

MODIFICATION PROPOSAL FORM			
Proposer <i>(Company)</i>	Date of receipt <i>(assigned by System Operator)</i>	Type of Proposal <i>(delete as appropriate)</i>	Modification Proposal ID <i>(assigned by System Operator)</i>
EirGrid/SONI	25 th February 2021	Standard	CMC_04_21
Contact Details for Modification Proposal Originator			
Name	Telephone number	Email address	
Aodhagan Downey		aodhagan.downey@eirgrid.com	
Modification Proposal Title			
Verification Requirements for Implementation Plan Milestones			
Documents affected <i>(delete as appropriate)</i>	Section(s) Affected	Version number of CMC used in Drafting	
CMC	J.4.3	4.0	
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>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).</p> <p>Furthermore, the CMC includes a requirement that a participant provide an independent Certified Engineers report in respect of Substantial / Minimum Completion. While this may be required in certain instances, in the System Operators view it is not required in all circumstances and represents an onerous and unnecessary obligation on capacity providers.</p> <p>This modification proposal seeks to remove the obligation to always provide this independent Certified Engineers report to one where it must be provided on request from the System Operator. As the Candidate Unit has undergone commissioning under the relevant grid code and has also registered under the Trading and Settlement Code, in many case this may represent sufficient evidence of substantial completion.</p>			
Legal Drafting Change <i>(Clearly show proposed code change using traced changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<p>J.4.3 Verification</p> <p>J.4.3.1 A Participant shall provide verification in accordance with this section J.4.3 in respect of:</p> <p>(a) achieving the Substantial Financial Completion Milestone, any other Major Milestone or Minimum Completion in relation to Awarded New Capacity; and</p> <p>(b) the “T-1 Implementation Progress Report”, being the last Implementation Progress Report scheduled for delivery prior to the date 13 Months prior to the start of the first Capacity Year in which the Awarded New Capacity is scheduled to be provided under the Implementation Plan.</p> <p>J.4.3.2 For the purposes of paragraph J.4.3, verification comprises:</p> <p>(a) in respect of the Substantial Financial Completion Milestone:</p> <p>(i) <u>for Awarded New Capacity other than a Demand Side Unit or an Aggregated Generator Unit</u>, a certificate addressed to the System Operators and signed on behalf</p>			

of the Participant by a Participant Director certifying that, having made all due and careful enquiry and to the best of the knowledge, information and belief of the Participant Director, the Substantial Financial Completion Milestone has been achieved, and in particular that each of the statements in paragraphs J.2.1.1(a)(i) to J.2.1.1(a)(v) is true and correct in relation to the Milestone; and

- (ii) for Awarded New Capacity other than a Demand Side Unit or an Aggregated Generator Unit, a copy of the resolution, agreement or approval referred to in paragraph J.2.1.1(a)(iv);
- ~~(iii) for Awarded New Capacity that is a Demand Side Unit or an Aggregated Generator Unit, evidence that a contract is in full force and effect between the Participant and the provider of the physical capacity.~~
- (b) in respect of the Commencement of Construction Works Milestone, a certificate addressed to the System Operators and signed on behalf of the Participant by a Participant Director certifying that, having made all due and careful enquiry and to the best of the knowledge, information and belief of the Participant Director, the Commencement of Construction Works Milestone has been achieved, and in particular that each of the statements in paragraphs J.2.1.1(b)(i) and J.2.1.1(b)(ii) is true and correct in relation to the Milestone; and
- (c) in respect of all other Milestones, ~~or Minimum Completion~~ or the T-1 Implementation Progress Report, a certificate addressed to the System Operators and signed on behalf of the Participant by a Participant Director~~from an independent Certified Engineer, with experience and expertise in the construction and operation of the relevant type of equipment or technology, approved by the System Operators (such approval not to be unreasonably delayed or withheld)~~ certifying that, having made all due and careful enquiry and to the best of their knowledge, information and belief, the relevant Milestone or Minimum Completion (as applicable) has been achieved.
- ~~(d) any additional information or evidence in relation to the achievement of any Milestone or Minimum Completion requested by the System Operators for the purposes of J.4.3 including a certificate addressed to the System Operators from an independent Certified Engineer, with experience and expertise in the construction and operation of the relevant type of equipment or technology, approved by the System Operators (such approval not to be unreasonably delayed or withheld) certifying that, having made all due and careful enquiry and to the best of their knowledge, information and belief, the relevant Milestone or Minimum Completion (as applicable) has been achieved.~~

J.4.3.3 For the purposes of paragraph J.4.3.2(~~de~~), a person is regarded as independent if:

- (a) the person is not an Affiliate of the relevant Participant;
- (b) the person is not a current employee of the relevant Participant or an Affiliate of the relevant Participant;
- (c) the person has not been an employee of the relevant Participant or an Affiliate of the relevant Participant with the previous two years; and
- (d) the person is not engaged on terms, nor party to any other arrangements, which could allow the Participant or any Affiliate of the Participant to exercise undue influence on any report, assessment, certificate or commentary prepared by that person or otherwise compromise the objectivity of such report, assessment, certificate or commentary.

J.4.3.4 A certificate under this section J.4.3 shall be in the form published from time to time by

the System Operators.

J.4.3.5 In a certificate given under paragraph J.4.3.2(~~de~~), the Certified Engineer giving the certificate shall confirm that they are independent within the meaning of paragraph J.4.3.3 and shall certify each of the matters referred to in paragraph J.4.3.3.

~~J.4.3.6 The System Operators may request that a Participant provide additional information or evidence in relation to the achievement of any Milestone or Minimum Completion, and the Participant shall comply with the request.~~

Modification Proposal Justification

(Clearly state the reason for the Modification)

This modification proposal is required to remove requirements to verify requirements of the CMC that do not apply to DSUs/ AGUs. Furthermore, it seeks to remove the obligation to provide in all circumstances an independent Certified Engineers certificate but retains the right for the System Operators to seek this if they deem it necessary.

Code Objectives Furthered

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

- (a) to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to the Capacity Market;
- (b) 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;

Implication of not implementing the Modification Proposal

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

In the first instance, obligations would remain in the CMC which are not applicable to DSUs and AGUs.

In the second instance, onerous obligations would continue to apply, which represent in many cases an undue burden and cost on market participants.

Impacts

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

Minor process impacts

Please return this form to the System Operators by email to 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.