



**Single Electricity Market**

**(SEM)**

**Capacity Market Code Workshop 37B**

**CMC\_10\_24 and CMC\_11\_24**

**Appendix A**

**Approved Modification Text Drafting**

**SEM-24-063**

**16 September 2024**

## **B.9 PROHIBITION ON MARKET MANIPULATION**

### **B.9.1.2 “Market Manipulation” means:**

- (a) submitting bids or offers, **Exception Applications** or an Opt-Out Notification or other information to the System Operators or any other person or taking any action, or refraining from taking any action, in each case which:
  - (i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of capacity traded through a Capacity Auction or Secondary Trade Auction;
  - (ii) secures, or attempts to secure, by a person, or persons acting in collaboration, the Auction Clearing Price of a Capacity Auction or value of a trade in a Capacity Auction or Secondary Trade Auction at an artificial level unless the person concerned establishes that its reasons for doing so are legitimate and that the transaction or order concerned conforms to accepted market practices; or
  - (iii) employs, or attempts to employ, a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, or demand for, capacity traded through a Capacity Auction or Secondary Trade Auction or the Auction Clearing Price of a Capacity Auction or value of a trade in a Capacity Auction or Secondary Trade Auction; or
- (b) disseminating information through any media which gives, or is likely to give, false or misleading signals as to the supply of, or demand for, or likely Auction Clearing Price of a Capacity Auction or value of a trade in a Capacity Auction or Secondary Trade Auction where the person doing so knows or ought to have known the information to be false or misleading;
- (c) any other act, omission, concerted practice or agreement, which has as its object or effect the prevention, restriction or distortion of competition in any Capacity Auction or Secondary Trade Auction;
- (d) doing anything which would constitute a breach of any law intended to prohibit or restrict anti-competitive practices relevant to participation in any Capacity Auction or Secondary Trade Auction; or
- (e) any other act or omission which from time to time is prescribed by any Applicable Law as constituting market manipulation.

## **D.3 INITIAL AUCTION INFORMATION PACK**

### **D.3.1.2 The Initial Auction Information Pack for a Capacity Auction shall set out:**

- (h) the final ~~€/MW rate of the New~~ Capacity Investment Rate Thresholds to be used in the Capacity Auction **and the associated Maximum Capacity Durations;**
- (m) in respect of Performance Securities:

- (i) the final Performance Security Posting Dates/ Events applicable to Awarded New Capacity allocated in the Capacity Auction; and
- (ii) for each Performance Security Posting Date/ Event, the final €/MW rates to be applied **in respect of new and refurbished capacity** in setting Performance Securities applicable to Awarded New Capacity allocated in the Capacity Auction;
- (n) the final €/MW fee rates **in respect of new and refurbished capacity** for calculating Termination Charges applicable to Awarded New Capacity allocated in the Capacity Auction;

## E.5 EXCEPTION APPLICATIONS

E.5.1.1 A Participant may seek the approval of the Regulatory Authorities for **one or more of the following Exceptions**:

- (a) **where the relevant Capacity Investment Rate Threshold specified in the Initial Auction Information Pack is exceeded, ~~proposed New Capacity~~ to have a Maximum Capacity Duration of more than one and up to the number of ~~10~~ Capacity Years specified in the Initial Auction Information Pack;**
- (b) **where the Unit Specific Net Going Forward Costs exceed the Existing Capacity Price Cap specified in the Initial Auction Information Pack, all or a specified part of Existing Capacity to be subject to a Unit Specific Price Cap in a Capacity Auction.**

E.5.1.8 If a Participant makes an Exception Application, then the Regulatory Authorities shall notify the Participant and the System Operators whether or not they approve the Exception Application and, if they do approve it, **the following as applicable**:

- (a) **the Unit Specific Price Cap approved by the Regulatory Authorities and the capacity to which it relates;**
- (b) **if the Unit Specific Price Cap approved by the Regulatory Authorities applies to only part of the Existing Capacity associated with a Capacity Market Unit or proposed Capacity Market Unit, the quantity (called the “Unit Specific Offer Price Cap Breakpoint”) beyond which the Unit Specific Price Cap applies. For the avoidance of doubt, a Unit Specific Offer Price Cap Breakpoint may be zero;**
- ~~(a) if the Exception Application is seeking a Maximum Capacity Duration for New Capacity of longer than one year;~~
- (c) **the Maximum Capacity Duration approved by the Regulatory Authorities. ~~for the New Capacity (which must be 10 Capacity Years); or~~**
- ~~(b) if the Exception Application is seeking a Unit Specific Price Cap for all or part of the Existing Capacity associated with a Capacity Market Unit or proposed Capacity Market Unit:~~
  - ~~(i) the Unit Specific Price Cap approved by the Regulatory Authorities and the capacity to which it relates; and~~
  - ~~(ii) if the Unit Specific Price Cap approved by the Regulatory Authorities applies to only part of the Existing Capacity associated with a Capacity Market Unit or proposed Capacity Market Unit, the quantity (called the “Unit Specific Offer Price Cap Breakpoint”) beyond which the Unit Specific Price Cap applies. For the avoidance of doubt, a Unit Specific Offer Price Cap Breakpoint may be zero.~~

