



**Single Electricity Market
(SEM)**

**Capacity Market Code Working Group 19
Decision Paper**

SEM-21-077

21 September 2021

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decisions relating to the Proposed Modifications to the Capacity Market Code (CMC) discussed at Working Group 19 held on 20 May 2021.

The decision within this paper follows on from the associated consultation ([SEM-21-055](#)) which closed on 10 August 2021.

This paper considers the proposed modifications presented at WG19. The proposed modifications relate to:

➤ **CMC_05_21: Substitution of Candidate Units**

As things stand CMUs are fixed at the point of qualification and there is no process available to allow for reconfiguration, with the exception of Section J.5 (and subsection 1.1.3 for aggregated units) of the CMC. However, the RAs are aware that there may be circumstances where a one-to-one substitution of one CMU for another is not possible and it is necessary to replace a single CMU with multiple units in order to deliver Awarded Capacity on time. This modification proposes to allow for the substitution Candidate Units to be permitted with the approval of the RAs and an application is made on the basis of complete replacement of the affected Awarded Capacity with a set of substitute Candidate Units.

➤ **CMC_06_21: NIRO and the CRM: Compliance with State aid approval**

There is a potential conflict between the CMC and the State aid approval for the CRM whereby a Demand Site in receipt of a NIRO is not explicitly prevented from forming part of a CMU. This modification closes off this potential conflict.

➤ **CMC_07_21: Reduced Applications for Qualification**

This Modification proposes to include within the CMC, the ability for a Participant to make a greatly simplified Application for Qualification if a unit has not changed since it was previously qualified.

➤ **CMC_08_21: Ex-post Verification of Compliance with the CO₂ Limits**

The ACER Opinion (22/2019) on the interaction of CO₂ Limits with Capacity Markets sets out limited situations in which ex-post validation of compliance is recommended. This Modification seeks to implement such validation in the situations which could occur in the SEM.

➤ **CMC_09_21: Addition of time for RAs consideration of SFC Extension Request**

The current drafting of the CMC in J.5.2.1 gives no time limit on application to extend Substantial Financial Completion, potentially leaving the RAs to make an instantaneous decision. The RAs deem this to be impractical, therefore this modification proposes to require any application to extend SFC to provide 20 WD notice to allow sufficient time to properly consider any application before making a decision.

➤ **CMC_10_21: Modification to the provisions for Market Registration of Demand Side Units**

There are two proposals being put forward here, both of which intend to improve the registration process for DSUs and subsequently improve the level of service delivery from these types of market participants. Both proposals look at how a DSU aggregators awarded Reliability Obligations are delivered.

- Proposal 1 seeks to move the Reliability Obligation to the portfolio level by allowing DSU Aggregators to create combined candidate units of their portfolio of DSUs.
- Proposal 2 seeks to move the physical backing of the Reliability Obligation to the portfolio level by allowing all IDs within a DSU aggregator's portfolio to assist in the delivery of the Reliability Obligation regardless of the DSU they are assigned to through the Operational Certificate process.

➤ **CMC_11_21: Extension of ASTN Arrangements**

This modification seeks to extend existing Alternative Secondary Trade Notification arrangements as per M.11 of the Capacity Market Code, which was decided under the decision [SEM-20-064](#) in relation to CMC_09_19. The proposal seeks to include the option that a seller, when entering a secondary trade, may have the option to trade above the unit's de-rated capacity volume.

13 responses were received to the Capacity Market Code Working Group 19 Modification Consultation Paper, two of which were marked as confidential.

The purpose of the proposed modifications was to further the Code Objectives within the CMC, specifically:

A.1.2.1 *This Code is designed to facilitate achievement of the following objectives (the "Capacity Market Code Objectives"):*

CMC_05_21 –

- (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;*
- (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.*

CMC_06_21 –

- (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;*

- (e) *to provide transparency in the operation of the SEM;*
- (f) *to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code*

CMC_07_21 –

- (a) *to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to the Capacity Market;*
- (b) *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;*
- (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;*

CMC_08_21 –

- (e) *to provide transparency in the operation of the SEM;*
- (f) *to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code;*
- (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.*

CMC_09_21 –

- (b) *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;*

CMC_10_21 –

- (b) *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;*
- (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.*

CMC_11_21 –

- (a) *to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licences in relation to 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.*

Summary of Key Decisions

Following consideration of the proposals and the responses received to the consultation the SEM Committee have decided:

Modification	Decision	Implementation Date
CMC_05_21 – Substitution of Candidate Units	Reject	N/A
CMC_06_21 – NIRO and the CRM: Compliance with State aid approval	Approved	21/09/2021
CMC_07_21 – Reduced Applications for Qualification	Approved	02/11/2021
CMC_08_21 – Ex-post Verification of Compliance with the CO ₂ Limits	Approved	02/11/2021
CMC_09_21 – Addition of time for RAs consideration of SFC Extension Request	Approved	21/09/2021
CMC_10_21 – Modification to the provisions for Market Registration of Demand Side Units	Undertake Further Consideration	N/A
CMC_11_21 – Extension of ASTN Arrangements	Approved	To be confirmed following the completion and analysis of the SOs impact assessment

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Appendix C – Approved Modification Text Drafting – CMC_07_21

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Appendix E – Approved Modification Text Drafting – CMC_09_21

Appendix F – Approved Modification Text Drafting – CMC_11_21

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, these are all 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). An updated version of the CMC (5.0)¹ was published on 24 May 2021 and the most recent version of the TSC² was published on 3 November 2020.

Process for modification of the CMC

1.1.2. Section B.12 of the CMC outlines the process used to modify the code. In particular, 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 anytime. 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 to be 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.

¹ Capacity Market Code: <https://www.sem-o.com/rules-and-modifications/capacity-market-modifications/market-rules/Capacity-Market-Code.docx>

² Trading and Settlement Code: <https://www.sem-o.com/rules-and-modifications/balancing-market-modifications/market-rules/>

Process and Timeline for these Modifications

- 1.1.9. On 11 May 2021 the SOs notified the RAs of the seven proposed modifications submitted for discussion at WG19 held on 20 May 2021.
- 1.1.10. CMC_05_21 to CMC_09_21 were submitted by the RAs, CMC_10_21 by the DRAI and CMC_11_21 by Energia.
- 1.1.11. All seven of the proposed modifications were marked as Standard and will therefore be processed through the normal Modification process.
- 1.1.12. On the 3 June 2021 the RAs determined the procedure to apply to the Modification Proposals. An overview of the timetable is as follows:
 - i. The System Operators convened Working Group 19 where the Modification Proposals were considered on 20 May 2021.
 - ii. The System Operators, as set out in B.12.7.1 (j) of the CMC, are 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.
 - iii. The RAs will then consult on the Proposed Modification, with a response time of 20 Working Days (as defined in the CMC), from the date of publication of the Consultation.
 - iv. As contemplated by B.12.11 the RAs will make their decision as soon as reasonably practicable following conclusion of the consultation and will publish a report in respect of their decision.
- 1.1.13. The purpose of this decision paper is to set out the decision relating to Modification Proposals discussed during Working Group 19 to either:
 - a) Implement a modification;
 - b) Reject a modification; or
 - c) Undertake further consideration in regards to matters raised in the modification proposal.
- 1.1.14. This decision paper sets out a summary of the consultation proposals and sets out the SEM Committee's decision.

1.2. RESPONSES TO CONSULTATION

1.1.15. This paper includes a summary of the responses made to the Capacity Market Code Modifications consultation paper ([SEM-21-055](#)) which was published on 9 July 2021.

1.1.16. A total of 13 responses were received by close of the consultation period and two were marked confidential. The respondents are outlined below and copies of each response can be obtained from the SEM Committee website.

