Single Electricity Market

(SEM)

Capacity Market Code Working Group 29

Decision Paper

CMC_03_23: **Amendment to Long Stop Date for T-1 Capacity Auction**

SEM-23-046

29 June 2023

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decision relating to a proposed modification to the Capacity Market Code (CMC). The proposed modification, CMC_03_23, was discussed at Working Group 29, held on 24 January 2023.

The decision within this paper follows on from the associated consultation (SEM-23-011) which closed on 9 March 2023 and consultation (SEM-23-040) which was a supplementary consultation on draft legal text for CMC_03_23. This latter consultation closed on 16 June 2023.

- **CMC_03_23:** **Amendment to Long Stop Date for T-1 Capacity Auction**
  This modification proposes to extend the Long Stop Date associated with single year T-1 capacity contracts from one month after the beginning of the Capacity Year to three months after the beginning of the Capacity Year.

Seven responses were received to the Capacity Market Code Working Group 29 Modification Consultation Paper (SEM-23-011) with none being marked as confidential. Nine responses were received to the supplementary consultation (SEM-23-040). None were marked as confidential.

Summary of Key Decisions

Following consideration of the proposal and the responses received to the consultations, the SEM Committee have decided to:

Modification	Decision	Implementation Date
CMC_03_23: Amendment to Long Stop Date for T-1 Capacity Auction	Make a Modification	30/06/2023

Contents

EXECUTIVE SUMMARY 2

1. Overview 4

1.1. Background 4

1.2. Responses received to Consultation 6

2. CMC_03_23 – Amendment of Long Stop Date for T-1 Capacity Auction 7

2.1. Consultation Summary as presented by EPUKI 7

2.2. Responses to SEM-23-011 [Original Consultation] 8

2.3. Responses to SEM-23-040 [Supplementary Consultation] 9

4.4. SEM Committee Decision 12

3. Next Steps 13

Appendix A Responses to SEM-23-040

Appendix B Draft Legal Text

1. OVERVIEW

1.1. BACKGROUND

1.1.1. The SEM CRM detailed design and auction process has been developed through a series of consultation and decision papers, all of which are available on the SEM Committee's (SEMC) website. These decisions were translated into legal drafting of the market rules via an extensive consultative process leading to the publication of the Trading and Settlement Code (TSC) and the Capacity Market Code (CMC). Updated versions of the CMC and the TSC are published on the SEMO website.

Process for modification of the CMC

1.1.2. Section B.12 of the CMC outlines the process used to modify the code. It sets out the processes for proposing, consideration, consultation and implementation or rejection of modifications to the CMC.

1.1.3. The purpose of the modifications process is to allow for modifications to the CMC to be proposed, considered and, if appropriate, implemented with a view to better facilitating code objectives as set out in Section A.1.2 of the CMC. (B.12.1.2).

1.1.4. Modifications to the CMC can be proposed and submitted by any person, (B.12.4.1), at any time. Unless the modification is urgent modifications are subsequently discussed at a Working Group held on a bi-monthly basis. Each Working Group represents an opportunity for a modification proposer to present their proposal(s) and for this to be discussed by the workshop attendees.

1.1.5. For discussion at a Working Group, Modification Proposals must be submitted to the System Operators at least 10 working days before a Working Group meeting is due to take place. If a proposal is received less than 10 working days before a Working Group and is not marked as urgent it is deferred for discussion to the next Working Group.

1.1.6. Following each Working Group, and as per section B.12.5.6 of the CMC, the RAs are required to publish a timetable for the consideration, consultation and decision relating to the modification(s) proposed during a Working Group.

1.1.7. If a proposal is received and deemed contrary to the Capacity Market Code Objectives or does not further any of those objectives, the Regulatory Authorities (RAs) will reject the proposal on the grounds of being spurious, as set out in section B.12.6 of the CMC.

