



**Single Electricity Market
(SEM)**

**Capacity Market Code Working Group 18
Modification Consultation Paper**

SEM-21-023

01 April 2021

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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 modification to the Capacity Market Code (CMC) discussed at the Working Group held on 11 March 2021.
- 1.1.2 During this Working Group, four modifications were presented. This consultation paper relates to:
- **CMC_01_21: Amendment relating to the provision of the CAM Report following a Capacity Auction**
This modification proposes to amend B.10.4.1 of the CMC to require that the Capacity Auction Monitor provides their report on the Capacity Auction two Working Days after the provisional Capacity Auction Results have been released to Participants.
 - **CMC_02_21: Amendment to Capacity Market Code Modifications Workshop Agenda Timeline**
This modification proposes to change the timeframes by which the System Operator must issue their agenda to participants in advance of a Modifications Working Group.
 - **CMC_03_21: Modification to the provisions for Substantial Financial Completion**
This modification proposes to modify the process for meeting Substantial Financial Completion, with regard to DSUs and AGUs so as to provide greater flexibility in the delivery of Awarded New Capacity.
 - **CMC_04_21: Verification Requirements for Implementation Plan Milestones**
This modification proposes to remove the obligations that require DSUs and AGUs to provide verification in respect of paragraphs that do not apply to DSUs and AGUs and replace this obligation with one that relates to the applicable paragraph J.2.1.3 (a).

1.2 BACKGROUND

- 1.2.1 The SEM CRM detailed design and auction process has been developed through a series of consultation and decision papers, these are all available on the SEM Committee's (SEMC) website. These decisions were translated into legal drafting of the market rules via an extensive consultative process leading to the publication of the Trading and Settlement Code (TSC) and the Capacity Market Code (CMC). An updated version of the CMC (4.0)¹ was published on 31 July 2020 and the most recent version of the TSC² was published on 3 November 2020.

¹ <https://www.sem-o.com/rules-and-modifications/capacity-market-modifications/market-rules/Capacity-Market-Code.docx>

² <https://www.sem-o.com/rules-and-modifications/balancing-market-modifications/market-rules/>

Process for modification of the CMC

- 1.2.2 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.
- 1.2.3 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).
- 1.2.4 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.
- 1.2.5 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.
- 1.2.6 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.
- 1.2.7 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

- 1.2.8 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.
- 1.2.9 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.”*
- 1.2.10 The RAs may request the SOs to convene a Working Group to discuss the proposed Modification.

Process for these Modifications

- 1.2.11 On 25 February 2021 the SOs notified the RAs of the four proposed modifications submitted for discussion at WG18 held on 11 March 2021.
- 1.2.12 CMC_01_21 was submitted by the RAs, CMC_02_21 by the SOs, CMC_03_21 submitted by the DRAI and CMC_04_21 by the SOs.
- 1.2.13 All four of the proposed modifications were marked as Standard and will therefore be processed through the normal Modification process.
- 1.2.14 Following a review of the proposals, the Regulatory Authorities determined that the neither of the proposals are spurious.
- 1.2.15 On the 26 March 2021 the RAs determined the procedure to apply to the Modification Proposals. The procedure is shown in detail in Appendix A. An overview of the timetable is as follows:
- i. The System Operators convened Working Group 18 where the Modification Proposals were considered on 11 March 2021.
 - 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 20 Working Days (as defined in the CMC), 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.

1.3 PURPOSE OF THIS CONSULTATION PAPER

- 1.3.1 The purpose of this paper is to consult on the following proposed modifications:
- CMC_01_21: Amendment relating to the provision of the CAM Report following a Capacity Auction;
 - CMC_02_21: Amendment to Capacity Market Code Modifications Workshop Agenda Timeline;
 - CMC_03_21: Modification to the provisions for Substantial Financial Completion;
 - CMC_04_21: Verification Requirements for Implementation Plan Milestones.
- 1.3.2 Further detail on each of the modifications is set out in the appended modification proposals (Appendix B).
- 1.3.3 The Regulatory Authorities hereby give notice to all Parties and the Market Operator of a consultation on the proposed Modifications.

- 1.3.4 Interested Parties and the Market Operator are invited to make written submissions concerning the proposed Modification by no later than 17:00 on 4 May 2021.
- 1.3.5 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 modification.