- Data and Power Hub Services Limited (DPHS)
- SSE
- Energy Association Ireland (EAI)
- Powerhouse Generation (PHG)
- EirGrid/SONI
- Confederation of European Waste-to-Energy Plants (CEWEP)
- Bord na Móna (BnM)
- Bord Gáis Energy (BGE)
- Energia
- ESB GT
- Demand Response Association Ireland (DRAI)

2. CMC_05_21 – SUBSTITUTION OF CANDIDATE UNITS

2.1. CONSULTATION SUMMARY

- 2.1.1. This modification was submitted by the RAs and proposed a change within section J.5 of the CMC.
- 2.1.2. As things stand CMUs are fixed at the point of qualification and there is no process available to allow for reconfiguration, with the exception of Section J.5 (and subsection I.1.3 for aggregated units) of the CMC. J.5 allows for various forms of change to the delivery of Awarded Capacity to both ensure that consumers receive the New Capacity awarded at Auction and to reduce the risk to capacity providers of delivering New Capacity.
- 2.1.3. However, the RAs are aware that there may be circumstances where a one-to-one substitution of one CMU for another is not possible and it is necessary to replace a single CMU with multiple units in order to deliver Awarded Capacity on time.
- 2.1.4. An affected Participant can apply to the RAs to substitute multiple substitute Candidate Units to deliver Awarded Capacity (a Substitution Application). This application is made on similar grounds to change of EPC or Technology Class but where a 1-1 replacement of units is not possible. The application is made on the basis of complete replacement of the affected Awarded Capacity with a set of substitute Candidate Units.
- 2.1.5. The RAs, in conjunction with the SOs, consider the application. If they reject the application they inform the Participant giving reasons. If the RAs do not reject the Substitution Application, then the new Candidate Units need to go through a version of the Application Process to change into CMUs so that Awarded Capacity can be transferred to them. This follows the same process as set out in Chapter E but with an exceptional timetable.
- 2.1.6. If the Candidate Units Qualify, then Awarded Capacity is transferred from the original CMU to the new CMUs in line with the Substitution Application.
- 2.1.7. To mitigate this issue, the RAs proposed inclusion of a new subsection within section J.5 of the CMC, J.5.5 Substitution of Candidate Units.

2.2. SUMMARY OF RESPONSES

- 2.2.1. Of the 13 responses to the consultation, 9 respondents provided feedback on this proposal and two of these were marked confidential.
- 2.2.2. In their response, DPHSL stated that they agree with the proposed modification, and that this does further it furthers the Code Objectives A.1.2.1 (b), (c) and (g).
- 2.2.3. ESB GT agreed with the minded to decision on this modification and the proposed drafting.

- 2.2.4. The DRAI stated that in general they are supportive of the proposal on the basis that it increases the flexibility available to Participants to deliver Awarded New Capacity, reducing the risk faced by capacity providers while still ensuring that consumers receive the New Capacity procured at auction. The DRAI therefore support the RAs minded-to position to approve the modification.
- 2.2.5. SSE were of the view that the modification is confusing and highlighted this is the case when they consider the provisions set out in J.5.
- 2.2.6. They have advised that proposal seems to be based on a specific possible solution to allow for multiple units to solve a single CMU delivery issue, which they feel appears too specific a solution to suit any but the most particular of projects.
- 2.2.7. SSE stated that if there are concerns regarding delivery that is not covered by the provisions of J.5, which also include a specific process regarding TSO and RA review and approval, the specific upstream causes that may lead to non-delivery or this risk then consideration should be given to this.
- 2.2.8. SSE highlighted that they consider the difference between one CCGT and another model is not very material. However, they are of the view that a difference in units that may change the specific characteristics at pre-qualification is an issue.

In their response, SSE stated that, as referenced in a recent consultation regarding NOx emissions for new capacity, this is an area that could be impacted as a result of this proposal, which SSE believe, has not been considered. SSE elaborated that they consider the proposal to be unclear in what it is trying to resolve for the benefit of any new capacity, rather than particular capacity that seem only able to resolve delivery through aggregation under the same CMU.

- 2.2.9. SSE stated that with regards to allowing parties to aggregate under the same CMU, that they would be in favour of this and feel that it is an objective under the Clean Energy Package. However, they further commented that if aggregation were progressed it would need to be for the benefit of all units, rather than only particularly units and/or new capacity.

SSE were of the view that aggregation would provide a useful hedge to encourage scarcity pricing at times when appropriate since generator unit-level issues are removed through aggregation.

- 2.2.10. They concluded by advising that, whilst they support the fact that aggregation may help to produce a useful investment signal, without the provision of clarity on other areas of CRM design they would have the concerns above.
- 2.2.11. PHG advised that DSUs must identify the sites and the contractual positions prior to qualification and elaborated that it is true that the delivery of the capacity in the actual year could come from the proposed site or alternative sites.

PHG are of the view that this appears to be in line with what the modification is proposing and agree that such flexibility could provide the expected capacity for the year in question. They further highlighted that without flexibility the proposed development may struggle and introduce a risk of non-delivery.

2.2.12. PHG highlighted that the identification that a Generator is behind a 'Connection Point', under grid code, is a very useful point that can be used to maintain the awarded volume. Further to this they stated that the actual generation behind the connection point is then a matter for the TSOs and Grid Code compliance, and as long as the aggregated volume matches the awarded volume then there is less risk of non-delivery.

However, PHG believe that the spreading of overall volume across a number of smaller generators must not be allowed to compromise the jurisdictional element of the auction and the Locational Capacity Constraint Areas that are identified within the capacity auction. They are of the view that this would only happen if the substituting generators were not behind the same Connection Point but were allowed to be aggregated from different locations.

2.2.13. Further to the point raised above, PHG highlighted that the proposal does not appear to make reference to jurisdiction or to Locational Constraint areas. They are of the view that this may result in the need for further drafting added to the legal draft in order for clarity around what can be allowed.

2.2.14. The SOs welcome the flexibility that this Modification will offer to facilitate the delivery of Awarded Capacity when a project is at risk of achieving completion within the original timelines.

In their response, they advised that it would be appropriate to look at alternative options in such cases including the proposed potential substitution on CMU units as long as new individual or multiple units would reach the original Awarded Capacity in total and would pass the standard Qualification Process.

2.2.15. The SOs did however raise a number of concerns with the following aspects of the proposal:

- The criteria used to approve the substitution in principle – the SOs requested clarity be provided on the criteria against which the substitution proposal will be assessed to reach this decision.

The SOs queried, in the event that the subsequent Application Process should raise unexpected issues following approval of a substitution, if there is a mechanism of withdrawing the approval and queried whether the approval should only be granted once all steps are completed.

- Creating an advantage to units that have come to the process late bypassing the standard timelines – The SOs are concerned that, although this process is intended to be aimed at facilitating flexible units that have the potential to achieve their set up quickly, it might also favour units that did not engage at the appropriate time giving them an advantage with respect to other units that have to incur the risks of an earlier application.

The SOs elaborated that it is important that the criteria required to be satisfied to avail of this process ensure that this process can only be utilised as a last resort, where the delivery of the Awarded New Capacity could not be otherwise achieved.

- Running ad-hoc qualification processes – The SOs are concerned that the operation of ad-hoc qualification processes may impact on the normal qualification processes that take place for scheduled Capacity Auctions.

The SOs have reiterated that the qualification process involves a number of stages as set out in a Capacity Auction Timetable and are concerned that, from the text within the proposal, it appears that a Substitution Application would effectively be a full qualification process.

The SOs highlighted that this approach would have a significant impact on the operation of both the SOs and the RAs processes and is not warranted in this case. The SOs have further suggested that, rather than requiring the substitute units to go through a qualification process, the RAs could make the qualification decision as part of the decision to approve or reject the Substitution Application and this could be given effect in section E.9.4 where the RAs could approve a Final Qualification Decision based on a Substitution Application.

2.2.16. In relation to the possibility that the requirement for a Substitution Application could be mitigated by the registration process having regard for the Connection Agreement, the SOs believe there is merit in considering this further. However, they believe that a more detailed assessment of the requirements in respect of the De Minimis threshold would be required.

2.2.17. BGE stated that when used in conjunction with existing unit change processes under the CMC, they see this proposed modification as being specific in requirement, by exception in application, and rare in use so that the existing processes and controls as implemented in the CMC remain effective.

They elaborated that any change to established processes within the CMC should ensure there is no impact to the certainty of delivering Awarded New Capacity, or additional cost on foot of the change, for the consumer.