1.1.8. If a proposed modification is deemed urgent by the RAs, CMC Section B.12.9.5 will become active and the RAs will determine the procedure and timetable to be followed in the assessment of the Modification Proposal. The CMC states that the procedure and timetable may vary from the normal processes set out in the code, allowing for the modification to be fast-tracked.

Process and Timeline for this Modification

1.1.9. On 11 January 2023, the TSOs notified the RAs of the proposed modifications submitted for discussion at WG29 to be held on 24 January 2023.

1.1.10. The proposals were not marked urgent and, as the RAs deemed them to be standard, followed the normal Modification process.

1.1.11. Following a review of the proposals, the Regulatory Authorities determined them not to be spurious.

1.1.12. The timetable for the proposed modifications included:

i. The System Operators convening Working Group 29 on 24 January 2023, where the Modification Proposals were considered. Following these discussions, modification CMC_02_23 was subsequently withdrawn.

ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, to prepare a report of the discussions which took place at the workshop, provide the report to the RAs and publish it on the Modifications website promptly after the workshop has taken place.

iii. The RAs to consult on the proposed modifications.

1.1.13. As stated in B.12.11, the RAs will make their decision(s) as soon as reasonably practicable following conclusion of the consultation and will publish a report in respect of these. The purpose of the decision paper is to set out the decision(s) relating to the Modification Proposals discussed during Working Group 29 to either:

a) Make a Modification;

b) Not make a Modification; or

c) Undertake further consideration in relation to the matters raised in the Modifications Proposal.

1.1.14. This decision paper provides a summary of the consultations' proposals for CMC_03_23 and sets out the SEM Committee's decision.

1.2. RESPONSES RECEIVED TO CONSULTATION

1.2.1. This paper includes a summary of the responses made to Capacity Market Code Modifications consultation paper SEM-23-011 (Modification Proposal CMC_03_23 only) which was published on the 9 February 2023. It also includes a summary of responses made to the supplementary consultation paper SEM-23-040 (Modification Proposal CMC_03_23 only) which was published on 2 June 2023.

1.2.2. A total of seven responses were received to consultation SEM-23-011 with none being marked confidential.

- Bord Gáis Energy (BGE)
- Bord na Móna (BnM)
- EirGrid / SONI
- Energia
- EPUKI
- ESB GT
- SSE

1.2.3. For supplementary consultation SEM-23-040, nine responses were received with none being marked confidential. These respondents are also listed below and copies of each response can be obtained from the SEM Committee website.

- Bord Gáis Energy (BGE)
- Demand Response Association of Ireland (DRAI)
- EirGrid / SONI
- Energia
- EPUKI
- ESB GT
- Federation of Energy Response Aggregators (FERA)
- iPower
- SSE

2. CMC_03_23 – AMENDMENT OF LONG STOP DATE FOR T-1 CAPACITY AUCTION

2.1. CONSULTATION SUMMARY AS PRESENTED BY EPUKI

2.1.1. This proposal was submitted by EPUKI and aims to extend the Long Stop Date (LSD) associated with the single year T-1 capacity contracts from one month after the beginning of the relevant Capacity Year to three months.

2.1.2. The modification notes that the LSD for single year capacity contracts was previously set at 18 months after the beginning of the relevant Capacity Year. However, as this was after the expiry of the contract itself, this was revised in SEM-18-030 to the current one month.

2.1.3. The proposal argues that there was no justification as to how one month was chosen and that as there was a lack of analysis on whether one month was appropriate, this should now be properly assessed and re-considered.

2.1.4. EPUKI note that the original consultation paper referred to significant volumes of Demand Side capacity which was coming through the CRM. However, while this was largely true in 2018, the T-1 auctions have now become a possible option for other technology types, specifically conventional generation extensions. These projects typically have shorter timeframes than New Capacity delivered through T-4 auctions although this may be longer than Demand Side projects.

