plant.
- 2.3.13 They stated they cannot see the logic in applying a de-rating to available capacity and see this as effectively 'double de-rating'. They further highlighted that this implies that a unit must be available 100% of the time at their registered capacity in order to justify a given de-rating factor. They did not agree with the rationale of this and stated their concern that this does not align with the methodology.

Additional Submission of Comments Following WG12

- 2.3.14 Several submissions were received in regards to the provision of additional comments.
- 2.3.15 A number of respondents raised concerns with the proposal and expressed their opposition to the proposal where it appears to be aimed at addressing concerns with DSU performance as opposed to broader market issues.

2.3.16 One response stated that whilst the intent of the proposal seems to be to create a better alignment between the treatment of Existing Capacity and New Capacity, the content of the proposal goes far beyond that stated objective and creates a whole new design element to the Capacity Market that would not be consistent with the wider design.

It was also commented that it would not be prudent to introduce this proposal given that there is a current lack of an approved enduring secondary trading market.

2.3.17 Several respondents took the opportunity to highlight that given the justification and interpretation for this modification was not clear it is difficult to lend support to it given it was not only unclear what the specific problem nor what is trying to be solved.

2.3.18 One respondent stated they support the principle that capacity with capacity market contracts should have physical backing, however they have concerns as to whether the modification would potentially result unintended consequences for well-performing capacity.

They have advised that further consideration of the following points would be welcomed:

- Further information around the stated driver for the modification and the link to assumptions applied in the de-rating factor methodology;
- With a view to assessing the extent of the potential investor risk this modification might raise, further information on the 'unavailable' test, e.g.:
 - with regard to the percentage (90%/ 50% tests) would some type of exclusion for planned outages be provided for such that they did not count towards the percentage threshold?
 - if there is an unexpected overrun in a planned outage, would the 'clock' start then or at the end of the overrun?
 - whether maintenance outages count towards unavailability calculations?
- How, for example in (a) the 90% test, a long stop date at the end of the capacity year in question would apply if the 90% test was for example triggered and met within one or two months of the end of the capacity year. It seems to be a very short time to turnaround any such under-performance?

Minded to Position

2.3.19 The RAs recognise the issues that arise from clearly identifying what represents a failure to comply with the reasonable endeavours obligation set out in I.1.2.1 (b). They also recognise that the CMC process for managing such breaches once identified, via section B.13 of the CMC, raises further issues with no clear route to remedy or consequences while in breach.

2.3.20 The RAs note that in the implementation of Modification CMC_05_20 (SEM-20-026) they were forced to drop a new, reasonable endeavours obligation to comply with the CEP CO₂ Limits as following the CMC B.13 process could have undesirable knock-on effects on the TSC.

- 2.3.21 The proposed modification would require significant work to produce a modification that could be implemented. In addition, it covers very similar ground to the consultation proposed in SEM-20-026 and may also need to be considered in the broader context of the TSC.
- 2.3.22 As a result, the RAs are minded to reject the Modification in its current form but pick up some of the underlying principles in a wider consultation on measuring compliance with reasonable endeavours obligations set out in I.1.2 which will also deal with the issue of the CEP CO₂ Limits and how do deal with breaches of such obligations. This is as first proposed in paragraph 3.1.3 of SEM-20-026.

3. CONSULTATION QUESTION

- 3.1.1 The SEM Committee welcomes views and responses on the proposed modifications raised within this consultation paper.
- 3.1.2 Respondents are invited to provide comments and feedback for each of the proposed Modifications in respect of:
- the proposed modifications and their consistency with the Code Objectives;
 - any impacts not identified in the Modification Proposal Forms, e.g. to the Agreed Procedures, the Trading and Settlement Code, IT systems etc.; and
 - the detailed CMC drafting proposed to deliver the Modifications.
- 3.1.3 A template has been provided in Appendix C for the provision of responses.

4. NEXT STEPS

- 4.1.1 The SEM Committee intends to make a decision in September 2020 on the implementation of the Modification outlined within this consultation paper.
- 4.1.2 Responses to the consultation paper must be sent to Kevin Lenaghan (Kevin.Lenaghan@uregni.gov.uk) and Kevin Baron (Kevin.Baron@uregni.gov.uk) by 17.00 on Friday, 31 July 2020.
- 4.1.3 Please note that we intend to publish all responses unless marked confidential. While respondents may wish to identify some aspects of their responses as confidential, we request that non-confidential versions are also provided, or that the confidential information is provided in a separate annex. Please note that both Regulatory Authorities are subject to Freedom of Information legislation.