2.2.18. BGE were of the view that the utilisation of this process should be published to all market participants to promote transparency on market operations and maintain certainty on the delivery of new capacity to the market. Further to this, they believe that should a new CMU be approved under this new section of the Code, it should not differ against the qualification requirements of the previous CMU.

2.3. SEM COMMITTEE DECISIONS

2.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.

2.3.2. The SEM Committee notes the concerns about the highly specific nature of the situation which the Modification is designed to address. We also note the concerns by the SOs that the modification may encourage less developed CMUs to qualify.

- 2.3.3. The SEM Committee also notes the issues raised by the SOs in terms of running ad-hoc Qualification processes which, despite the expected rarity of the application of the process, would be of concern in terms of the capabilities of both the SOs and RAs to manage the additional workload.
- 2.3.4. The SEM Committee particularly note the response of PHG in respect of the Grid Code and delivery behind a Connection Point.
- 2.3.5. The SEM Committee note that this Modification is not intended to allow general aggregation of CMUs larger than the deminimis limit which has been rejected in previous Modifications and the reasons for those rejections remain valid. It is only intended to cover the very rare situation where the nature of New Capacity has to be altered in order to be delivered in a timely manner.
- 2.3.6. The CMC inherits its definition of a Generator Unit from the TSC, where a Generator Unit is defined as one or more Generators. A Generator is defined as meaning *“a power plant or any similar apparatus that generates electricity (including all related equipment essential to its functioning as a single entity) with capabilities for delivering energy to the Transmission System or Distribution System and which is connected to the Transmission System or Distribution System”*.
- 2.3.7. It is not clear that replacing a Generator Unit with multiple “units”, e.g. a modular gas engine station, would change the definition of the Generator Unit as being a single entity under the TSC. In this situation, the Generator Unit would remain a single CMU under the CMC and no issue would arise.
- 2.3.8. The TSC does require registration of each Generator under a single Connection Agreement as a Generator Unit (B.6.2.1) which, outside of an AGU, prevents treatment of aggregation of Generators from multiple sites or under multiple Connection Agreements.
- 2.3.9. Examination of the Grid Codes shows somewhat different definitions of Generation (or Generating) Units but in both cases on terms of undefined, i.e. natural language, terms which do not clearly preclude a number of “units” under a single Connection Agreement being considered as one Generation (or Generating) Unit.
- 2.3.10. Given the above, the SEM Committee are of the view that the substitution of units which the Modification sought to address is not prevented by either the CMC, TSC or Grid Codes. However, there would presumably need to be a process in relation to the Connection Agreement for the affected unit(s).
- 2.3.11. Given the potential issues in implementing this Modification highlighted by the SOs, concerns shared by the RAs, and the lack of a clear requirement for the Modification to enable substitution of a single “unit” with multiple “units”, e.g. an OCGT with a set of gas engine modules, the SEM Committee have decided not to approve this Modification at this time.

3. CMC_06_21 – NIRO AND THE CRM: COMPLIANCE WITH STATE AID APPROVAL

3.1. CONSULTATION SUMMARY

- 3.1.1. This proposal was submitted by the RAs and was the result of the RAs being made aware of a potential inconsistency in the CMC; in that it does not currently prevent a Demand Site that is in receipt of NIRO payments from deployment within a CMU.
- 3.1.2. The CRM is required by the State aid approval not to allow participation by any CMU, or element of a CMU, in receipt of NIRO payments
- 3.1.3. This modification proposes to modify section E.2.1.4, and add include additional text on the form of E.7.4.3A and I.1.2.1 (d).
- 3.1.4. The proposed changes require any such CMU not to seek to Qualify (E.2.1.4) and the SOs not to Qualify (E.7.4.3A) any such unit.
- 3.1.5. With these changes in place, the existing text of I.1.3.1 (a) and I.1.3.2 (a) do not allow any changes of composition that would incorporate any element which holds a NIRO into an existing DSU or AGU. In adding new drafting to E.2.1.4, the RAs have also tidied up the existing drafting so that it makes clearer sense.
- 3.1.6. The addition to I.1.2.1 (d) covers the situation of any unit which may have Qualified and been Awarded capacity before this Modification is put into effect.
- 3.1.7. While the RAs would normally avoid making Modifications that impact events that have already occurred, in this case the Modification is seeking to address compliance with a Competent Authority and ensure the CRM is consistent with its State aid approval.

3.2. SUMMARY OF RESPONSES

- 3.2.1. Of the 13 responses to this modification proposal, 6 provided feedback, none of which were confidential.
- 3.2.2. SSE stated they would be supportive of approving this proposal and the SOs advised that they are in favour if this Modification, however, would request clarity on a number of areas, including what constitutes compliance and how to remedy cases of non-compliance should they been discovered after the Qualification process is completed.
- 3.2.3. With regard to the drafting contained within the proposal, it is the SOs view that this would require further amendments to make sure that, at all times and not just at Qualification process, units will be considered non-compliant with the CMC if holding a NIRO while participating to the Capacity Market.

- 3.2.4. The SOs have highlighted that the current drafting of the Modification does not appear to prevent a unit in receipt of a NIRO to form a CMU. The SOs have suggested that additional amendments in chapter I 'OBLIGATIONS ASSOCIATED WITH AWARDED CAPACITY' should be introduced to make the obligation more effective and explicit by also accounting for the switching of units.
- 3.2.5. The SOs advised that it is important that clarification is given to the unique circumstances of this Modification that will apply retrospectively and could potentially see Capacity that has already qualified become non-compliant. They have also highlighted that a process to deal with such potential cases is not yet defined.
- 3.2.6. Whilst the SOs are not aware of units currently affected by this issue; they have committed to ensuring that measures will be taken to prevent cases from happening going forward.
- 3.2.7. In their response PHG advised that, whilst it is understandable that both NIRO and Capacity awarded volume may be seen by Europe as State aid, there must be a distinction made at the Demand Site level as to what the NIRO payment is for.

PHG elaborated that some Individual Demand Sites (IDS) can be quite large and be able to provide a varied combination of electricity generation and electricity demand reduction. They have stated that these capabilities may not be connected in any way to the NIRO payments.

- 3.2.8. PHG outlined a number of areas which are covered by NIRO payments. They have also stated that whilst some of units they referred to may be located on an IDS, they are unlikely to be able to be dispatchable and to reduce consumption for the site.

By way of an example, PHG referred to a site that has of an Energy from Waste, a generator and controllable load reduction. As part of this example they stated:

- The energy from waste would provide electricity and the overall site consumption would reduce. This would not be part of the registered provision under the Operations Certificate;
- The Generator would normally be off and would only respond to the dispatch from the DSU operator, thus reducing the site consumption. The generator may not cover the full site load; and
- The controllable load reduction would be an additional reduction in response to the dispatch.

PHG highlighted that whilst the first point receives a NIRO payment but has no connection to the service provided under the Operations Certificate, the second and third points above would have no link to the NIRO payments and can provide the demand reduction to the System at a time when it is required.

PHG did agree that if a site relied solely on a CHP or energy from waste plant to increase its output in an effort to reduce the IDS consumption, then it would fall under the aspect of state aid provision for the ability to provide such.

