

CMC 04_23: Introduction of remedial action for unforeseeable delays due to extraordinary supply chain impacts

Proposed changes to legal drafting in Section J.5



Explanation of Proposed Change

- The proposed modification would **delay all milestone dates** associated with the target date for substantial completion **due to extraordinary supply chain issues**.
 - Where grid or a gas connection is delayed due to extraordinary supply chain delays outside of the control of the participant an equivalent extension is added to the Substantial Completion date.
 - Recommended limited use of the mechanism
 - The mod could be reviewed for renewal/non-renewal every 2 years
 - Applied only to 2024/25 T-3 Capacity Auction
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Proposal Justification

- Under normal circumstances
 - If a participant fails to achieve completion by the start of the Capacity Year, they will not be remunerated for the period of the delay which is effectively a penalty imposed on the participant.
 - Seen as a risk that impacts project viability

- Current State-of-Play in Industrial Production
 - War in Ukraine and economic sanctions on Russia causing supply chain delays
 - OECD: *“The supply of critical raw materials endangered by Russia’s war on Ukraine”* cites severe disruptions to global markets caused by the war, which have exposed the vulnerabilities of the supply chain for industrial production.

- It is not appropriate to apply non-remuneration for the period of delay where the participant has been impacted by extraordinary supply chain delays that are outside their ability to mitigate.

Implications



Failure to implement this modification proposal would mean that participants in the 2024/25 T-3 capacity auctions will be exposed to an extraordinary amount of risk which is outside of their control.

This jeopardises the delivery of New Capacity which is detrimental to ensuring the security of supply for the Irish Grid.

Curtailment of the capacity payments will reduce investor confidence in project viability.

Extra: Legal Text Changes



Key Legal Drafting Changes, Extension Due to Extraordinary Supply Chain Delay

- J.5.X Where the completion of the Substantial Completion Milestone is delayed **solely as a result of an extraordinary supply chain delay**, 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.
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- J.5.X.X The application under paragraph J.5.X.X shall include:
 - (a) **reasons for the request and supporting evidence** in sufficient detail to enable the Regulatory Authorities to consider the request **regarding supply chain issues**; and
 - (b) an updated estimated date for final completion of the Awarded New Capacity with detailed reasoning **and action plan**.
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- J.5.X.X Where a request for extension under J.5.X.X is approved, the relevant Maximum Capacity Duration and Long Stop Date **may be extended by a period of no more than 12 months**, must be extended on a day for day basis in accordance with the approved extension.

Key Legal Drafting Changes, Exception Applications



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 **with the addition of any extension period approved under Section J.5.X** ;

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:

- (a) if the Exception Application is seeking a Maximum Capacity Duration for New Capacity of longer than one year, the Maximum Capacity Duration approved by the Regulatory Authorities for the New Capacity (which must be 10 Capacity Years **with the addition of any extension period approved under Section J.5.X**);