2. MODIFICATION PROPOSALS

2.1 CMC_01_21 – AMENDMENT RELATING TO THE PROVISION OF THE CAM REPORT FOLLOWING A CAPACITY AUCTION

Proposer: Regulatory Authorities

Proposal Overview

- 2.1.1 This modification proposes a change to paragraph B.10.4.1 of the CMC.
- 2.1.2 Under this paragraph, the Capacity Auction Monitor (CAM) is currently required to provide their report on the Capacity Auction two Working Days after the provisional Capacity Auction Results have been provided to the Regulatory Authorities (RAs). The RAs propose that this paragraph is modified to instead require that they provide their report on the Capacity Auction two Working Days after the provisional Capacity Auction Results have been released to Participants.
- 2.1.3 In previous Capacity Auctions the provisional Capacity Auction Results were provided to the RAs (under paragraph F.9.3.1) and released to Participants (under F.9.2.1) on the same date, occurring on the Provisional Capacity Auction Results Date as listed in the Capacity Auction Timetable.
- 2.1.4 However, for the T-1 CY2020/21 Capacity Auction and the T-2 CY2021/22 Capacity Auction, the System Operators provided the provisional Capacity Auction Results to the RAs on an earlier date. This earlier submission of provisional Capacity Auction Results from the SOs to the RAs resulted in an unexpected last-minute change to the deadline of Auction Monitor report on the Capacity Auction, requiring the Monitor to make resourcing changes to support earlier delivery of the report on the T-2 Capacity Auction.
- 2.1.5 This proposed modification would link the submission of the Auction Monitor report on a Capacity Auction to an event that is less likely to vary, providing more certainty for all parties planning inputs to, preparation of, and review of the report on a Capacity Auction whilst also mirroring the requirement for the Auction Monitor report on the Qualification Process, which is required two Working Days following the release of Provisional Qualification Results to Participants under E.9.2.1, E.9.2.2, and E.9.2.3.
- 2.1.6 Further detail on the Modification Proposal is set out in the appended Modification Proposal (Appendix B (1)).

Working Group Feedback

- 2.1.7 BGE requested clarification be provided as to it being their understanding that the proposal is to simply re-organise the scheduling of the timeframes between the CAM gathering information and subsequently issuing their report following an auction and wasn't proposing a change to the timeframe upon which participants are notified of their results from a given Capacity Auction.
- 2.1.8 The RAs confirmed this understanding is correct and that the change is to ensure that the Capacity Auction Monitor has the correct amount of time and resources available to produce the report on time.
- 2.1.9 The RAs elaborated that this proposal is borne from an issue experienced following the completion of the T-1 CY2020/21 and T-2 CY2021/22 Capacity Auctions.

Upon completion of both auctions the System Operators provided the RAs with the results of the auctions simultaneously, which in turn amended the timeframes associated with providing the T-2 Capacity Auction Monitor report. This subsequently resulted in undue pressure of the Monitor to provide the report earlier than anticipated.

- 2.1.10 The RAs confirmed the proposal is not changing the timeframes associated with the provision of auction results to participants.
- 2.1.11 The System Operator advised they are supportive of the proposal in that it will reduce pressure placed on the CAM and advised of a minor typographical error in the proposal. This error has been corrected and the corrected version of the proposal contained in Appendix B (1).

Minded to Position

- 2.1.12 Given that the aim of the proposal is to both ensure that the issues experienced following the completion of the T-1 CY2020/21 and T-2 CY2021/22 Capacity Auctions and to ensure the monitor has sufficient time and resources to complete the post auction report, the SEM Committee are minded to approve this modification.

2.2 CMC_02_21 – AMENDMENT TO CAPACITY MARKET CODE MODIFICATIONS WORKSHOP AGENDA TIMELINE

Proposer: System Operator

Proposal Overview

- 2.2.1 This proposed modification intends to modify section B.12.7.1 (f) of the CMC. This section currently requires the SOs to issue an agenda at least 10 WDs ahead of a WG convening.
- 2.2.2 As it stands, the SOs are technically non-compliant with the CMC as the Secretariat is allowing the maximum time period possible for interested parties to register their attendance. The SOs state that it is also not possible to issue an agenda on this timescale as the deadline has not been reached for submission of new Modification Proposals meaning the agenda is not available within this current timeline.
- 2.2.3 The SOs propose to modify the code to require the circulation of an agenda to participants at least 5 WDs in advance of a Working Group, as opposed to 10 WDs, which would mitigate the risk of a recurring non-compliance with this section of the CMC.
- 2.2.4 The SOs stated that amending this requirement to 5 WDs will allow for all other processes associated with submitting a proposal and publishing the agenda to complete naturally whilst also giving participants the maximum amount of time to review proposals and register their attendance at a Working Group.
- 2.2.5 Further detail on the Modification Proposal as well as the amendments to the text within the CMC is set out in the appended Modification Proposal (Appendix B (2)).