- 3.2.9. PHG referred to the consultation with regards to the position of the SOs that “no unit, nor any component of a unit, is in possession of a NIRO and in receipt of capacity payments at the same time”. They have advised that they question for the SOs and the SEM Committee is to clarify how the ‘component’ of a unit is assessed.
- 3.2.10. PHG stated that the registration of a unit is under the Trading and Settlement Code and the unit can provide services to it and to the Ancillary Services market irrespective of NIRO payments. PHG have highlighted that clarity is required regarding the qualification assessment being able to discriminate between the Capacity Market Unit portfolio and the Operations Certificate portfolio. Further to this, PHG stated that a DSU may withhold the volume of a site receiving NIRO from qualification to the Capacity Market yet still have it within its Ops Certificate for other market provision.
- 3.2.11. With regard to amendments to the proposal, PHG have suggested changes should be made to the adjustment of the Initial Capacity (Existing) which would currently have the IDs with NIRO payments. They are of the view that these would need to be identified and removed from the Initial Capacity (Existing). They believe there may need to be changes made to C.3.2.1 (c).
- 3.2.12. PHG have also suggested changing the drafting of the proposal to provide clarity on what services can and cannot be provided.
- They have stated that the current wording links the NIRO payment to the “single premises of a final customer” which does not reflect where the NIRO payments are supporting.
- 3.2.13. PHG have also stated that there needs to be an understanding that IDs with NIRO payments can be withheld from qualification as part of the CMU, whilst the unit may still have them in its portfolio.
- 3.2.14. BGE stated they support this proposed modification to the CMC to ensure enduring compliance of the SEM Capacity Remuneration Mechanism (CRM) with the requirements of EU State Aid approval from November 2017. BGE support the position that compliance with the CMC, and so the requirements relating to the EU State Aid approval, is the responsibility of the participant.
- 3.2.15. However, BGE have requested clarification regarding the triggers under this modification to ensure any unit is not incorrectly captured by this modification. BGE have provided an example where, on the same site a generator unit has a NIRO but it is the Demand Side Response (DSR) unit(s) that are participating in the CRM. They have asked for confirmation that any unit captured under this scenario is appropriately factored into the capacity requirement calculations for the applicable capacity auction(s).
- 3.2.16. ESB agreed with the principals behind this modification in prohibiting participation by any CMU, or element of a CMU, in receipt of NIRO payments. This aligns with recital 35 of the State Aid decision.
- 3.2.17. However, in line with B.12.15 (No Retrospective Effect), ESB GT does not agree with applying a retrospective change to participants and raised concerns about any unintended consequences and the precedent that such a retrospective change may set.

- 3.2.18. With regard to the draft text in the proposal, they are of the view that section B.8.1.1 of the CMC clearly defines the obligations of participants to comply with the code at all times making the inclusion of I.1.2.1 (d) an unnecessary and confusing addition.
- 3.2.19. The DRAI support the RAs minded-to position to approve this modification and agree that this is required to ensure compliance with the EU State aid approval in place for the Capacity Remuneration Mechanism. Further to this, the DRAI agrees with the RAs that the requirement preventing any component of a unit from being in the possession of a NIRO should be apply continuously, not solely at the point of qualification.
- 3.2.20. The DRAI noted the RAs recognition of the possibility of a site validly holding both a NIRO and a CRM Reliability Option where provision of the two services is unrelated. The DRAI highlighted that, while this situation is likely to be rare, they agree with the RAs that this should be recognised in the final drafting of the modification to ensure that the requirements brought in to assure State aid compliance do not wrongly prevent participation of Demand Sites where there is no issue of accumulation of State aid.

3.3. SEM COMMITTEE DECISIONS

- 3.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.
- 3.3.2. The SEM Committee notes the broad support for the Modification but accepts the concerns that the original legal text was drafted too broadly and failed to capture the nuance of Demand Sites that could quite validly hold both an RO under the CRM and a NIROC where participation under the two schemes used distinct capacity.
- 3.3.3. We note PHG's comment around the definition of Initial Capacity. While a change could be made here, it is not critical to the functioning of the Modification as DSUs can use DECTOL to ensure their Qualified capacity excludes any capacity which is covered by a NIROC.
- 3.3.4. NIROCs are established in the Renewable Obligation Order (Northern Ireland) 2009 which uses the concept of an "accredited generating station" as the source of a NIROC. Revised legal drafting has been created which uses this concept, rather than the broader "a component of" to identify those elements of a Demand Side which cannot participate in the CRM. This new drafting appears in the new E.2.1.4A and in E.7.4.3A.
- 3.3.5. The SEM Committee believe that the addition of I.1.2.1(d) in conjunction with I.1.3.2 establishes that the situation where change of composition of a DSU or Demand Site means that capacity also receiving a NIROC is introduced into the DSU would be a breach of the CMC.
- 3.3.6. Given the above, the SEM Committee approves the Modification with the revised legal drafting set out in Appendix B.

4. CMC_07_21 – REDUCED APPLICATIONS FOR QUALIFICATION

4.1. CONSULTATION SUMMARY

- 4.1.1. This proposal was submitted by the RAs and to allow a Participant to take part in an expedited Qualification process for a Capacity Auction whereby either nothing has changed since the last qualification process, or they are already in possession of an RO for the Capacity Year for which a Capacity Auction seeks to procure capacity.
- 4.1.2. In its current form, the process requires CMUs that have already received a Capacity Award, in respect of all of their capacity for a forthcoming auction, to go through the full Qualification Process.
- 4.1.3. The RAs intend to amend the code to include a new paragraph, E.4.1.3A, which would allow for a Participant to make a greatly simplified Application for Qualification if a unit has not changed since it was previously qualified.
- 4.1.4. The aim of this proposal is to reduce the administrative burden on both the System Operators and participants. As it stands:
- Participants who have won a multi-year RO in a given Capacity Auction will subsequently be required to submit qualification applications for each capacity auctions for the total duration of the period their multi-year RO covers; and
 - Participants who have won an RO for all their capacity in a T-4 Capacity Auction will then be required to qualify for any subsequent ‘top up’ auctions for the same capacity year. This could be a T-3, T-2 or a T-1 Capacity Auction depending on circumstances.

4.2. SUMMARY OF RESPONSES

- 4.2.1. Of the 13 responses received, 9 respondents provided feedback, including two confidential responses. Of the responses received, the majority were in favour of implementing the proposal.
- 4.2.2. DPHSL, SSE and PHG all stated they are supportive of the proposal and welcomed that this proposal would greatly reduce the administrative burden on the SOs and Participants.
- 4.2.3. In their response, the SOs advised that they favour the intention of this Modification that aims at removing duplication of actions where these are not necessary to the Qualification process.
- 4.2.4. The SOs recognise that circumstances where this simplified process should apply are limited to those being identified in this Modification where:
- Nothing has changed since the last Qualification process; and
 - The unit applying for this already holds an RO for the Capacity Year of the relevant Capacity Auction.

- 4.2.5. However, the SOs are mindful that although the Participant might believe that there has been no change since the last Qualification process, a change in de-rating factor could result in additional capacity to be accounted for.

The SOs propose that Participants that consider themselves to be in one of the aforementioned categories would opt in to avail of the existing Alternative Qualification Process to be used in such cases.

The SOs elaborate that this will then enable them to be able to assess the Participant's circumstances for each individual case without the need to create a new additional ad-hoc process. They are of the view that this simplification would prove beneficial for both the Participants and the SOs alike and would still achieve the intended amendment to the Qualification Process.

- 4.2.6. BGE stated they support this proposed modification as a workable process to reduce the administrative burden on participants when qualifying existing units that have not changed since last qualified or already hold an RO for the capacity year in question. We welcome clarification on the simplified application process that will be used when it has been designed by the System Operators (SOs). We support the earliest implementation of the new process.
- 4.2.7. BGE request confirmation of the auction bidding process that would follow this complementary qualification process, and any bidding process changes that would result.
- 4.2.8. ESB GT recognised that the modification proposed is aiming to remove the burdensome and unnecessary administrative aspects of the qualification process. However, they are of the opinion that if a unit already has a contract for a capacity year, be that as an existing or new participant, then no application needs to be made for those units for an auction relating to that capacity year.

ESB GT have requested further detail and clarity on the form the 'Reduced Application for Qualification' will take.

- 4.2.9. The DRAI support the intent of this modification and agrees that the requirement for all CMUs, even those which have received Awarded Capacity in respect of all of their capacity for a forthcoming Capacity Year, to go through the full Qualification process is an unnecessary administrative burden for both Participants and the System Operators.
- 4.2.10. They did however raise a number of concerns and subject to these concerns being addressed, would be supportive of the minded to position to approve the proposal.
- 4.2.11. The DRAI state that, in relation to the amended drafting of E.4.1 to implement this modification, it is not clear whether the proposed conditions that must all be satisfied in order to avail of the reduced qualification process correctly reflect the intent of the modification and provide for all appropriate scenarios.
- 4.2.12. The DRAI are also of the view that it is unclear how the proposed reduced qualification process would apply for DSUs, as currently drafted.