2.1.5. As the context of the SEM has changed significantly since the 2018 Consultation Paper, it was not envisaged that substantial investment in New Capacity would be required in order to satisfy demand. Due to the closure of older plant and sharp increases in demand, the need for delivering New Capacity has increased exponentially. EPUKI's modification states that the CMC should reflect this need through increased facilitation and flexibility with regard to new conventional plant.

2.1.6. Although an LSD extension to three months would fall on 1 January CY+1 meaning the New Capacity would not be present for the winter period of the relevant Capacity Year, the proposal believes that this is a better outcome than terminating an entire year of New Capacity. The New Capacity would not receive any payments until they are delivering.

2.1.7. The modification should not affect multi-year capacity contracts delivered through the T-1 auctions as they would maintain the original 18-month LSD.

2.1.8. The proposer believes that failure to implement the Modification Proposal may result in the potential termination of New Capacity awarded single year contracts in the T-1 auctions with this possible including extensions to existing conventional generation or new plant delivering early.

2.2. RESPONSES TO SEM-23-011 [ORIGINAL CONSULTATION]

2.2.1. Two responses to CMC_03_23 opposed the proposed modification with another two either supporting it or supporting it in principle. The remainder of responses didn't explicitly support or oppose it.

2.2.2. BGE argued that the proposed modification would weaken the delivery incentive for units contracted under the short lead-in for delivery under T-1 capacity auctions. They believed that a one-month LSD was the strong incentive needed to deliver Awarded New Capacity for one-year contracts from T-1 auctions in a timescale that mitigated the security of supply risk (and costs) for the consumer.

2.2.3. BGE supported the delivery of Awarded New Capacity within the contracted timescales as set out in the CMC and did not believe that changes to the CMC should be made for infrequent exceptions which may instead be addressed on a case-by-case basis by the RAs and/or System Operators.

2.2.4. Energia were also opposed to the modification, primarily for the same reasons. These included capacity potentially missing half of the winter period and the likely encouragement of bids with a less realistic prospect of being available for the entire capacity year displacing bids that could provide capacity for the full year. Arguably, these made the modification contrary to the objective of promoting security of supply. Energia also cited the practicalities of the LSD falling during the Christmas and New Year period.

2.2.5. In terms an approach where the LSD could be parameterised, Energia thought that insufficient information was provided at WG29 to be able to assess its merits.

2.2.6. BGE raised concerns that the proposed extension could allow new capacity to not deliver their contracted volume in the first half of the winter season and could also encourage overly ambitious bidding by new units in capacity auctions that may displace more prudent capacity bids. While not supporting the modification, BGE were, however, supportive of an industry call to discuss alternative solutions.

2.2.7. ESB GT supported the proposal in principle recognising that it had the potential to facilitate new capacity projects that could deliver early and, through doing so, make a valuable contribution to security of supply for at least a portion of the prior capacity year.

2.2.8. ESB GT contended that the LSD should be extended for six months rather than the proposed three months. They also added that should the RAs have reservations about the proposal, a possible alternative could be to allow market participants to request an extension from the System Operators on a unit specific basis.

2.2.9. Drawing attention to the fact that 17 amber alerts had been issued over the last 3 years with only 2 of these occurring in the winter months, ESB GT felt there was value in extending the LSD further than the three months. Showing that the highest net demand position tended to occur in late summer/early autumn, ESB GT emphasised the benefits of procuring capacity after the winter period, recognising the increased flexibility such capacity could bring during outage periods.

2.2.10. EPUKI, as proposer, supported the proposal recognising the need for a strict LSD but believing that a one-month LSD limited the potential value delivered through the T-1 auction. By extending this deadline, EPUKI stated that the proposal would still allow delayed New Capacity to be available for the winter period when it is most needed and also to be available on the system for the remaining nine months of the Capacity Year at a minimum.

2.2.11. EPUKI also raised an additional issue relating to the proposed modification whereby if a proportion of Demand Side capacity is delayed, it receives no capacity payments until after the LSD. It is only when the undelivered capacity is terminated at the LSD that the Participant will receive capacity payments for the proportion of capacity that was delivered. If this modification is implemented, the period of non-payment for DSUs would be extended by an additional two months.