## E.8 QUALIFICATION CALCULATIONS

## E.8.5 Firm Offer Requirement

- E.8.5.1 For each Capacity Market Unit that is not a Demand Side Unit, the System Operators shall determine the Firm Offer Requirement as ~~the lesser of:~~  
~~(a) the sum of the Capacity Market Unit's Net De-Rated Capacity (Existing) and Net De-Rated Capacity (New) Qualified to participate in the Capacity Auction; and~~  
~~(b) the greater of zero and the Capacity Market Unit's De-Rated Firm Network Access Capacity determined in accordance with paragraph E.8.5.3 less the quantity of Awarded Capacity for that Capacity Market Unit for the Capacity Year allocated in previous Capacity Auctions.~~
- E.8.5.2 For a Capacity Market Unit that is a Demand Side Unit or which is an aggregation of candidate units that are Demand Side Units, the System Operators shall determine the Firm Offer Requirement as the sum of the Capacity Market Unit's Net De-Rated Capacity (Existing) ~~and Net De-Rated Capacity (New)~~ Qualified to participate in the Capacity Auction.

## E.8 QUALIFICATION CALCULATIONS

### E.8.7 Offer Price Caps and Curves

#### E.8.7.1 Offer Price Caps shall be determined as follows:

- (a) ~~for Demand Side Units (including within a combination of Candidate Units), the Offer Price Cap for New Capacity shall be the Auction Price Cap;~~
- (b) ~~for other New Capacity that is neither repowered nor refurbished capacity based on previous Existing Capacity, the Offer Price Cap for Existing Capacity associated with Demand Side Units (including within a combination of Candidate Units) shall be the Auction Price Cap;~~
- (c) ~~the Offer Price Cap~~ for other Existing Capacity and other New Capacity that is repowered or refurbished capacity based on previous Existing Capacity, the Offer Price Cap shall be:
  - (i) if the Regulatory Authorities have approved a Unit Specific Price Cap for all of the ~~Existing C~~capacity associated with the Capacity Market Unit, the approved Unit Specific Price Cap;
  - (ii) if the Regulatory Authorities have approved a Unit Specific Price Cap for ~~Existing C~~capacity associated with the Capacity Market Unit beyond a specified Unit Specific Offer Price Cap Breakpoint, the Existing Capacity Price Cap for such capacity offered up to (and including) that Unit Specific Offer Price Cap Breakpoint and the approved Unit Specific Price Cap for such capacity offered beyond that Unit Specific Offer Price Cap Breakpoint; or
  - (iii) otherwise, the Existing Capacity Price Cap, provided that, in the case of ~~Existing Capacity associated with~~ an Autoproducer Unit where the Autoproducer Demand Reduction Volume for the relevant Autoproducer Site is not zero, the Offer Price Cap for capacity offered beyond the Autoproducer Offer Price Cap Breakpoint shall be the Auction Price Cap.

## F.7 CAPACITY AUCTION OFFERS

- F.7.1.1 A capacity auction offer ("Capacity Auction Offer") shall relate to a single Capacity Market Unit and shall comply with the following requirements:

- (h) the cumulative quantity offered in respect of Existing Capacity shall be no less than the lesser of:
  - (i) the Net De-Rated Capacity (Existing) of that Capacity Market Unit; and
  - (ii) the Firm Offer Requirement for that Capacity Market Unit; **and must be no greater than the Net De-Rated Capacity (Existing) of that Capacity Market Unit;**
- (i) the cumulative quantity offered in respect of New Capacity **shall be no less than the greater of the Firm Offer Requirement less the Net De-Rated Capacity (Existing) and zero** and must be no greater than the Net De-Rated Capacity (New) of that Capacity Market Unit;