The DRAI highlighted that in line with the stated intent of the modification, if a DSU is already in possession of an RO for the Capacity Year for which the auction seeks to procure capacity, it should have the ability to elect to utilise the Reduced Application for Qualification process and it is not currently clear from the proposed amended drafting how this would work.

4.3. SEM COMMITTEE DECISIONS

- 4.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.
- 4.3.2. The SEM Committee notes the very broad support for the proposal and the questions about the detail.
- 4.3.3. As drafted, the conditions in E.4.1.3A would all need to be met in order for a Participant to use the Reduced Application for Qualification Process. These conditions would apply in the same way for a DSU as for all other units and, as drafted, would take no account of any change of the Demand Sites comprising a DSU.
- 4.3.4. The SEM Committee notes the proposal by the SOs for Participants to “opt-in” to the Alternative Qualification Process and note that would significantly simplify the format needed for any Reduced Application for Qualification.
- 4.3.5. The SEM Committee believe this offers a better route to the same outcome as that presented in the proposed Modification. Rather than a Participant in E.4.1.3A choosing to submit a Reduced Application for Qualification it would opt-in to the Alternative Qualification Process.
- 4.3.6. This change would remove the need for E.3.1.4B and E.3.1.4C and they have been removed. E.4.1.4 and E.7.8.1 have been modified to recognise that opting-in to the Alternative Qualification Process is a valid option for a Participant.
- 4.3.7. With the changes to the legal drafting described above to use the existing Alternative Qualification Process, the SEM Committee approves this modification with the amended legal text set out in Appendix C.

5. CMC_08_21 – EX-POST VERIFICATION OF COMPLIANCE WITH THE CO₂ LIMITS

5.1. CONSULTATION SUMMARY

- 5.1.1. This proposal was submitted by the RAs and proposed to align the CRM with the ex-post validation recommendations in ACER Opinion 22/2019 on the calculation of CO₂ limits.
- 5.1.2. The Opinion, in article 9, only recommends ex-post validation where the CO₂ emissions are expected to vary significantly from year-to-year, i.e. Mixed fuels, waste (which is a mixed fuel in itself) and CO₂ sequestration.
- 5.1.3. In line with the Opinion, the test is made on the basis of a report after the Capacity Year is over and we propose this report be submitted within three months of the end of the Capacity Year, i.e. by the end of December.
- 5.1.4. The proposal sets out that Validation is to be made on the basis of a report by the Participant evidencing compliance, such report to be produced within 3 months of the end of the Capacity Year.

5.2. SUMMARY OF RESPONSES

- 5.2.1. Of the 13 responses to the consultation, 7 respondents provided feedback, none of which were confidential and most were supportive of the proposal and its intent.
- 5.2.2. SSE stated that they would support compliance with requirements regarding validation.
- 5.2.3. PHG believe the impact of this modification would be on a small section of Participants, and those that have a varying fuel source. They have further advised that complicated operations are likely to have other governmental bodies providing permits and requesting emission data. Therefore, the provision of CO₂ emissions data should be available for reporting to the SOs.

They were of the view that since this modification impacts the CMC and it is the SOs that operate and implement the rules therein, then such reports should be submitted to the SOs and not to the RAs. They elaborated that, should the SOs need to involve the RAs, this would need to be in the drafting.

- 5.2.4. The SOs advised that they welcome the introduction of clarifications of what data should be submitted by Participants to comply with ACER recommendations to validate the calculation of CO₂ limits.
- 5.2.5. The SOs state that whilst they recognise that the RAs are the Competent Authority in this matter and would be the ultimate approver of the reports provided by Participants, for the purposes of consistency and transparency, the SOs would support the publication by the RAs of acceptable sources of data in order to facilitate the industry in providing the required data.

- 5.2.6. The SOs highlighted that if the criteria for the type of data required is laid out with absolute clarity and tailored to the individual unit types, the submission could be incorporated within the existing verification process. However, to avoid delays in assessing exceptions and duplication of analysis between the Participants, the RAs and the SOs, they recommend that the reports are issued directly to the RAs.
- 5.2.7. The SOs referred to comments during WG19, and recognised in the consultation paper, that it is not clear if the range of the source data should vary depending on the unit type or should be fixed at either one or three years. The SOs views on the matter are neutral and they will adhere to guidelines specified by the RAs and with the interpretation as agreed with ACER.
- 5.2.8. CEWEP stated that they support the proposal as it aligns with the CRM with the ex-post validation recommendations in ACER Option 22 /2019 on the calculation of CO₂ limits and stated that combining the existing CO₂ reporting requirements into the same mechanism would assist in streamlining reporting procedures.
- 5.2.9. With regard to the Ex-post verification of emissions data, CEWEP highlighted that there currently are existing procedures and processes in place for reporting and verifying emissions. Taking this into regard and in order to minimise the administrative burden for reporting these emissions, they are of the view that it would make sense to use one reporting mechanism and suggested combining the two CO₂ reporting requirements into the same mechanism.
- 5.2.10. Referring to the timeframe to submit data, CEWEP stated that, whilst we are not disputing the proposed timeframe, they are of the view that this should correlate with existing reporting timelines in order to streamline reporting.
- 5.2.11. BnM referred to the WG18 Consultation paper whereby it states that “Energia had a general question relating to CO₂ emissions compliance and the Clean Energy package (CEP). They had a query as to whether there are provisions in the code that checks / monitors how many hours a unit may have run and has not breached a run hour limit.”

BnM have requested further insight into this where the RAs stated they were of the view that this was a valid point and would be worth checking to ensure that this has been covered correctly and that a gap in this area has not been left open.

- 5.2.12. BGE supported the aim of the proposed modification to align the CRM with the ex-post validation recommendations in the ACER Opinion on the calculation of CO₂ limits.
- 5.2.13. Given the limited number of CMUs to which this requirement is expected to apply, BGE request that the RAs make all efforts to minimise the administrative and cost burden on affected participants.

BGE believe this can be achieved by the RAs seeking to obtain any existing evidence necessary from other institutions (e.g. ETS submissions) where possible. Should any further information be required from the CMUs themselves, BGE ask that the validation requirements and timelines are clearly communicated to the CMUs well ahead of submission deadlines.

- 5.2.14. BGE suggested that the submission format should be for a single Capacity year on an annual basis.

- 5.2.15. ESB GT have stated that they are in favour of compliance with emissions requirements and the objectives of the pathway to net zero. However, they are of the view that further information on this modification should be provided to participants to fully understand the obligations placed upon them and consider the proposal while in position of the appropriate impacting information.
- 5.2.16. ESB highlight that the impacts or penalties of any potential non-compliance with this modification and the resulting penalties are not identified in the modification proposal.

5.3. SEM COMMITTEE DECISIONS

- 5.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.
- 5.3.2. The SEM Committee recognises the support for the proposed modification and the requests to use existing sources of evidence of compliance where possible and ensuring that the timing of the provision of this evidence for the CMC is aligned. Given the limited subset of CMUs affected, we are keen to minimise the burden of providing evidence and to re-use existing reporting wherever possible.
- 5.3.3. The legal drafting has been amended to conform the reporting date with the availability of evidence from other reporting requirements, which could be via the EU Emissions Trading System (ETS) which requires reporting by 31 March following the end of the calendar year being reported.
- 5.3.4. Validation of the CO₂ Limits should be consistent with the latest “Capacity Market Technical Guidance for determining CO₂ Emissions for Compliance with the Clean Energy Package” document (currently, SEM-20-306(a)). For all affected capacity, reporting of CO₂ emissions would be required.
- 5.3.5. Given that the ETS reports on a calendar year basis, a unit would be considered to have evidenced that it had met its obligation if its ETS-reported emissions were compliant with Article 22(4) of the Regulation (2019/943) in the calendar year that overlaps the Capacity Year from January to September.
- 5.3.6. For Waste-to-Energy CMUs, the CO₂ emissions should be evidenced based on the most recent Fuel Mix Disclosure made to SEM-O (as per SEM/11/095) at the time of reporting.
- 5.3.7. For capacity commissioned on or after 4 July 2019, there will be a need to report generated electricity. This should be reported consistently with the commercial metering used for settlement under the TSC.
- 5.3.8. For capacity commissioned before 4 July 2019, there will be a need to report installed capacity. This should be reported consistently with the Registered Capacity (or analogue) defined under the Grid Code.
- 5.3.9. The RAs will prepare a guidance note to be used by Participants in compiling the necessary evidence and for the SOs in validating such evidence.