2.2.12. In their response, SSE stated that there was an argument for increasing the extension from one month to three months rather than terminating an entire year of capacity. Their preferred solution was to parameterise the LSD deadline as this gave flexibility when considering parameters for a T-1 auction. SSE argued that this was more transparent and provided a level playing field for all participants.

2.2.13. EirGrid/SONI noted that extending the LSD to three months would make it more likely that T-1 Awarded New Capacity would not contribute to adequacy during Winter Peak demand periods and offer diminished returns on the CRM. They also remarked on the practical challenges of extending to three months as this was around the Christmas and New Year holidays.

2.2.14. EirGrid/SONI were satisfied that the status quo (one month LSD) was appropriate and extending it without justification would be a retrograde step.

2.2.15. Although EirGrid/SONI supported a change to the application of the LSD for T-1 auctions if it would encourage the delivery of capacity that would not otherwise materialise in the relevant capacity year, they reasoned that the current proposal ran counter to a number of Code Objectives such as A.1.2.1 (b) and A.1.2.1 (g).

2.3. RESPONSES TO SEM-23-040 [SUPPLEMENTARY CONSULTATION]

2.3.1. While the majority of responses to SEM-23-040 supported the rationale behind the proposed modification, views were varied.

2.3.2. FERA broadly agreed with the proposal stating that it was favourable that the RAs look positively in allowing more time for projects to deliver given the fact that the CY2023/24 T-1 Capacity Auction was being run at a later time than usual, with this possibly increasing delivery risk and putting some participants off taking part. They suggested that any auction with a delayed started and therefore a limited period prior to the start of the capacity year, should be treated in a similar way.

2.3.3. Commenting on the RAs' concerns around the deadline moving to the 31 December, they pointed out that EirGrid/SONI/SEMO also had a registration freeze for several weeks around this time.

2.3.4. Referring to the proposed notice of 20 Working Days, FERA drew attention to the fact that the publication of the approved auction results would not be until the 7 September 2023 meaning that there would only be 17 Working Days before the start of the 2023/24 Capacity Year. They proposed that the 20 Wording Days should be changed to 15 Working Days.

2.3.5. iPower also broadly supported the modification and shared many similar views to those expressed by FERA. They thought that the RAs' proposed assessment of each extension request on a case-by-case basis should alleviate any concerns around speculative applications.

2.3.6. Referring to the proposed legal text, iPower thought J.5.7.3 should be expanded to include TSOs and other relevant authorities and that the number of Working Days in J.5.7.5 should be set at 10 due to approved auction results being published on the 7 September 2023.

2.3.7. In their response, Energia noted that the revised proposal was significantly different to CMC_03_23 and considered it to better address some of the concerns they had raised in the first consultation. They thought it gave the RAs the flexibility for security of supply where a participant is facing a short delay in delivering (particularly where the delay is outside of the participant's control) and also provided the RAs with the power to terminate capacity where a participant is failing to deliver and is not able to provide for a substantial portion of the capacity year.

2.3.8. While not objecting to the proposed modification, Energia emphasised two points of caution. The first was that the RAs would have to be increasingly vigilant at the application stage to screen out speculative applications that did not have robust delivery plans in place. The second, that the RAs would need to ensure transparency and consistency in how they decided whether to extend LSDs or not, and how these would be communicated to other participants.

2.3.9. SSE was also supportive of the solution being proposed for 2023/24 on the basis that any extension should be for a few additional days/weeks. They supported the intention to aim for an enduring solution.

2.3.10. BGE welcomed the approach and supported the revised legal text being proposed. However, they believed that a limit of 4 weeks should be put on any extensions to prevent delays running past November and that applications should avoid extension requests that bring any changed delivery date into the busy December period.