F.7.1.3 If a Participant does not submit a valid set of price-quantity pairs in respect of a Capacity Market Unit with a non-zero Firm Offer Requirement, then the System Operators shall determine a set of price-quantity pairs for that Capacity Market Unit comprising:

- (a) if the Capacity Market Unit includes a non-zero Net De-Rated Capacity ~~for (Existing) Capacity~~ eligible to participate in the Capacity Auction, a single step with:
  - (i) a quantity being the lesser of:
    - (A) the Net De-Rated Capacity ~~for (Existing) Capacity~~ of that Capacity Market Unit; and
    - (B) the Firm Offer Requirement of the Capacity Market Unit;
  - (ii) a price equal to the Offer Price Cap Curve applicable to that quantity of Existing Capacity;
  - (iii) a flag indicating that the step is Flexible; and
  - (iv) a duration of one Capacity Year;
- (b) if the Capacity Market Unit includes a non-zero Net De-Rated Capacity for New Capacity eligible to participate in the Capacity Auction, **a single step with:**
  - (i) a quantity being the lesser of:
    - (A) the Net De-Rated Capacity (New) of that Capacity Market Unit; and
    - (B) the greater of the Firm Offer Requirement of the Capacity Market Unit less the Net De-Rated Capacity (Existing) and zero;
  - (ii) a price equal to the Offer Price Cap Curve applicable to that quantity of New Capacity;
  - (iii) a flag indicating that the step is Flexible; and
  - (iv) a duration of one Capacity Year;

~~then no step shall be determined for it and that New Capacity will be excluded from the Capacity Auction.~~

### G.3 COMMISSIONED CAPACITY

G.3.1.9 For the purposes of G.3.1.8, from the beginning of the Capacity Year until the Substantial Completion or the Long Stop Date, whichever is earlier, New Capacity that is repowered or refurbished capacity based on previous Existing Capacity shall be considered as Existing Capacity with a Capacity Payment Price equal to the Auction Clearing Price.

### J.2 CONTENT OF IMPLEMENTATION PLANS

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):

- (c) Substantial Completion: this milestone is achieved when:
  - (i) all the construction, repowering or refurbishment works associated with providing the Awarded New Capacity are substantially complete (**materially in line with (including as to Total Project Spend incurred) the decision of the Regulatory Authorities approving the relevant Exception Application in the case of New Capacity that is repowered or refurbished capacity based on previous Existing Capacity**), ~~(subject only to snag or punch list items or any other matters which do not prevent substantial completion or taking over the works taking place under the applicable Major Contracts);~~
  - (ii) a Final Compliance Certificate, Operational Certificate or Final Operational Notification has been issued under the applicable Grid Code or Market Readiness Certificate has been issued in respect of each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity;
  - (iii) the Proportion of Delivered Capacity in respect of the Awarded New Capacity is not less than 90%; ~~and~~
  - (iv) each new or refurbished Generator Unit or Interconnector providing the Awarded New Capacity has met all Trading and Settlement Code and Grid Code requirements for participating in the Balancing Market; ~~and~~
  - (v) each new or refurbished Generator Unit providing Awarded New Capacity complies with the CO2 Limits; ~~and~~
  - (vi) **each refurbished Generator Unit has an Annual Run Hour Limit not less than the Annual Run Hour Limit that applied prior to the refurbishment described in the approved Exception Application.**

## J.6 TERMINATION OF AWARDED NEW CAPACITY

J.6.1.1 For the purposes of this section:

- (b) Long Stop Date: the Long Stop Date in respect of Awarded New Capacity means
  - (i) in the case of a Capacity Award with a capacity duration greater than ~~one~~ **five** years, the last day of the eighteenth full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided; or
  - (ia) **in the case of a Capacity Award with a capacity duration greater than one year and less than or equal to five years, the last day of the Capacity Year in which the Awarded New Capacity is to be provided; or**
  - (ii) in the case of a Capacity Award with a capacity duration of one year or less, the last day of the first full calendar Month after the start of the first Capacity Year in which the Awarded New Capacity is to be provided; or
  - (iii) such later date as specified under paragraph J.5.5.1; or
  - (iv) as otherwise approved by Regulatory Authorities prior to the publication of the Final Auction Information Pack.