- 5.3.10. The SEM Committee believes that is appropriate for evidence is submitted to the SOs as they have the ability to validate both generation and installed capacity.
- 5.3.11. Given the above, the SEM Committee approves the Modification with the minor drafting changes mentioned above. Implementation of the change should follow the publishing of the guidance on potential evidence referred to in 5.3.5 above.
- 5.3.12. The approved legal text for this proposal is set out in Appendix D.

6. CMC_09_21 – ADDITION OF TIME FOR RAS CONSIDERATION OF SFC EXTENSION REQUEST

6.1. CONSULTATION SUMMARY

- 6.1.1. This proposal was submitted by the RAs and proposed to mitigate an issue with J.5.1 of the CMC which currently gives no time limit on application to extend Substantial Financial Completion, potentially leaving the RAs to make an instantaneous decision.
- 6.1.2. This is deemed to be impractical, therefore this modification proposes to require any application to extend SFC to provide 20 WD notice to allow sufficient time to properly consider any application before making a decision.
- 6.1.3. The intention of the proposal is to include a new paragraph, J.5.2.5, which states:

Any application made under J.5.2.1 should be made at least 20 working Days prior to the scheduled date for achieving Substantial Financial Completion in the relevant Implementation Plan.

6.2. SUMMARY OF RESPONSES

- 6.2.1. 7 respondents provided feedback on this proposal with support being generally positive with regard to implementation.
- 6.2.2. SSE stated that it is their understanding that this proposal is intended to provide more clarity to the industry and provide a clear timeline for the RAs to assist in their decision making. On this basis, they advised they would support the position to approve this modification.
- 6.2.3. ESB GT believe that this modification is a reasonable request from the RAs to allow proper consideration for SFC extension requests and are in favour of its approval.
- 6.2.4. The SOs welcome the clarification provided in the consultation paper with regard to where the extension in the new paragraph J.5.2.5 should be applied from. They have advised that they support the Modification with the current legal drafting.

6.2.5. PHG agree that the CMC should clarify the position on this regarding the amount of time required/allowed.

6.2.6. In their response, DPHS advised that this proposal appears to be changing the reporting obligations and timeline on SFC milestone.

DPHS were of the view that the 20 working days period should be added to the backend of the SFC milestone for the SO to review, as the effect of requiring it 20 days prior is effectively bringing forward the reporting deadline.

6.2.7. BGE stated they support this proposed modification to codify the deadline for the requests by participants to the RAs for an extension to the Substantial Financial Completion (SFC) milestone. They were of the view that the period of a minimum of 20 Working Days (20WD) notice before the SFC date is a practical solution and establishes the notice period against a clear date for each auction.

6.2.8. In their response, the DRAI acknowledged the RAs intention to formalise the process (in particular the required timelines) regarding the submission and consideration of a request to extend the deadline for Substantial Financial Completion.

The DRAI are of the view that the RAs proposal to require Participants to submit an application at least 20 Working Days prior to the deadline for Substantial Financial Completion is reasonable, and support the minded to position to approve the modification.

In response to the query raised in the consultation paper regarding from which date the 20 Working Days should be determined, the DRAI believe this should be from the date that is the end of the Substantial Financial Completion Period after the relevant Capacity Auction Results Date and the DRAI recommend the proposed drafting to within CMC_09_21 is amended to reflect this.

6.3. SEM COMMITTEE DECISIONS

6.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.

6.3.2. The SEM Committee notes the support for the proposal and the importance of allowing the RAs sufficient time to properly consider such requests.

6.3.3. While recognising that implementation requires Participants to make an earlier application to the RAs, the SEM Committee do not consider this warrants an extension to the Substantial Financial Completion Period. Such a period of consideration was implicit in the original drafting of the CMC and the need for such an extension should be clear well before the end of the Substantial Financial Completion Period.

6.3.4. In terms of the date from which the 20WD should be counted, the SEM Committee believes the drafting in the proposed Modification is reasonable. This better covers the situation where a second extension is requested and aligns with the existing drafting of J.5.2.1.

- 6.3.5. Given the above, the SEM Committee approves this Modification with implementation on 21 September 2021 and the approved drafting for this proposal is set out in Appendix E.

7. CMC_10_21 – MODIFICATION TO THE PROVISIONS FOR MARKET REGISTRATION OF DEMAND SIDE UNITS

7.1. CONSULTATION SUMMARY

- 7.1.1. This proposal was submitted by the DRAI and proposed to allow the full flexibility capability of the Individual Demand Sites (IDS) that make up a DSU aggregators portfolio to be realised.
- 7.1.2. The proposal states that the current rules mean there are administrative barriers to delivering flexibility to the grid and the power system of the future requires flexible assets, especially assets that can respond to the changing needs of the system. The DRAI are of the view that IDSs can do this once they can be set up appropriately within DSUs.
- 7.1.3. The proposal highlights the DRAI view that as the demand response market evolves to include residential, industrial and commercial customers, the simpler the registration process the better for both the system, market, and end consumer.

The DRAI elaborate that current administratively burdensome process will not lend itself to residential demand response participation when larger individual demand sites are already struggling to participate to their full potential.

- 7.1.4. The DRAI advise it is their belief that if the process for market registration is simplified there will be more flexibility available to market and system operators. They stated this could result in less volumes being procured in the Capacity Market and System Services market as existing providers are maximising their delivery and type of delivery.
- 7.1.5. The DRAI put forward a single modification which contained two proposals, both of which they believe are viable options for improving the registration process for DSUs and ultimately improving the level of service delivery from these types of market participants.

Proposal 1 –

- Seeks to modify section E.7.6 – Combining Candidate Units;
- Proposes that DSUs be treated similarly to variable generation when it comes to combining candidate units and that they be allowed to combine candidate units above the de-minimis threshold;
- The DRAI state this proposal aligns with the intent being presented at European level where variable generation and flexibility providers can be treated similarly to incentivise participation in markets;
- The intent is to allow a Reliability Obligation (RO) to be awarded at portfolio level, thus ensuring that a DSU aggregator can move existing capacity around its portfolio of DSUs;

- The DRAI referred to CMC_06_20, which was rejected in the *CMC WG12 CMC_04_20 and CMC_06_20 Decision Paper (SEM-20-039)*, following reservations about market power and the lumpiness that might occur in the auction if this proposal was to be approved. They state that these concerns have been addressed and can be resolved by limiting inflexible bidding to the size of the largest candidate unit within the combined candidate unit.

Proposal 2 –

- Seeks to modify section I.1.3.1 – Variation in mix;
- Provision I.1.3.1 in the code allows for DSU aggregators to vary the mix of IDs within their DSU providing the physical backing that is delivering on their Reliability Obligation;
- This modification proposes that DSU aggregators be allowed to vary the mix of IDs within their portfolio providing the physical backing that is delivering on their Reliability Obligation;
- The DRAI believe the proposal may require changes to the process for determining substantial completion in section G.3.1 to allow DSU providers to use their portfolio of DSUs to deliver the awarded capacity to ensure the full intent of this proposal can be realised.

7.2. SUMMARY OF RESPONSES

7.2.1. 7 respondents provided feedback on this proposal, none of which were marked as confidential.

7.2.2. In their response, SSE state that modification appears to seek greater flexibility for DSUs for a four-year advance timeframe to assist them to better manage commercial contracts they hold with customers. SSE consider that this modification creates an unfair approach between other candidate units and those that are DSUs and their initial view is that this modification should not be considered for approval.

Further to this, SSE stated they are not comfortable with these proposals since they could undermine the concept of short-term capacity as provided for in T-1 auctions.

7.2.3. SSE referred to recent consultations which they believe signal the discomfort that the RAs had with any overestimation of capabilities ahead of time, such as the potential for new capacity to apply for capacity contracts on the basis of inaccurate running hours that did not take account of NOx emissions effectively. Taking account of this, SSE would not appreciate this modification seeking to apply a similar approach to a different activity, on the basis of the issue RAs have already signalled regarding certainty of operation and delivery.

