

APPENDIX C – RESPONSE TEMPLATE

SUMMARY INFORMATION

Respondent's Name	ESB Generation and Trading
Type of Stakeholder	Generator
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Confidential Response	[N]

CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS:

ID	Proposed Modification and its Consistency with the Code Objectives	Impacts Not Identified in the Modification Proposal Form	Detailed CMC Drafting Proposed to Deliver the Modification
CMC_15_23: Amendments to Performance Securities for Extended Projects	<p>ESB GT agrees the proposed modification is consistent with CMC objectives, specifically (c), (f) and (g).</p> <p>The proposed modification aligns levels of performance security and consequently the termination charges for projects affected by third-party delays and therefore in receipt of an extension for Substantial Financial Completion and Long Stop Date.</p>	<p>ESB GT believes this modification should be implemented as an enduring solution and not be limited only to a specific auctions. The potential limitation would undermine investors' confidence for the future projects that may be impacted by third-party delays.</p> <p>While we agree with the modification, we do not agree with inclusion of <i>Inflationary Extension Period</i> in the legal drafting. The</p>	<p>J.3.2 Obligation to Provide [...] J.3.2.9 Where an extension has been granted to Awarded New Capacity in accordance with Section J.5.2, Section J.5.5, or under any other relevant sections of the Code, the Performance Security Posting Dates/Events applicable to that Awarded New Capacity as determined in accordance with paragraph J.3.2.2 shall be extended by a period equal to the Third Party Extension Period or Inflationary Extension Period or other</p>

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	<p>Performance security levels are currently set as stepwise curve increasing towards the start of the Capacity Year in respect of which unit was awarded new capacity. Due to the unpredictability of the third-party delay which puts the project on hold until the decision is made, investors should not be expected to lodge a higher performance security as they were not able to complete the milestones expected in the original implementation plan by no fault of their own.</p>	<p>modification proposal justification focuses mostly on projects granted an extension under J.5.5.1 which concerns only delays due to Planning Appeal or Judicial Review. The term <i>Inflationary Extension Period</i> is not defined in CMC yet and we believe it's connected to CMC_16_23 which will still be in consultation when the decision for this proposal is expected (8th September 2023). To include a provision for additional extension periods that may be defined in the future, we propose an alternative drafting.</p>	<p>relevant extension period granted to the Awarded New Capacity.</p>