Energia Response to SEM Committee Consultation Paper SEM-21-023

Capacity Market Code Working Group 18 Modification Consultation Paper

04 May 2021

1. Introduction

Energia welcomes the opportunity to respond to the SEM Committee Consultation Paper SEM-21-023 (the “Consultation Paper”) on proposed modifications to the Capacity Market Code discussed at Working Group 18 on 11 March 2021. Energia are supportive of the proposed modifications where SEM Committee have outlined a minded to position to accept the proposal. However, in respect of CMC_03_21 (Version 2), for which SEM Committee have decided not to provide a minded to position, we do not support the proposal put forward on the basis that it poses an increased risk and threat to security of supply. We elaborate further in Section 2 below.

2. Comments on Proposed Modifications

CMC_03_21: Modification to the provisions for Substantial Financial Completion (Version 2)

The proposed modification seeks to allow voluntary amendment of the Substantial Financial Completion requirements for DSU / AGU such that it brings forward the Termination Charges in return for the proof of contract milestone required for Awarded New Capacity DSU / AGU to be extended to not less than 4 months before the start of the Capacity Year. This will effectively mean:

- The 30,000 (€/MW) Termination Charge becoming effective after the Financial Completion Period (i.e. 18 months after the Capacity Auction) rather than 13 months prior to Capacity Year;
- The 40,000 (€/MW) Termination Charge becoming effective 13 months prior to Capacity Year rather than from beginning of the Capacity Year.

However, Energia disagree with the assertion in the proposal that there will not be *“any detrimental impact on security of supply…”* from the modification and are thus opposed to its implementation. The proposal poses an increased risk to security of supply:

- Once the 30,000 (€/MW) Termination Charge becomes effective (i.e. 18 months after the Capacity Auction), this is effectively now a ‘sunk cost’ for the DSU / AGU who has been Awarded New Capacity;
- Therefore, the financial incentive for the DSU / AGU is strongly in place to meet its obligation to deliver the capacity and to take advantage of the allotted time of up to 4 months prior to Capacity Year to achieve this;
- Given that the process to bring in new Demand Sites can take a few weeks (as stated in the proposal), the increased Termination Charge of 40,000 (€/MW) 13 months prior to Capacity Year will not alleviate this incentive given the ‘sunk cost’ that has already occurred;
- This differs from other Awarded New Capacity where build out may be required as it will be clear at a certain point in time if delivery will be met depending on progress;
- Given the concerns by DSU / AGU about meeting the current obligations, this also raises concerns over their ability to fulfil T-1 auction capacity requirements (on the assumption that those successful in T-4 auctions will have exhausted all options).

Given the above rationale it is clear that the DSU / AGU who secures Awarded New Capacity has a financial incentive to use all of the allotted time to secure contracts with Demand Sites despite the increased Termination Charges applying at an earlier date.

This increases the risk that some DSU / AGU fail to secure the required customers to deliver the capacity and this only becoming an issue 4 months prior to the start of the Capacity Year when there are no further options available to the System Operator to address the capacity shortfall.