

Response to SEM-23-060

Capacity Market Code Modifications Workshop 32 Consultation

25th August 2023



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1. Introduction

EirGrid holds licences as independent electricity Transmission System Operator (TSO) and Market Operator (MO) in the wholesale trading system in Ireland. System Operator for Northern Ireland (SONI Ltd) is the licensed TSO and MO in Northern Ireland. The Single Electricity Market Operator (SEMO) is a contractual joint venture between SONI and EirGrid and operates the Single Electricity Market on the island of Ireland.

EirGrid and SONI have been certified by the European Commission as independent TSOs. EirGrid also owns and operates the East West Interconnector, while SONI acts as Interconnector Administrator for both of the interconnectors that connect the island of Ireland and GB.

EirGrid and SONI, both as TSOs and MOs, are committed to delivering high quality services to all customers, including generators, suppliers and consumers across the high voltage electricity system and via the efficient operation of the wholesale power market. EirGrid and SONI therefore have a keen interest in ensuring that the market design is workable, will facilitate security of supply and compliance with the duties mandated to us and will provide the optimum outcome for customers.

EirGrid and SONI have duties under licence to advise the CRU and UR respectively on matters relating to the current and expected future reliability of the electricity supply. We have also been allocated responsibility for administering the Capacity Market Code through our TSO licences. This response is on behalf of EirGrid and SONI in their roles as TSOs for Ireland and Northern Ireland.

1.1. EirGrid and SONI View on the Consultation Topic

EirGrid and SONI, the System Operators, welcome this opportunity to respond to the SEM Committee's consultation paper ([SEM-23-060](#), 17th August 2023) in relation to the proposed Capacity Market Code modification:

- CMC_15_23: Amendments to Performance Securities for Extended Projects

EirGrid and SONI note the revised fast-tracked consultation timetable following the determination of the proposal as Urgent. We understand there may be particular time constraints in relation to the proposal however, the System Operators have some concern with the short consultation period given the subject matter, the potential to introduce differential treatment for competing parties and the reallocation of risks to consumers that were allocated to participants following lengthy consultation processes during the establishment of the Capacity Market. The System Operators note a potential cumulative impact of a series of modification proposals which have reallocated risk to consumers in an incremental fashion.

The System Operators appreciate the pressures on and concerns of project developers however, due to the transfer of risk and impacts (inc. cost) to consumers, the System Operators do not support this modification proposal and believe it is counter to the Capacity Market Code objectives as defined in the Code and the TSO licences, in particular:

“A.1.2.1 (g) through the development of the Capacity Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.”

Further to the Workshop 32 discussion, the System Operators reiterate the purpose of Performance Securities and Termination Charges - to protect consumers from the impacts associated with non-delivery of capacity which was secured at auction. When a project is delayed the risk to delivery increases rather than decreases and therefore relaxing the risk mitigation for the developer appears to be inappropriate and contrary to the outcome of the consultation exercises undertaken when the Capacity Market Code was established. Relaxing Performance Security requirements reduces commitment to an auction outcome.

The proposal cites projects which have, as a result of a third party planning delay for example, increased risk associated with them and therefore should not be required to post Performance Securities to the original schedule. The opposite argument could reasonably be made - projects for which risk has increased should

be associated with increased risk mitigation to protect the consumer rather than a relaxation. As described in consultation SEM-15-104 which discussed Performance Securities and Termination Charges, the more time that has lapsed since an auction the greater the cost of non-delivery to consumers. The outcome for the consumer with delayed delivery includes reduced system reliability, increased risk of capacity shortfalls and demand control and increased wholesale electricity prices.

Relaxation of Performance Security obligations reduces the incentive on the project developer to take steps to secure consents in a timely manner.

The SEM Committee sought views on whether this Proposed Modification, if adopted, should be limited to a specific time period or specific auctions e.g. T-3 2024/2025 and/or T-4 2025/2026. Should the SEM Committee adopt the proposal, extensions to Performance Security dates would be linked to Remedial Actions which are not Capacity Year / Auction specific. The triggers for the Remedial Actions can impact any project. It would be potentially discriminatory to allow one project which sought a Remedial Action to benefit from the extension to Performance Securities while another extended by the same Remedial Action, could not. The rationale for implementation of the proposal for a specific time period or for specific auctions is not clear.

In relation to the proposed legal drafting, the revised Glossary definition for Performance Security Posting Date / Event inserts '*...subject to any extensions under this Code.*' Similarly, the revised drafting for J.7.1.3 on Termination Charges inserts a reference to '*any extension period granted under this Code*'. If implemented, the revised legal drafting should be more specific in relation to which extensions in the Code are applicable i.e. refer explicitly to the extensions in question.

Reference to the Inflationary Extension Period is premature given the status of CMC_16_23 (consultation scheduled until October).