## GLOSSARY

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|--|--|
| <b>Date of Start of Commercial Production</b>            | means the date on which a Capacity Market Unit or CMU Component has been commissioned and started providing metered electrical output. <b>Where a Capacity Market Unit or CMU Component undergoes refurbishment or repowering associated with Awarded New Capacity that is repowered or refurbished capacity based on previous Existing Capacity, this date is the date of Substantial Completion of the Awarded New Capacity.</b>   |
| <b>New Capacity</b>                                      | means, in respect of the Qualification Process and its associated Capacity Auction, the planned capacity of a new, <b>repowered or refurbished</b> Generator, Generator Unit or Interconnector forming the whole or part of a Capacity Market Unit or proposed Capacity Market Unit, or the incremental increase in the capacity of an existing Generator, Generator Unit or Interconnector forming the whole or part of a Capacity Market Unit or proposed Capacity Market Unit (which has yet to complete Commissioning under the relevant Grid Code), and the planned capacity or incremental increase in capacity of the Capacity Market Unit that comprises them. Where a Demand Site would otherwise be considered New Capacity for the sole reason of a change of its registered Demand Side Unit then it shall be considered Existing Capacity in the determination of the ARHL De-Rating Factor to apply under this Code. |
| <b><del>New Capacity Investment Rate Threshold</del></b> | means a <b>minimum</b> €/MW or £/MW <b>investment cost amount</b> determined by the Regulatory Authorities <b>that must be exceeded by the cost per MW of constructing New Capacity</b> for that capacity to be eligible to be allocated Awarded Capacity with a duration of more than one year and is provided to the System Operators under paragraph <b>Error! Reference source not found..</b>   |
| <b>Unit Specific Net Going Forward Costs</b>             | <b>means a set of costs specified by the Regulatory Authorities from time to time as part of the Exception Application process for determining whether a Participant is eligible for a Unit Specific Price Cap.</b>  |

### D.3 INITIAL AUCTION INFORMATION PACK

D.3.1.2 The Initial Auction Information Pack for a Capacity Auction shall set out:

(...); and

(t) the Early Delivery Incentive Start Date for New Capacity, excluding New Capacity that is repowered or refurbished capacity based on previous Existing Capacity, with a Maximum Capacity Duration of more than one year.

D.3.1.3 The regulatory authorities shall determine the following parameters for each capacity auction and provide them to the system operators for inclusion in the applicable Initial Auction Information Pack:

(...); and

(p) the Early Delivery Incentive Start Date for New Capacity, excluding New Capacity that is repowered or refurbished capacity based on previous Existing Capacity, with a Maximum Capacity Duration of more than one year.

### F.5 PUBLICATION OF FINAL AUCTION INFORMATION PACK

F.5.1.3 The Final Auction Information Pack for a Capacity Auction shall comprise: [...];

(...); and

(s) the Early Delivery Incentive Start Date for New Capacity, excluding New Capacity that is repowered or refurbished capacity based on previous Existing Capacity, with a Maximum Capacity Duration of more than one year.

### J.6 TERMINATION OF AWARDED NEW CAPACITY

J.6.1.4A Where, ~~from the Capacity Quantity Start Date and Time, after the beginning of the Capacity Year,~~ Awarded New Capacity has achieved Minimum Completion but has not achieved Substantial Completion and the Participant acknowledges in an Implementation Progress Report that it does not expect to achieve Substantial Completion by the Long Stop Date:

- (a) the System Operators may, subject to paragraph J.6.1.5, reduce the quantity of Awarded Capacity to the quantity delivered as determined in accordance with the table in paragraph G.3.1.8 and terminate the remainder; and [...]

### GLOSSARY

**Early Delivery Incentive Start Date** means, in respect of New Capacity, excluding New Capacity that is repowered or refurbished capacity based on previous Existing Capacity, with a Maximum Capacity Duration of more than one year, the date published in the relevant Initial Auction Information Pack or Final Auction Information Pack. If updated in the Final Auction



Information Pack, the value published in the Final Auction Information Pack shall take precedence.

**Maximum Capacity Duration** Maximum Capacity Duration: in respect of Awarded Capacity allocated in a Capacity Auction, means the maximum duration of Awarded Capacity and is determined in accordance with section E.8.6, including taking account of any additional time relating to the Early Delivery Incentive Start Date, where relevant.

#### **Appendix F. CAPACITY AND TRADE REGISTER DATA**

Appendix F(6). Capacity Quantity Start Date and Time, which is:

- i) in respect of Primary Trades, the earlier of the beginning of the Capacity Year or the Early Delivery Incentive Start Date, where an Early Delivery Incentive Start Date has been defined; ~~in respect of Primary Trades and~~
- ii) in respect of Secondary Trades, the beginning of the period over which the relevant Product applies ~~in respect of Secondary Trades.~~