2.3.11. They also asked that any changes made under this proposed pathway be recorded in the Capacity and Trade Register within 24 hours of them being advised by the Regulatory Authorities and that such changes and updates to the Register be notified to industry on the day the update to the Register is made.

2.3.12. BGE also suggested a review be undertaken of the proposed changes after the delivery of the CY2023/24 T-1 capacity contracts. This would be to assess the extent they had been applied and had been effective as well as to understand if the proposed pathway should be made enduring for all other T-1 Capacity Auctions.

2.3.13. ESB GT supported the fundamentals underpinning the proposal and acknowledged that the more flexible approach had the potential to facilitate the connection of awarded capacity projects for at least a proportion of the Capacity Year. However, they raised concerns over how the proposal to grant an extension on a case-by-case basis could work in practice.

2.3.14. In particular, ESB GT was concerned about the lack of transparency and potential subjectivity regarding the criteria used to determine an LSD extension (believing this may expose the process to potential legal challenge). They also raised possible issues around the timeframe whereby the proposed 20 Working Days before the start of the applicable Capacity Year was beyond the Capacity Auction Approval Date and the exposing of participants to termination charges should they enter an auction where their application for an LSD extension was rejected.

2.3.15. ESB GT attempted to address these concerns by proposing their own draft legal text. Amongst other things, this required participants to meet specific assessment criteria; allowed participants to request an LSD extension based on provisional auction results and, where an LSD extension was rejected prior to the start of the relevant Capacity Year, offered several mechanisms to either waive or reduce penalties.

2.3.16. While the TSOs, EirGrid and SONI, supported the RAs' intentions, they had significant concerns about the proposed legal drafting. They did not believe it created the conditions that would enable capacity that could deliver in the 2023/24 Capacity Year (but might not due to the risk of not reaching Substantial Completion by the LSD) participating in the CY2023/24 T-1 Capacity Auction. They believed the proposed wording didn't provide certainty to risk-averse participants and may facilitate more risky propositions on the basis they could just seek an extension. The TSOs also had concerns over the implementation of the proposal for Single Year contracts and not for different Maximum Capacity Durations.

2.3.17. The TSOs proposed a different approach, arguing that the rationale provided by the RAs not to adopt a market wide extension to the LSD should be revisited with the RAs making a decision on whether to amend the LSD in advance of the Capacity Auction. They suggested that such a decision may be at the point of Final Qualification Decisions and in advance of the publishing of the Final Auction Information Pack. Such parameterisation of the LSD could provide a mechanism to maintain a default one-month LSD, allowing for additional weeks for a given optional T-1 auction in response to evidence-based parameter consultation submissions.

2.3.18. The TSOs advised against an exception-type process due to the subjectivity, uncertainty and reduced clarity it would introduce.

2.3.19. In their response, EPUKI stated that the proposed legal drafting had shortcomings which needed to be addressed in order for the modification to be functional. One of the main concerns related to rejected extension requests being subject to Termination Charges. This potential outcome represented a significant level of exposure and, without the certainty of an extension, the developer would be taking on an unfinanceable level of risk in the T-1 auction.

2.3.20. One potential benefit of the modification proposal raised by EPUKI was that it may incentivise multi-year Awarded New Capacity projects to accelerate delivery as there was an opportunity for New Capacity to enter a single-year contract to provide capacity for the months preceding the start of its capacity contract.

2.3.21. EPUKI was supportive of an industry-wide change to the LSD. Although this had potential ramifications for other participants, particularly where a project reached Minimum Completion but not Substantial Completion, they believed modification proposal CMC_13_23 had been raised to address this. EPUKI proposed that the LSD be amended to fall six months after the beginning of the Capacity Year.

2.3.22. Should the LSD not be amended as a whole, they put forward some ways in which risk could be reduced. This included exemption from termination charges when an extension was rejected, removal of the application process and the facilitation of the extension application process prior to the Capacity Auction.

