

APPENDIX C – RESPONSE TEMPLATE

SUMMARY INFORMATION

Respondent's Name	ESB Generation and Trading
Type of Stakeholder	<i>Generator</i>
Contact name (for any queries)	<i>Therese Murphy</i>
Contact Email Address	ThereseMurphy3@esb.ie
Contact Telephone Number	087-7586362
Confidential Response	No

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
<p>New Modification proposal from RAs:</p> <p>J.5.5 covers the extension to Substantial Financial Completion and the Long Stop Date, which manages termination risk. The text is based on the SOs proposal (CMC_13_22).</p> <p>J.5.6 covers the issue of erosion of the Reliability Option. This is new drafting as none of the proposed</p>	<p>ESB GT draws attention to the fact that the original CMC rules were designed to prevent unintended consequences and we consider that adherence to a robust screening process with clear qualification requirements ensures the highest levels of certainty in delivering capacity procurement.</p> <p>ESB GT is of the view this proposal is kneejerk reaction to ongoing issues around the shortening of the duration between the Auction and the Delivery</p>	<p>In addition to the serious shortcomings identified, ESB GT consider that the Mod may also have an adverse impact on the market and lead to the following:</p> <p>Unintended consequences - The proposed Mod will allow participants to <i>seek the approval of Regulatory Authorities for an extension to the Capacity Quantity End Date and Time associated with a Capacity Market Unit by a period no greater than the Third-Party Extension Period.</i> During this extension</p>	<p><u>NA – ESB GT do not support the introduction of new remedial action in the event of third-party delays caused by planning appeal in Ireland (no right of third-party appeal exists in Northern Ireland) and to cover third party delays to environmental licences/permits caused by Judicial Review of the grant.</u></p> <p>In our view the integrity and discipline of the CMC is protected by encouraging projects to proceed</p>

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<p>Modifications adequately covered this area.</p>	<p>Year. We believe that reducing the procurement process to less than four years puts added pressures on developers and reduces timeline tolerances for delays which are not in control of the Participant. In our view this modification proposal is in effect a project specific ‘band-aid solution’ rather than an enhancement of the Market Code.</p> <p>The Mod has serious shortcomings:</p> <p>Open ended - Mod proposes to allow projects under JR to extend their <i>Capacity Quantity End Date</i> by the period of the third-party extension. However, since the period of Judicial Review is not known the CQED cannot be defined. The proposed change therefore introduces uncertainty regarding <i>the provision of adequate future capacity</i>.</p> <p>In doing so the Mod effectively stymies the auction process by allowing projects to defer contract termination indefinitely with no guarantee that capacity will actually be delivered - this may consequences for demand curve</p>	<p>period participants can continue to prepare their project for the necessary milestones leading up to substantial completion. Such that the project could achieve substantial completion ahead of schedule and therefore enter the market early and effectively receive a longer contract with commensurate financial benefit.</p> <p>Unfairness – The Mod effectively softens qualification requirements and therefore the incentive for participants to present realistic plan timelines in their auction bids. Projects with undefined deadlines can potentially displace capacity that could be delivered. It therefore encourages participants to submit projects with optimistic timelines and offers them the possibility to displace capacity from other Participants who have built in sufficient contingency and have taken a more realistic view of project delivery.</p> <p>Retrospective – In the case where the proposed Mod is to be applied to the T-3 and previous T-4 auctions it would offer</p>	<p>within the boundaries of the existing process, which allows parties to request SFC extension.</p> <p>We also recognise that a period of 3.5 yrs is likely to be too short for many new build plants to become operational, particularly if lacking planning or environmental consents at prequalification stage. In the case where auctions are held with such short timeframes, we concur with the advice given by the CRU in CRU202258¹ (24-Jun-22), which states that <i>the CRU considers that a requirement for participants to provide evidence of <u>submission of a completed planning permission application by the Final Qualification Submission Date for the 2026/27 T-4</u> may be appropriate as an indicator of deliverability within the applicable time frame.</i></p> <p>We therefore support the view that it is better to require project to have planning and environmental consents in place to be shovel ready. For this</p>

¹ [CRU202258a-CRU-direction-to-EirGrid-T-4-2026-27.pdf](#)

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	<p>forecasting and could ultimately threaten security of supply.</p> <p>Additional cost - In order to counteract the potential impact of the proposed Mod on the demand curve the System Operators will need to procure additional capacity to ensure adequate future capacity (generation adequacy). Increased applications introduce additional processing costs which will ultimately be paid for by the end customer. This cannot be considered to align with the CMC objective <i>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.</i></p>	<p>specific projects an extension beyond the dates set out in the FAIP and therefore constitute unfairness to others. All projects that were successful in the capacity auction qualified under a specific set of assumptions / parameters (incl. the Long Stop Date) and are expected to deliver on that basis. Changing these parameters midway through the project impacts the business case and offers an unfair advantage to riskier projects (i.e. without planning).</p>	<p>reason, we recognise that there may be a need for longer timeframe (T-5/6) auctions which would allow participants additional time to attain all necessary consents and therefore have increased confidence of delivery.</p> <p>ESB GT recognise the important role of the Capacity Market <i>in facilitating the efficient, economic and coordinated operation, administration and development of the Capacity Market and the provision of adequate future capacity in a financially secure manner.</i></p> <p>We also emphasise the importance of strong, stable market signals in providing certainty to developers and to encourage investment in the market. Therefore in addition to longer timeframe auctions we consider there may be benefit in providing advance notice to the market of forecast capacity requirements for specific capacity years at least 2 years ahead of an auction. This will provide certainty and allow investors to plan and develop projects accordingly. This</p>