Working Group Feedback

- 2.2.6 BGE highlighted the importance in ensuring that the timings associated with this process are aligned and that there is no undue pressure placed on the SOs or result in a clash in the process of information gathering. However, they have raised concerns that 5 WDs could then place participants under pressure as it may not give them sufficient time to review agenda items for a Working Group and prevent them from giving them the due diligence they would need.
- 2.2.7 BGE queried whether the proposal is addressing the issue at the right end of the schedule. They further queried whether it would be of benefit to keep the 10 WD requirement in place and make adjustments further upstream.
- 2.2.8 The SOs advised that, as per the current process, once a proposal has been received this is published shortly after receipt (within 1 WD in most cases), which ensures the proposals to be discussed are publically available.

The SOs reiterated that this proposal is as a result of it not being feasible to produce the agenda on the same day as the deadline for the submission of proposals.

- 2.2.9 In terms of making a change upstream in the process, the SOs advised, given that invites to a Working Group are issued one month in advance, it may be possible to move that milestone out, however, the simplest solution is to proceed with the modification as currently proposed.
- 2.2.10 Another participant stated they have concerns with the reduction the 5 WD period. They mirrored the comments made by BGE, whereby this would impact the review time made available to participants. It was suggested that once a proposal has been made available to view, would it be possible to have a mail drop arranged that states a proposal(s) are available.
- They highlighted that this would give participants an indication of the proposal(s) as opposed to having to wait for an agenda to be published.
- 2.2.11 In response to the query on the possibility of performing a mail drop, the SOs stated that this had been trialled in other areas, however resulted in industry being overloaded with communications and participants subsequently missed important emails.
- 2.2.12 The SOs stated that this proposal doesn't represent a change to operational aspect of the process and that since the market went live, this is how the process has been operated. The SOs reiterated that the aim of the proposal is to align this to what is now current practice. They have elaborated that, upon implementation of this proposal, industry will not notice any changes from the current process.
- 2.2.13 With regard to a change in the timing associated with this change, the SOs advised that this doesn't necessarily equate to a reduction in service, simply a shorter time period set aside for registering for a Working Group.
- 2.2.14 The SOs concluded by advising that the publication of an agenda 10 WDs ahead of a Working Group isn't possible, due to this also being the deadline for submitting proposals which must go through a validation process. However, they have advised that the proposal to change the timeframe for publishing the agenda strikes a fair balance and will allow for participants to check they can attend and subsequently register for the Working Group.

Minded to Position

- 2.2.15 As stated in their proposal, with the timeline of 10 WDs currently in place the SOs are in a state of constant non-compliance with the CMC.
- 2.2.16 The SEM Committee are also cognisant of the pressure placed on SEMO with regard to the gathering, validation and notification process relating to modifications all taking place on the one day.
- 2.2.17 The SEM Committee would also note that this time between the deadline to submit proposals and the issue of the agenda gives the RAs time to determine whether a proposed Modification is spurious.

- 2.2.18 In order for the CMC to reflect a practical timetable for issuing of the working group agenda, and to recognise current practice which has worked well, the SEM Committee are minded to approve this modification.