2.3.23. DRAI took a different view, arguing that the proposed modification should be rejected. They believed the paramount concern was that any LSD extension exposed end consumers to significant risk in that they would be paying for capacity that may not be available for a material proportion of the winter period during which the security of supply contribution of Awarded Capacity is of the highest importance.

2.3.24. Furthermore, an LSD extension to Awarded New Capacity created a risk that this capacity displaced, in the CY2023/24 T1 Capacity Auction, other capacity providers which could have delivered capacity by the current LSD of 31 October 2023 and could have been available for the entire winter period.

2.3.25. DRAI cautioned that if the modification was implemented, as an absolute minimum, the maximum permissible LSD extension should be capped at a maximum of 3 months after the start of the Capacity Year (i.e., not beyond 31 December 2023). This would potentially result in capacity providers availing of such an LSD extension receiving 9/12 of the capacity remuneration associated with Capacity Year 2023/24 despite only being available for 50% of the critical winter period.

4.4. SEM COMMITTEE DECISION

4.4.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and the two consultations.

4.4.2. The SEM Committee notes the varying opinions in relation to the proposal and the fact a significant number of responses were not supportive of the original proposal as written but were open to extending the LSD to help facilitate Awarded New Capacity.

4.4.3. Having reviewed the responses received, the SEM Committee shares some of the concerns raised around extending the LSD to three months as such an extension may result in a significant portion of the winter peak being missed. However, this concern must be balanced against wider security of supply concerns and the ability to facilitate additional capacity when possible.

4.4.4. The SEM Committee observes that a number of consultation responses raised the issue of financial risk should LSD extensions be applied on a case-by-case basis. In particular, where an extension request is rejected, a project may face termination of its Awarded Capacity contract and could incur termination charges. This not only has the potential to create significant risk exposure for New Capacity but such an outcome would be contrary to the intention of the proposed modification by acting to deter New Capacity from entering an auction.

4.4.5. While there are merits to facilitating LSD extensions on a case-by-case basis, (for example, allowing extensions to be more flexible and tailored to a particular unit's circumstances), the SEM Committee recognise that there may be concerns around extension subjectivity and reduced clarity to industry. To address these sufficiently as part of this CMC modification proposal would take time and may end up resulting in a cumbersome process lacking in efficiency.

4.4.6. As an enduring solution, the SEM Committee is in favour of parameterisation of the LSD as this would provide an ongoing flexibility that would allow the LSD to be assessed prior to each auction.

4.4.7. The utilisation of LSD parameterisation would also provide more certainty to risk-averse participants as any extension would be fixed, with all parties able to avail of it.

4.4.8. While the SEM Committee acknowledges that a number of respondents were not in favour of allowing LSD extensions longer than a few weeks or a few months, attention is drawn to the EY Report on the Performance of the SEM Capacity Remuneration Mechanism. It states that a more permissive approach to requests for extensions from new build projects may improve incentives for new build projects to get delivered on a timely basis. This supports the SEM Committee's rationale for allowing longer extensions (where feasible).

4.4.9. Recognising that LSD parameterisation may impact payments to New Capacity which could not reach Substantial Completion but could already achieve Minimum Completion, the SEM Committee notes that CMC_13_23 (Minimum Completion Prior to LSD), which is currently out for consultation may, if implemented, help mitigate these concerns.

4.4.10. Importantly, it should be noted that if an LSD extension is granted, it is still the SEM Committee's expectation that all units will use every endeavour possible to deliver well in advance of this milestone.

4.4.11. On the basis on the reasons outlined above, the SEM Committee is making modification CMC_03_23 based on the draft legal text accompanying this Decision. This provides for parameterisation of the LSD.

3. NEXT STEPS

5.1.1. The SEM Committee will make proposed modification CMC_03_23 using the draft legal text accompanying this Decision Paper.

5.1.2. All SEM Committee decisions are published on the SEM Committee website: www.semcommittee.com