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| **MODIFICATION PROPOSAL FORM** | | | | | |
| **Proposer**  *(Company)* | **Date of receipt**  *(assigned by System Operators)* | | **Type of Proposal**  *(delete as appropriate)* | | **Modification Proposal ID**  *(assigned by System Operators)* |
| **EirGrid / SONI** | **25April 2018** | | **Standard** | | **CMC\_03\_18** |
| **Contact Details for Modification Proposal Originator** | | | | | |
| **Name** | | **Telephone number** | | **Email address** | |
| **Aodhagan Downey** | |  | | [**aodhagan.downey@eirgrid.com**](mailto:aodhagan.downey@eirgrid.com) | |
| **Modification Proposal Title** | | | | | |
| **Qualification Requirements in respect of New Capacity** | | | | | |
| **Documents affected**  *(delete as appropriate)* | | **Section(s) Affected** | | **Version number of CMC used in Drafting** | |
| **Capacity Market Code** | | **E, J, Appendix D** | | **1.0** | |
| **Explanation of Proposed Change**  *(mandatory by originator)* | | | | | |
| This Modification Proposal introduces the possibility for a Participant to apply to the RAs for proposed New Capacity to be exempt from the requirement to possess or provide a Connection Offer or Connection Agreement for the purposes of Qualification under the CMC.  It introduces the following components:   1. The option for Participant to apply for an exemption under the Exceptions Section, including detailing any requirements for any such information. 2. A relaxation of the requirement to provide a Connection Offer / Agreement where exemption has been approved by the RAs 3. Alternative sources of data normally contained in the Connection Offer / Agreement for the Qualification process 4. Requiring any necessary Connection Agreements to be in place as part of Substantial Financial Completion.   Part 1: Application for Exemption  It is proposed to add the exemption to possess or provide a Connection Offer / Agreement as an additional exception under section E.5. This section covers the Exception application processes for Unit Specific Price Caps and Maximum Capacity Durations of more than one and up to 10 Capacity Years and is designed to cater for projects that have exceptional but reasonable requirements.  Part 2: Relaxation of requirement to provide Connection Offer / Agreement  The requirement to provide a Connection Offer or Connection Agreement is contained in the Information required for an Application for Qualification set out in Appendix D. A clause to relax the requirement is introduced in this section.  Part 3: Alternative Sources of information  Paragraph C.3.3.1 states that the Initial Capacity (Total) of a Generator Unit (other than an AGU) shall be the lesser of: its expected Registered Capacity and the Maximum Export Capacity specified *in the relevant Connection Agreement and/or Connection Offer applicable* to the combination of Existing Capacity and New Capacity in respect of the Capacity Year for the Initial Capacity (Total) is to be determined.  As the relevant Connection Agreement / Offer applicable has not yet been issued and the Participant has been exempt from providing it, the parts relating Connection Agreements and Connection Offers no longer apply and the Initial Capacity (Total) is simply the expected Registered Capacity.  Part 4: Adding to Substantial Financial Completion  This proposal seeks to relax the requirement for a Connection Offer in exceptional circumstances for the purposes of Qualification. As such, the explicit requirement to have obtained any necessary Connection Agreements is introduced as part of the requirements to achieve Substantial Financial Completion. | | | | | |
| **Legal Drafting Change**  *(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* | | | | | |
| E.5.1.1 A Participant may seek the approval of the Regulatory Authorities for:  (a) proposed New Capacity to have a Maximum Capacity Duration of more than one and up to 10 Capacity Years; or  (b) all or a specified part of Existing Capacity to be subject to a Unit Specific Price Cap in a Capacity Auction; or  (c) proposed New Capacity to be exempt from the requirement to possess or provide a Connection Agreement or Connection Offer from the relevant Transmission System Operator or Distribution System Operator for the sole purposes of Qualification under this Code, in accordance with Appendix D paragraph 5(g).  E.5.1.3 An Exception Application shall:  (a) contain the information required by the Regulatory Authorities;  (b) contain a certificate signed on behalf of the Participant by a Participant Director that, having made due and careful enquiry and to the best of the knowledge, information and belief of the Participant Director:  (i) all information in the application and any other information provided to the Regulatory Authorities and the System Operators in relation to it is true and correct; and (ii) the application is not for the purposes of, or connected with, Market Manipulation by the Participant or any of its Associates;  (c) be in the form prescribed by the Regulatory Authorities; and  (d) be made in the manner prescribed by the Regulatory Authorities; and  (e) where it relates to paragraph E.5.1.1(c), contain the following:  (i) evidence of ‘final grant’ of planning permission, or ‘decision to grant’ of planning permission in Ireland or notice of opinion to approve of planning permission in Northern Ireland, or evidence that planning permission already exists, or evidence that planning application has been submitted and the statutory consultation is complete or any outstanding responses are overdue; and  (ii) a Connection application validated no less than 90 days before the Qualification Application Date.  