2.3 CMC_03_21 – MODIFICATION TO THE PROVISIONS FOR SUBSTANTIAL FINANCIAL COMPLETION

Proposer: DRAI

Proposal Overview

- 2.3.1 This modification proposes to enable Participants to voluntarily increase their financial commitment to the delivery of Awarded New Capacity, in lieu of the standard Substantial Financial Completion milestone.
- 2.3.2 The proposal aims to change section J.2.1.3 of the CMC, modifying a number of Implementation Plan milestones for DSUs / AGUs, to provide an alternative route for achieving Substantial Financial Completion by electing to voluntarily increase the Termination Charge payable (and associated Performance Security) based on the next upcoming termination charge rate (€/MW).
- 2.3.3 The proposal also sets out that for a typical T-4 auction requiring Substantial Financial Completion within 18 months from the Auction Results, this would require a Participant to voluntarily increase its Termination Charge exposure (and associated Performance Security) to 30,000 €/MW 22-24 months prior to start of the Capacity Year, and approximately 1 year earlier than would otherwise be required.
- 2.3.4 The DRAI advise that the requirement to significantly increase the financial commitment will provide a strong financial incentive for participants to either deliver Awarded New Capacity or to terminate this as early as possible if it becomes clear it cannot be delivered. In addition, they are of the view that the proposed modification ensures that a very strong financial commitment to delivery is in place significantly prior to the window for a T-1 auction for any Capacity Year, continuing to ensure the opportunity to procure replacement capacity for any Awarded New Capacity not successful in meeting this milestone.
- 2.3.5 The proposed Modification retains the requirement for DSUs / AGUs to provide proof of contract with the physical capacity but instead moves the deadline for this provision closer to the start of the Capacity Year (not less than 4 months prior). The proposed modification states this retains this significant milestone, but in a manner which does not unnecessarily limit the period during which aggregators can continue the sales process to recruit and enrol the new customers required to meet their obligations.
- 2.3.6 In their proposal the DRAI state that a critical market design element is maximising the level of certainty for consumers that Awarded Capacity will be delivered, and the Substantial Financial Completion milestone is a clear part of this, and well suited for the delivery of New Capacity which requires a major construction project.

They elaborated that this proposal, by significantly increasing the financial commitment to capacity delivery by the same deadline as for Substantial Financial Completion (well ahead of the last opportunity to replace any capacity which fails to deliver) continues to provide very high certainty to end consumers, but in a manner which removes a material barrier to demand side participation, which has significantly different delivery characteristics than major infrastructure construction projects.

- 2.3.7 The DRAI believe this proposal strikes an optimal balance between providing demand side aggregators the flexibility to recruit customer sites until closer to the start of the Capacity Year while ensuring they retain a strong financial incentive to deliver as early as possible and maintain the current high levels of delivery commitment and ultimately certainty provision to the end consumer.
- 2.3.8 Further detail on the Modification Proposal as well as the amendments to the text within the CMC is set out in the appended Modification Proposal (Appendix B (3)).

Working Group Feedback

- 2.3.9 The RAs advised that this proposal does aid in understanding the issue to which Demand Response units face. They further advised that at the time of writing the CMC, it was anticipated that DSUs would participate in the T-1 Auctions and not in the T-4 auctions, to the extent that has been seen in each of the previous T-4 auctions. The RAs recognised that there are areas whereby the treatment currently in place can be improved.
- 2.3.10 However, the RAs did have a number of concerns as to how the proposal would work.
- 2.3.11 The first concern the RAs raised was in regards to the use of the proof of contract, when they would kick in. The RAs referred to the presentation provided by the DRAI which referenced other markets, specifically those in GB and North America, which allowed changes relatively close to the point of delivery. The RAs highlighted that the markets mentioned are substantially larger than the SEM and it may be the case that DSUs would be less likely to have an impact within these markets.
- 2.3.12 The System Operators advised that it would be useful to have details on the percentage of the total capacity, in those markets, that is met by DSUs.
- 2.3.13 With regard to this Enel X provided commentary of the experiences of DSUs in the other markets that had been referenced. They advised that within PJM, the amount of capacity provided by DSUs is around 8%. They elaborated that the typical amount of DSU capacity that doesn't show up is less than 1% and isn't seen as a major issue.
- 2.3.14 The RAs elaborated that, whilst an increase in exposure to termination fees would increase the incentive to deliver, they are concerned that if a DSU experiences issues up to the delivery minus four months' period, there are no options left for the market with regard to replacing the missing capacity, as a T-1 auction is the last opportunity to procure capacity, for a given Capacity Year.

2.3.15 The System Operator advised they accept that there would be a greater financial commitment provided by DSUs / AGUs as part of the proposal, however they reiterated the concerns raised by the RAs in regards to the fact that it wouldn't be possible to see whether capacity is available until four months ahead of the start of the Capacity year which does not provide the opportunity to address any potential missing capacity.

2.3.16 The RAs highlighted that setting the termination fee to €30,000 from the point of substantial financial completion, which then doesn't change up to the point where proof of contracts are required, doesn't incentivise units to report expected failure to deliver early.