7.2.4. SSE believe that the DSR approach, so far in the capacity market, has not resulted in any specific load response, as evidenced by the SEMC Scarcity Pricing consultation. They consider that structurally, how DSUs are accommodated and incentivised in the CRM and the SEM as a whole should be reflected on before additional flexibility only for their benefit, should be provided and advised that they have concerns that this additional flexibility could have a negative impact on generation providers participating in future CRMs.

7.2.5. PHG highlighted that whilst DSUs and AGUs are different to other units in the Capacity market, in some aspects they are quite similar.

7.2.6. PHG are of the view that having the ability to juggle the Individual Demand Sites between DSUs allows the additional provision of services to Ancillary Services and the Balancing Market, due to aligning of technical capabilities. They have further stated that being able to do that under an overarching umbrella allows for supporting the overall Capacity obligations.

Taking this into consideration, PHG have advised their belief that Proposal 1 may be more suitable.

7.2.7. BGE highlighted a preference for an earlier introduction of a solution that addresses improvements to the provisions for market registration of Demand Side Units (DSUs).

7.2.8. BGE stated that the two proposals contained in the modification make useful suggestions of the level of changes needed and would benefit from wider consideration by stakeholders. BGE believes that the current approach to the market registration of DSUs needs a holistic review to achieve a simplified method for DSU registration which works for the industry, system operators and related stakeholders.

7.2.9. BGE further highlighted that the review needs to be executed as quickly as possible to enable the earliest introduction of any amended processes in support of the continued development of DSU technology in the SEM. They believe this is best achieved by a cross-industry workshop to identify and build out the best proposal(s) to return for discussion at the next Capacity Market Code Working Group before being put out again for consultation.

7.2.10. BGE noted that whilst support was given to Proposal 1, it was also identified that there could be benefits to Proposal 2 with further refinement. Further to this BGE stated that a key difference was the long implementation timescale for Proposal 1 as against the shorter implementation needed for Proposal 2. BGE see this as a key issue with a requirement for the earliest possible solution that would be best addressed through an industry workshop process.

7.2.11. The SOs stated that they are supportive of the intent of these modification proposals to allow the greater flexible capability of the IDS' that make up a DSU aggregators portfolio to be realised. However, they have advised that a number of aspects of the current proposals that they feel warrant further consideration.

7.2.12. The SOs agree with the SEM Committee's minded-to position to take the responses to this consultation as the basis for a revised Modification Proposal. However, they believe that the drafting needs to ensure the quality of delivery performance does not diminish by allowing grouping sites with different characteristics, such as run hour limitations, in order that this does not impact the ability to deliver the awarded capacity when called upon by the SOs.

7.2.13. The SOs highlighted that there is a considerable amount of administrative overhead on the part of the Participants, the Market Operator and the SOs in moving Demand Sites between Demand Site Units in order to implement different levels of Awarded New Capacity in different years on different Demand Side Units.

Further to this, the SOs noted that, at a high level, there are a total of 51 DSUs with Awarded Capacity, 30 with Awarded New Capacity. Elaborating, they stated that allowing these DSUs to be combined into a single CMU, at the Participant level taking into account the Locational Capacity Constraint Areas of the DSUs, would reduce the number of Capacity Market Units to 17 (and 12 with Awarded New Capacity). Taking into account future growth in this area, the SOs do not consider that the values associated with these units would impact significantly on the efficiency of the auction.

7.2.14. The SOs believe that a benefit of such a move would be to reduce the number of Implementation Progress Reports and the processing and verification of Substantial Financial Completion and Substantial Completion accordingly.

7.2.15. With respect to Proposal 1, the SOs observed that in its current drafting, each PQ pair would be limited to the size of the largest constituent Candidate Unit, in this case, a DSU. They are of the view that this may sit better under Chapter F within the CMC, where offers are validated. Further to this, the SOs stated that implementing the proposal this way would require changes to the Capacity Market Platform to enforce these limits at the offer submission stage. Considering the figures provided within their response, relating to the 2024/2025 T-4 Capacity Auction, the SOs are not sure that the combining of DSUs at the current levels is likely to impact markedly on the efficiency of the auction.

7.2.16. With respect to Proposal 2, the SOs state that it is not clear whether the proposed drafting achieves the desired objectives of the Modification Proposal as the current drafting doesn't update the Awarded Capacity for each DSU so each individual DSU would be required to deliver on their own individual Awarded Capacities, both from the perspective of Awarded New Capacity under the Capacity Market Code but also in the settlement rules in the Trading and Settlement Code. The SOs would consider the approach being considered in Proposal 2 to be significantly more complex to implement from a Capacity Market Code perspective.

Therefore the SOs advise that they would favour an approach based on Proposal 1.

7.2.17. The SOs noted concerns that the proposal could be seen to provide DSUs / Aggregators with additional benefits and flexibility that isn't afforded to other technology types. They also noted that DSUs / aggregators have a number of different characteristics to contend with when compared to those of a more 'traditional' unit. The SOs stated that it is important that any change in this area does not lead to inequitable treatment but also that appropriate and beneficial differences in treatment can be applied where they are justified and do not lead to unfair advantage or disadvantage.

7.2.18. The SOs highlighted issues with availability of Generator Units including Demand Side Units, where the declared availabilities of some units are significantly below what System Operators consider is necessary to deliver on their obligations. They advised that it is imperative that any changes to the obligations on Generator Units including Demand Side Units enhance, and at a minimum do not reduce, the incentives to be available and deliver energy when required.

- 7.2.19. The SOs suggested that it may be appropriate to take a revised proposal back to a future working group, prior to a further consultation ahead of a final implementation decision, in order to ensure that due consideration has been given in arriving at the most appropriate approach.
- 7.2.20. In their response, ESB were unsure as to whether this proposal facilitates the improvement of any of the CMC objectives. ESB advised that this modification, similar to CMC_06_20, appears to be changing the CMC due to issues with the DS3 market and is more about improving the finances of DSUs/AGUs in the DS3 market while minimising their exposure in the Capacity Market. Outside of the facilitating the objectives of the CMC.
- 7.2.21. ESB GT raised concerns that this proposal would provide DSUs/Aggregators with additional benefits and flexibility in the CRM that are not currently available to other technology types. They are concerned that this treatment could be viewed as preferential so that certain units can obtain better market benefits and therefore comparatively discriminatory for other market participants.
- 7.2.22. ESB GT believe further consideration of the proposals in this mod is required as it is unclear how the proposal will interact with other similar mods currently being proposed with the potential for unintentional impacts on the market.
- 7.2.23. In their response, Energia stated that that this may no longer be required dependent upon changes to Secondary Trading.
- 7.2.24. Energia were also of the view that both proposal 1 and proposal 2 seem to require further development before any satisfactory change to the CMC could be implemented. On that basis, and to the extent that further changes are still required following changes from modification CMC_11_21 (Version 2), Energia agree with SEM Committee comments that a future working group may be required to discuss these proposals further.
- 7.2.25. As the proposer, the DRAI reiterated their support for this proposal, however they also recognise that the Market Operator has made a number of valid observations that need to be addressed before approval can be given. The DRAI have also stated that they welcome the SEM Committee proposal to convene a dedicated workshop to allow more detailed consideration of the modification in advance of the next CMC Working group.
- 7.2.26. In their response, they have addressed the feedback received in workshop and responded to a number of the queries and concerns noted in the consultation paper, by highlighting some of the key points presented in the Modification Proposal form and/or the DRAI presentation at WG19.
- **Chapter F** – The DRAI agreed with the SO suggestion that the PQ pair requirements of combined candidate units would sit better in Chapter F. They welcomed engagement with the SOs on this suggestion as they were cognisant that it may offer a means to enable the PQ pair requirements without the need to update SO systems.
 - **De-rating Factors** – The DRAI believe there is merit in exploring the impact of this modification on de-rating factors. However, they have emphasised that the application of this modification does not intend to bypass or improve de-rating factors, and that any change would in fact be an unintended consequence.

