

APPENDIX E – RESPONSE TEMPLATE

SUMMARY INFORMATION

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Confidential Response	

CAPACITY MARKET CODE MODIFICATIONS CONSULTATION COMMENTS:

Bord na Móna (BnM) welcome the opportunity to respond to SEM-22-050 and are strongly supportive of this modification proposal.

Ireland is in a precarious period from a security of supply perspective with the All Island Generation Capacity Statement 2021 showing a shortfall of 2GW by 2030. This is a clear indication from the TSO that a gap exists between generation capacity and demand. This needs to be addressed urgently to mitigate the risk of blackout and increase our security of supply. Delivering new capacity will address this risk. Modification proposal CMC_10_22 is seeking to amend the code to provide more suitable arrangements to support the delivery of new capacity by allocating risk to those best able to manage it.

The current code does not address the risk associated with third party delays and the impact it can have on an investor. Specifically, where there are delays are due to issues across three main areas: Planning, Grid Connection and Gas Connection. Delays in third party provision of planning, grid/gas connections and environmental licences, where such delays are outside the control of the investor, can unfairly result in projects having to withdraw from contracts which exacerbates the capacity deficiency issue. This negatively impacts security of supply and ultimately increases prices for consumers.

Given the current tightness in the market, risks to security of supply in the coming winter(s) and current high prices being experienced by consumers, we believe the SEMC should approve this proposal. The reasons for the SEMC minded-to position in the paper seem to be premised on the need for additional

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work pre-auction in scrutinising qualification applications, at which stage 3rd party delays are unlikely to be known, as well as concern over the removal of financial incentives to deliver. From an industry perspective, focusing on improving third party delivery in so far as possible is also a way to address the third-party risk to ensure the delays do not materialise. In addition, there are already significant financial incentives for developers to deliver on time – performance bonds, reputational risk, potential market revenues etc. More broadly the SOs and RAs have a key role to play in meeting their obligations and in maintaining oversight of key deliverables post contract award. In addition, where a developer is seeking a change in a milestone, a pragmatic approach must be applied by the relevant authority including in the overall date for delivering the project i.e. substantial completion date.

We do not believe that the proposed Modification also ‘has the potential to exacerbate the situation where capacity which will not be delivered for the start of the first Capacity Year displaces capacity that could have been delivered on time in the Auction’ as this would assume that it is known at the time of the auction which projects will suffer from 3rd Party delays. We believe that there should be greater concern towards facilitating a sound project which might be delayed for reasons genuinely outside of its control – than towards rejecting it for another project which is likely to have shorter delivery timelines for the same capacity year in a subsequent auction which is therefore likely to have greater potential for delay in completion. This Modification goes some way towards this facilitation.

We support the application of this Mod from 2024_25 T-3 Capacity Auction, given that in March 2021, the CRU issued a direction to EirGrid to issue a grid connection offer to all successful participants in this Capacity Auction. In order for this measure to have a material impact on the delivery of New Capacity, the delivery of TSO-related works associated with these offers must enable the connection of projects in time for the relevant Capacity Year. Similarly, in relation to the 2025_26 T-4 Capacity Auction.

The delivery timeframes in the CRM are incredibly short given the challenges to achieve consents and build infrastructure in Ireland. The longstop provision in the code is likely to be necessary for the majority of projects contracted through the mechanism. Developers should not be penalised for this given the SEMC seem reluctant to extend delivery timelines.

In summary, the current approach to allocating third party risk in the CRM places a disproportionately high risk on the project developer. To continue to incentivise investment, changes are required to better reflect the ability to manage risk to recognise that the third-party elements are beyond a developer’s control. We believe that this Modification goes some way towards achieving this.

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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
<p>CMC_10_22</p> <ul style="list-style-type: none"> - Introduction of New Remedial Action in the Event of Third Party Delays 	<p>BnM support the modification and believe it is consistent with the objective set out under Sub-Section A.1.2 namely:</p> <ul style="list-style-type: none"> • (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; • (c) 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; • (f) to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and • (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. 		<p>BnM believes the proposed text as outlined in SEM-22-050 Appendix B i.e. CMC_10_22 is appropriate.</p> <p>This modification if accepted should apply to the T-3 auction referred to in the Mod and subsequent T-4 auctions.</p>