2.3.17 In regards to this point, Enel X advised that an increase in termination charges will result in added focus being provided. They elaborated that being on the hook to pay out an increased amount if they fail to deliver equates to a severe commitment, which would also result in reputational damage.

2.3.18 Enel X advised that a good example of a market that takes steps to mitigate these issues is the ISO New England market. Here they have a series of annual auctions and once the T-1 point has been passed the level of financial commitment that must be provided, for capacity not yet proven, increases which therefore incentivises early delivery.

They advised that this would therefore encourage participants, who are going to fail to deliver, to do it earlier, which then allows time for this to be addressed and replaced.

2.3.19 However, Enel X took this opportunity to advise that this format used in the ISO New England market is over engineered given that DSU failure to deliver in this market is not an issue. As part of this proposal, this format was put forward due to the levels of complexity that would be needed and that in its current state, the proposal makes minimal changes that they believe would still mitigate the issue.

2.3.20 The DRAI recognised the point raised by the RAs and System Operator advising that it does have merit. They advised that they will take this offline and investigate if there is something that can be built into the proposal so as to mitigate the concerns. The DRAI have also advised that they will submit a version 2 of the proposal, which would be circulated as part of the consultation paper.

2.3.21 The RAs also had concerns with regards to the nature of an AGU / DSU. The RAs advised that in the case where these are existing units they are in a strong position. However, the RAs have referred to a number of occasions where DSU sites have submitted an exception application seeking a multi-year contract and from this they are able to see that to facilitate the demand response there is the requirement to build new capacity (be that in the form of an OCGT / Gas Engine).

The RAs advised that this could then lead to the treatment of new capacity at a demand site being different to new capacity not at a demand site, despite them being effectively the same.

2.3.22 In response to this the DRAI suggested the creation of a link between the proposal and those DSUs/ AGUs that are only looking to secure a one-year contract in a capacity auction, with those units requesting a multi-year contract being excluded from this provision.

- 2.3.23 The System Operators highlighted that, as it stands, they would not be in a position to support the proposal as it appears to decrease reliability levels. However, they added that if the level of reliability were to be increased with regards to how proof of contract can be provided, they could then provide a level of support.

The DRAI highlighted that the risk of non-delivery is always present and can never realistically be guaranteed. They elaborated that the intent of the proposal is for the System Operator to be prudent and to put in place factors that will maximise the certainty that can be provided to the system.

They commented that despite the level of substantial financial completion for a conventional unit, this doesn't guarantee that the unit will show up. Further, they provided an example whereby a conventional unit meets the substantial financial completion requirements and then subsequently encounters an issue that results on them missing the first number of months of a capacity year (specifically the winter period). In this case they have advised that this may only come to light at a point where it is too late to be replaced.

- 2.3.24 The DRAI stated that, on balance, they feel this proposal gives substantially the same level of commitment, albeit in a different form, and that the benefits this provided in terms of demand response, are merited and worth consideration.

- 2.3.25 BGE requested views on increasing credit implications and the subsequent burdens that would be placed on DSUs / AGUs. They asked whether this would result in the exclusion of smaller DSUs that would not be able to carry the increased burden with providing credit.

- 2.3.26 The DRAI advised that this has been built in as an alternative and that the existing ability for a DSU to provide proof of contracts by the Substantial Financial completion deadline would remain.

They elaborated that the option to increase exposure to termination charges and provide proof of contract early would be completely voluntary and that a unit must still provide a proof of contract, but at a later date.

- 2.3.27 The DRAI reiterated that, in taking on board the comments provided during the Working Group, they would provide an updated version of the proposal to the RAs that would be circulated as part of this consultation paper. The updated version of the proposal is contained within Appendix B (3).

Minded to Position

- 2.3.28 The SEM Committee notes the work put in by DRAI to produce an updated Modification proposal which makes significant progress to address the issues raised at the Working Group. In particular, we note the change to J.2.1.3(a) to limit application to single year contract awards and the change to J.4.3.2 to further increase the Performance Security and Termination Fee at the second Performance Security Posting Date/Event (which is currently set to 13 months prior to the start of the Capacity Year).