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			<p>mechanism is used in RESS auctions, whereby the volume of renewable energy, in GWh, is notified well ahead of the auction date.</p> <p>In contrast, the recent IAIP for T-1 CY23/24² indicates there is no shortage of capacity (Capacity Requirement is 6,621MW, the lowest in all of the capacity auctions to date 2018/19-2026/27, and an awarded capacity of 7,304MW). This has effectively sent a signal to the market indicating a low requirement for new capacity which would seem counter to the market-based measures listed in the CRU’s correspondence to the Department on the 24th of May 2022 (D/21/17876)³.</p> <p>Waiting until the FAIP to publish a demand curve (which is impossible to predict due to a lack of transparency on the RA assumptions) and the LCCA values is too late to send the real signal to the market to develop new capacity options.</p>

² [Initial-Auction-Information-Pack IAIP2324T-1.pdf \(sem-o.com\)](#)

³ [TEG2-CRU202296b-CRU-Letter-to-Minister-re-EmerGen-Article-2810-TEG02-24-May-2022.pdf](#)

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<p>CMC_12_22: (KEL) Remedial Action in the event of planning application delay to a project that qualifies under a Direction</p>	<p>Please refer to response provided above re. New Modification proposal from RAs</p>		
<p>CMC_13_22: (TSO) Third Party Judicial Review Remedial Action (V2)</p>	<p>Please refer to response provided above re. New Modification proposal from RAs</p>		
<p>CMC_14_22: (BNM) Mitigation of impact of Third-Party Delays on Participants and extension of Support term</p>	<p>Within ESB GT our stated preference is for the original CMC process which contained a robust screening process with clear qualification requirements ensures the highest levels of certainty in delivering capacity procurement.</p> <p>We also recognise the need for caution when proposing interventions that circumnavigate the qualification requirements, and the need for careful consideration to ensure unintended consequences are mitigated.</p> <p>However, we also recognise that new remedial actions are required to address unforeseen delays, which contravene commitments previously given to</p>	<p>In direction CRU202258 (24-Jun-22), the <i>CRU recognise the vital importance of the physical delivery of grid infrastructure to both decarbonisation and Security of Supply, which is also a key tenet of the REPowerEU plan..... and the CRU consider it appropriate to expedite connection works associated with connection offers issued under this Direction, as on balance, the CRU accepts that the benefits to customers of this approach outweigh the potential risks.</i></p> <p>Whilst our preference is for a robust screening process at qualification, we recognise that the actions set out in the letter are within the control of the CRU and are intended to provide certainty to developers and therefore mitigate the risk</p>	<p><i>J.5.3 Extension Due to Connection and Consenting Related Delays</i></p> <p><i>J.5.3.1 Where the completion of the Substantial Completion Milestone is delayed solely as a result of a failure of a third party, where directed by a Regulatory Authority, to complete a milestone when required to do so in accordance with the initial Implementation Plan, a Participant or an Enforcing Party (on behalf of a Participant) may apply to the Regulatory Authorities for an extension to the Maximum Capacity Duration and Long Stop Date associated with the relevant Capacity Market Unit</i></p>

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	<p>successful awarded capacity projects, by CRU regarding TSO grid connection offers.</p> <p>We therefore believe the onus is on the RAs to take proactive action to alleviate pressure on participants that are in receipt of a grid connection offer under CRU direction CRU202258 but are currently experiencing delay in securing a physical connection.</p> <p>For this reason, ESB GT considers that a Modification to the CMC is required to introduce a default extension for Grid connections which are outside of the control of the Project. We therefore believe that this proposal to be in accordance with Code Objectives, in particular:</p> <p>(a) <i>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;</i></p> <p>(b) <i>to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity Market and the</i></p>	<p>of capacity shortfall and through doing so support efforts to maintain security of supply.</p> <p>We were therefore dismayed to be notified 6mths later that SEMO consider <i>Provisional Qualification Decisions are distinct from the Connection Process and are based on the System Operators consideration of whether the proposed New Capacity can be delivered prior to the beginning of the Capacity Year in accordance with the Capacity Market Code.....that an actual programme for delivery of the connection for the Awarded New Capacity can only be fully determined once a connection agreement is in place and through detailed engagement with the System Operators.... And as such, it is important that Participants take independent advice in respect of their project delivery schedules and do not rely on qualification decisions as an indication of whether New Capacity can be implemented in the required timeframes.</i></p> <p>Whilst ESB GT look forward to continued engagement with the System Operators through the Connection Process we also express concern for how projects, in</p>	

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	<p><i>provision of adequate future capacity in a financially secure manner;</i></p> <p><i>(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;</i></p> <p><i>(d) to promote competition in the provision of electricity capacity to the SEM; (e) to provide transparency in the operation of the SEM; (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.</i></p>	<p>receipt of an EirGrid grid connection offer should reflect potential delays under the current process. It would appear that projects only have two options:</p> <p>(i) Reflect the delay in the implementation plan – in which case the start date will be post the start of the capacity year and the project will consequently fail E.7.5.1(c) of the CMC and not be allowed to qualify;</p> <p>(ii) Reflect in the bid price – in which case the APC will need to be increased to reflect a less than 10yr contract value.</p> <p>Since neither of the above options can be considered to offer a solution that is aligned with the objectives of the CMC, it is necessary to modify the Code to allow for such circumstance.</p>	
<p>CMC_15_22 (V2): (EPEDL) Introduction of New Remedial Action to Enable Extensions due to Planning and Permitting Delays</p>	<p>Please refer to response provided above re. New Modification proposal from RAs</p>		

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NB please add extra rows as needed.