Appendix D:  5. In respect of each Candidate Unit to which the Application for Qualification relates that includes New Capacity, excepting the quantum of New Capacity which is already Awarded Capacity in respect of the Capacity Year, a proposed Implementation Plan which includes:  (g) unless an exemption has been approved by the Regulatory Authorities in accordance with section E.5, a copy of either the Connection Agreement(s) or a Connection Offer(s) from the relevant Transmission System Operator or Distribution System Operator (sufficient to accommodate the increased capacity). Such Connection Agreement(s) or a Connection Offer(s) should confirm either the Registered Capacity (or inverter rating, if applicable) of that New Capacity or the capacity that such New Capacity is permitted to export.  J.2.1.1 Subject to paragraphs J.2.1.3 and J.2.1.4, the Implementation Plan in respect of Awarded New Capacity shall include the following Major Milestones (and dates by which they must be achieved):  (a) Substantial Financial Completion: this milestone is achieved when:  (i) all the Major Contracts and Finance Documents in respect of the construction, commissioning, repowering or refurbishment works for each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity are in full force and effect;  (ii) every Condition Precedent under each of the documents referred to in sub-paragraph (i) has either been satisfied or waived in accordance with the terms of the relevant document;  (iii) the Participant in respect of the Awarded New Capacity has, or will have, sufficient financial resources available to it or committed financing under the Finance Documents to meet the Total Project Spend;  (iv) the directors of the Participant (or equivalent body, entity or person in the case of a Participant not being a company) have resolved, agreed or given approval (as the case may be) to complete (or procure the completion of) the relevant construction, commissioning, repowering or refurbishment works such that the Awarded New Capacity will have reached Substantial Completion on or prior to the start of the first Capacity Year in which the Awarded New Capacity is due to be provided; and  (v) all necessary consents, licences, authorisations and permits in respect of the construction, commissioning, repowering or refurbishment works for each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity (including any necessary planning consents, licences, authorisations and permits) have been obtained.(vi) all necessary Connection Agreements for each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity have been obtained. | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification)* | | | | | |
| Unique circumstances may arise whereby the Transmission System Operator or Distribution System Operator requires additional time to formulate a Connection Agreement(s) or a Connection Offer(s) for a complex connection. While not expected to be a regular occurrence, a method is needed whereby extenuating circumstances can be recognised and the Candidate Unit may be allowed to participate in the Capacity Auction with agreement from the Regulatory Authorities and which can be done in a non-discriminatory manner. | | | | | |
| **Code Objectives Furthered**  *(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)* | | | | | |
| (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;  (d) to promote competition in the provision of electricity capacity to 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. | | | | | |
| **Implication of not implementing the Modification Proposal**  *(State the possible outcomes should the Modification Proposal not be implemented)* | | | | | |
| Serious projects, which are capable of implementing capacity by the beginning of the Capacity Year and where the participant has demonstrated commitment to the process through investment in the planning and connection process, may be excluded from auction, reducing competition and impacting on the short and long term interests of consumers. | | | | | |
| **Impacts**  *(Indicate the impacts on systems, resources, processes and/or procedures)* | | | | | |
| Introduces a new exceptions process for the RAs. | | | | | |
| ***Please return this form to the System Operators by email to*** [modifications@sem-o.com](mailto:modifications@sem-o.com) | | | | | |

**Notes on completing Modification Proposal Form:**

1. **If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.**
2. **Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Regulatory Authorities.**
3. **Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.**
4. **For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:**

**CMC / Code: means the Capacity Market Code for the Single Electricity Market**

**Modification Proposal: means the proposal to modify the Code as set out in the attached form**

**Derivative Work: means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal**

**The terms “System Operators” and “Regulatory Authorities” shall have the meanings assigned to those terms in the Code.**

**In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section B.12 of the Code, which I have read and understand, I agree as follows:**

**1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:**

* 1. **to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;**
  2. **to the Regulatory Authorities to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;**
  3. **to the System Operators and the Regulatory Authorities to incorporate the Modification Proposal into the Code;**

**1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.**

**2. The licences set out in clause 1 shall equally apply to any Derivative Works.**

**3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.**

**4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.**

**5. I hereby acknowledge that the Modification Proposal may be rejected by the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.**