- 2.3.29 With these changes, the application of this specific flexibility to only DSU and AGU capacity seems reasonable without creating undue discrimination and the incentive for such capacity to flag its inability to deliver early enough for the capacity to be replaced in the T-1 Auction is retained.
- 2.3.30 The SEM Committee recognises the important role that DSU and AGU plant can play in the provision of competition in the CRM and note the arguments put forward by DRAI about the reliability of DSU delivery in other markets and the deadlines for a milestone equivalent to Proof of Contract used in other markets.
- 2.3.31 However, the SEM Committee also notes the concerns expressed by the System Operators. We further note the risk of more than one DSU pursuing the same Demand Site(s) and this coming to light much later under the proposed process. This may be of increased concern in a smaller market, like the SEM, where there is a limited pool of Demand Sites from which to draw.
- 2.3.32 Given the above, the SEM Committee have decided not to provide a minded to position in this paper.

2.4 CMC_04_21 – VERIFICATION REQUIREMENTS FOR IMPLEMENTATION PLAN MILESTONES

Proposer: System Operator

Proposal Overview

- 2.4.1 This modification proposes to remove the obligation to always provide an independent Certified Engineers report and replace it with one where it must be provided on request from the System Operator.
- 2.4.2 Currently the CMC requires DSUs and AGUs to provide verification in respect of paragraphs that do not apply to DSUs and AGUs (i.e. J.2.1.1 (a) (i) to (v)). This modification proposal replaces this obligation with one that relates to the applicable paragraph J.2.1.3 (a).
- 2.4.3 The SOs have stated that as the Candidate Unit has undergone commissioning under the relevant grid code and has also registered under the Trading and Settlement Code, in many cases this may represent sufficient evidence of substantial completion.
- 2.4.4 The SOs advised that the CMC includes a requirement that a participant provide an independent Certified Engineers report in respect of Substantial / Minimum Completion and highlighted that while this may be required in certain instances, in their view it is not required in all circumstances and represents an onerous and unnecessary obligation on capacity providers.

- 2.4.5 The System Operators have also advised that an additional change as part of the proposal is that some of the requirements of substantial financial completion refer to a number of elements of the definition of substantial financial completion, as contained in J.2.1.1 (a) which doesn't apply to DSUs / AGUs generally. The proposal is aiming to provide clarity around the distinction here and ensure consistency of the code.
- 2.4.6 Further detail on the Modification Proposal as well as the amendments to the text within the CMC is set out in the appended Modification Proposal (Appendix B (4)).

Working Group Feedback

- 2.4.7 Grid Beyond commented that the proposal does make sense and advised they would welcome the change proposed here as without it they are exposed to additional costs, which they feel are perhaps not necessary when going through the process with the System Operator to be certified.
- 2.4.8 Further to this, they have requested clarity as to what timeline is associated with this proposal in order to assess whether they will need to move forward with a certified engineer, or if the proposal would be potentially implemented ahead of them having to sort this. They had also queried whether the proposal can be considered as urgent at this stage.
- 2.4.9 With regard to timelines the System Operators advised that, as of now the requirement within the code is that evidence of substantial completion requires a statement be provided from a certified engineer.
- They elaborated that, as this modification is still in the proposal stage it must go through due process, as part of which the RAs will provide Industry with a timetable for assessment.
- 2.4.10 The System Operator advised that they are constantly trying to improve the processes around the delivery of new capacity.
- 2.4.11 The System Operator advised that with this proposal they are aiming to be pragmatic with how they implement the objectives of the code.
- 2.4.12 They elaborated that whilst details in this area are covered in the code, Industry may not be fully aware of the implications of the process and it appears this may have caused an element of disruption in the past.

Minded to Position

- 2.4.13 The SEM Committee are keen not to impose unnecessary costs and obligations on capacity providers and believe this change can be implemented without any reduction in the quality of the hedge offered to consumers from new capacity. However, we note that it will be important for the System Operators to exercise their discretion and request certification where this is required to give assurance to consumers.

2.4.14 The SEM Committee are minded to approve this modification.

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 modification and its consistency with the Code Objectives;
 - any impacts not identified in the Modification Proposal Form, e.g. to the Agreed Procedures, the Trading and Settlement Code, IT systems etc.; and
 - the detailed CMC drafting proposed to deliver the Modification.
- 3.1.3 A template has been provided in Appendix D for the provision of responses.

4. NEXT STEPS

- 4.1.1 The SEM Committee intends to make a decision in October 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 no later than **17.00 on Tuesday, 4 May 2021**.
- 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.