

MODIFICATION PROPOSAL FORM			
<b>Proposer</b> <i>(Company)</i>	<b>Date of receipt</b> <i>(assigned by System Operator)</i>	<b>Type of Proposal</b> <i>(delete as appropriate)</i>	<b>Modification Proposal ID</b> <i>(assigned by System Operator)</i>
EPDEL	6 <sup>th</sup> July 2023	Standard	CMC_16_23
Contact Details for Modification Proposal Originator			
<b>Name</b>	<b>Telephone number</b>	<b>Email address</b>	
Harry Molloy		h.molloy@tynaghenergy.ie	
Modification Proposal Title			
Extension to New Capacity Impacted by Indexation			
<b>Documents affected</b> <i>(delete as appropriate)</i>	<b>Section(s) Affected</b>	<b>Version number of CMC used in Drafting</b>	
Capacity Market Code	Section J Glossary		
Explanation of Proposed Change <i>(mandatory by originator)</i>			
<p>This modification proposes an extension similar to that granted under CMC_15_22 for projects which were awarded New Capacity through the 2024/2025 T-3 and 2025/2026 T-4 Capacity Auctions. This extension would take account of delays incurred to projects awaiting a SEM Committee decision with respect to indexation.</p> <p>A modification in relation to indexation of the capacity contracts was introduced in response to spiralling inflation which threatened the feasibility of New Capacity projects specifically in the T-3 24/25 and T-4 25/26 auctions occurring in Q1 2022. The level of risk caused by this inflation meant that projects which would otherwise be in a position to proceed were unable to make a Final Investment Decision (FID) until the impact of inflation, and any mitigation, was understood. No prudent and reasonable investor would be expected to commit to FID where the feasibility of their project is still uncertain. Other projects may have compromised on project economics or contractual terms (such as fixing pricing versus taking ongoing price risk) in order to commit to FID but at the risk of erosion of the project value.</p> <p>Following the SEMC's decision paper in May 2023, Participants can now assess the feasibility of their projects and seek to move forwards with key contractual decisions and reach FID. However, this delay has meant that projects have become misaligned with their expected timelines. This causes a number of issues:</p> <ul style="list-style-type: none"> <li>• Exposure to higher rates of Performance Securities before FID;</li> <li>• Potential termination as a result of the Long Stop Date; and</li> <li>• Contract erosion as a result of delay.</li> </ul> <p>In order to mitigate against each of these issues, we are proposing a modification in order to grant extensions to New Capacity projects in the relevant Capacity Auctions.</p>			
Legal Drafting Change <i>(Clearly show proposed code change using <b>tracked</b> changes, if proposer fails to identify changes, please indicate best estimate of potential changes)</i>			
<p>This modification does not yet have proposed legal drafting however, the following is an overview of the intended changes:</p> <ul style="list-style-type: none"> <li>• An extension, similar to that awarded under CMC_15_22 for New Capacity projects in the 2024/25 T-3 and 2025/2026 T-4 Capacity Auctions.</li> <li>• This extension would be for a period of 343 days, representing the difference in when the indexation modification was first proposed and when the SEMC decision was published.</li> </ul>			

- Any extension granted under this modification will be capped to ensure a maximum Capacity Payment period of ten years.
- Any other extensions received under the CMC will run parallel to this 343-day extension to avoid any unintended consequences.

We expect that this modification would be compatible with the existing drafting of the CMC as introduced under CMC\_15\_22. Changes required to address this should be straightforward and facilitate the inclusion of relevant projects in existing sections of the Code.

#### **Modification Proposal Justification**

*(Clearly state the reason for the Modification)*

In the decision to apply indexation to Capacity Payments, the SEMC recognised the material risk which unprecedented inflation represented to New Capacity awarded through the relevant Capacity Auctions. Due to this significant level of risk, project developers would not have reasonably been able to make a Final Investment Decision with respect to these projects.

This has resulted in exposure to delays which results in inherent unfairness and risks the termination of this much-needed New Capacity or undue erosion of project value due to taking on additional risks for example in contracting structure (such as agreeing floating price contracts). Due to the criticality of these projects, and the fact that these delays were outside of the control of the Participants, we believe an extension to key project milestones is warranted.

We propose to design this extension in such a way that projects cannot receive payments for any greater than ten years. This will ensure that New Capacity projects cannot gain from this modification, only that they are protected from the risks associated with these delays.

#### **Code Objectives Furthered**

*(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)*

A.1.1.1 This Code is designed to facilitate achievement of the following objectives (the “**Capacity Market Code Objectives**”):

- (b) to facilitate 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;
- (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;
- (e) to provide transparency in the operation of the SEM;
- (f) 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)*

Failure to implement this modification will result in significant risks for New Capacity projects which secured contracts through the 2024/2025 T-3 and 2025/2026 T-4 Capacity Auctions. These projects are critical for Security of Supply and the delivery of this New Capacity is beneficial to consumers through ensuring the lights are kept on and increasing competitiveness in the SEM. The alternative, procurement of Temporary Emergency Generation, is more costly and inefficient for consumers. Given the benefits, and the fact that the delays incurred by this modification are not the fault of the Participant and beyond their control, we believe this modification should be implemented.

**Impacts**

*(Indicate the impacts on systems, resources, processes and/or procedures)*

***Please return this form to the System Operators by email to [CapacityModifications@sem-o.com](mailto:CapacityModifications@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:
  - 1.1 to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
  - 1.2 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;
  - 1.3 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.