- **Discrimination** – The DRAI reiterated their stance that the proposal is not designed to facilitate favourable treatment of DSUs and refuted any claims that support this assumption. Further to this they stated that the intent of the modification is to remove some unnecessary administrative barriers, in recognition of the fact that the characteristics of DSUs are different to traditional generation, and through doing so enable better use of the flexibility offered by this technology type.

7.3. SEM COMMITTEE DECISIONS

- 7.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.
- 7.3.2. The SEM Committee would agree that the bidding obligation in the capacity auction proposed in E.7.6.1 (j) would be better placed in Chapter F and, in particular, in section F.7.1.
- 7.3.3. We note that implementation of Option 1 is likely to be more straightforward but that this does raise concerns around aggregation of CMUs.
- 7.3.4. However, the SEM Committee recognises that the DRAI proposal to limit inflexible bidding does address many of the RAs' concerns with previous Modification proposals that sought to allow greater aggregation of CMUs. The proposal also strongly suggests that the incentives on DSUs do not encourage excessive aggregation.
- 7.3.5. The SEM Committee also notes that while Proposal 1 appears easier to implement, aggregation of CMUs only occurs at Qualification and so provides a much slower process for DSUs to deal with issues of aggregation than Proposal 2.
- 7.3.6. We note that Proposal 2, in addition to the proposed change to I.3.2 to increase the allowable changes in mix would require either:
 - this change in mix to be recognised in the Capacity and Trade Register at the time it occurs; or
 - changes to G.3.1 in the determination of whether Awarded Capacity has been delivered when assessing Substantial (or Minimum) Completion.
- 7.3.7. The SEM Committee notes that, in principle, the movement of Demand Sites between DSUs has no impact on the Awarded Capacity being delivered and has no impact on either the hedge offered to consumers or security of supply. Allowing additional flexibility to move Demand Sites would be in line with Code Objectives in particular A.1.2.1(c) and (d) relating to participation and promotion of competition.
- 7.3.8. The SEM Committee note that there may be alternative methods to achieve the same objectives. One example might be an analogue of the Volume Reallocation which is permitted under the GB Capacity Market Rules. Clearly, any such process would require adaptation to the specific circumstances of the SEM.
- 7.3.9. Given the above, the SEM Committee are of the view that there is value in the Modification, taking account of all the comments and responses received to date, undergoing further Working Group discussion with the intention of identifying a clear way forward which can deliver against the Code Objectives for DSUs while avoiding undue discrimination.

8. CMC_11_21 – EXTENSION OF ASTN ARRANGEMENTS

8.1. CONSULTATION SUMMARY

- 8.1.1. This proposal was submitted by the Energia and sought to extend existing Alternative Secondary Trade Notification arrangements as per M.12 of the Capacity Market Code, which was decided under the decision [SEM-20-064](#) in relation to CMC_09_19.
- 8.1.2. The modification proposes to include the option that, when entering a secondary trade, a seller may have the option to trade above the unit's de-rated capacity volume. In their submission, Energia highlight that whilst this element was included in the original proposal for the modification CMC_09_19, it was de-scoped to facilitate the modification's implementation.
- 8.1.3. As part of their submission, Energia stated that the proposal will contribute to Security of Supply. They elaborate that this will be as a result of participants being in a position to trade above their de-rated capacity in the market.
- 8.1.4. They are of the view that this modification will allow parties to trade obligations and reduce their exposure and it is considered a necessary supplement to the existing interim solution and a driver to ultimately fulfilling the Capacity Market Code enduring requirements under section H Secondary Trading.

8.2. SUMMARY OF RESPONSES

- 8.2.1. Of the 13 responses received, 11 respondents, including two confidential, provided commentary.
- 8.2.2. SSE advised that they are in favour of any additional measures to enhance secondary trading provisions in line with industry expectations for this mechanism post-SEM go-live.
- 8.2.3. PHG are of the view that the Secondary Trading has lacked focus in recent times and suggested that a more thorough discussion and training session would assist other participants in understanding its complexities.
- 8.2.4. SSE state that given the expected system issues arising in Winter 2021-22 and the degree of interest in seeking to encourage necessary scarcity pricing to encourage response both from generation and demand, it is imperative that this can be matched by a measure to allow generation to manage its risk.

They are of the view that it is not acceptable to leave parties exposed at times of stress pricing, in a central dispatch that still has the ability to levy RO payments on parties that are contracted but not dispatched by the TSO. They advised that this is a frequent but "unhedgeable" decision, since it is outside the control of the generator whether their generation is taken, and whether it is dispatched once contracted.
- 8.2.5. SSE referred to the caveats placed on the minded-to position within the consultation paper, stating that they are not in favour in either of these measures.

SSE believe these defeat the purpose of this proposal and will frustrate a mechanism that was meant to have already been in place.

8.2.6. With regard to the first caveat which related to the 70 day limit, SSE questioned the rationale for placing a limit on trades. In their view, the inclusion of the 70 day limit highlights that there is some resistance or unarticulated concern regarding a mechanism that was expected to already have been well-implemented and in operation well before now. They believe this is unacceptable and if implemented as recommended by the SEM Committee, could reinforce the strong level of exit signals in the CRM, and the shortage of clear entry signals, at a time when a capacity shortfall is clearly at risk. SSE consider the instances of such trades would be during specific and limited circumstances, when reflecting on the limited circumstances that the current interim secondary trade mechanism has been used.

8.2.7. The EAI advised they are supportive of CMC_11_21 which seeks to implement the ability for generators to trade above their de-rated capacity as was originally intended.

This was echoed by Energia who advised that they fully endorse the EAI response in respect to this modification. Energia also highlighted that they support SEM Committee minded to position to approve the modification, but not subject to the stated caveats.

8.2.8. The EAI have advised their view that, in respect of the SEM Committee minded to decision to include a 70-day limit on trades above de-rated capacity, it is unclear in terms of what it is seeking to achieve or prevent.

They have elaborated that it is worth noting that the frequency of secondary trades at present is minimal and therefore the application of this limit, whilst part of CRM Details Design Decision 2 ([SEM-16-022](#)), is nevertheless ambiguous when applied to this modification proposal. They have further noted that the proposed limit is based on outdated data regarding outages (2014-2016) that precede the new market. They are of the view that the rationale for the use of and the value of this limit based on outdated data, should be considered. This was also echoed within the BnM and Energia responses.

8.2.9. In their response, the SOs reiterated that they retain their original concerns with regards to the risks to the system by having any form of Secondary Trading above the de-rating capacity which would be considered capacity that could not be relied from in terms of security of supply, even more so particularly as the limit of 70 days as been removed in both versions of the Energia proposal.

8.2.10. Despite their concerns, the SOs have advised that they will proceed to an impact assessment of the system changes required to implement this solution once agreement has been reached over the final design this should take, including the item previously proposed by Participants and further discussed at WG19 about the reduction of notice period from 5 to 1 Working days if automatic validations could be introduced.

8.2.11. The SOs also highlighted that some key elements, such as the 70 days limit, have been removed in the current version from what previously approved by the RAs in decisions [SEM-16-022](#) and [SEM-20-064](#). The SOs stated that this would make it difficult for the SOs to progress a change request until agreement is reached in a final SEM Committee decision on which solution to implement.

8.2.12. PHG referred to the concerns of the SOs that the proposal would “put the system at risk” and have requested that the SOs provide further clarification on this.

8.2.13. In relation to the shortening of the notification period, SSE stated that whilst they agree with Energia, they do not want deliberation on this separate point to hold up the delivery of secondary trading above de-rated capacity. SSE recommend that the first part of this modification, as drafted, is implemented as soon as possible and the latter element developed as quickly as systems allow.

8.2.14. The EAI advised they are supportive of CMC_11_21 which seeks to implement the ability for generators to trade above their de-rated capacity as was originally intended.

They are of the view that this proposal will move the current ASTN arrangements closer to the flexibility that should be provided for capacity holders as part of an enduring solution. Whilst some of the changes proposed will require system changes, EAI recommend that workarounds be introduced such that the effects of the changes can be utilised immediately whilst waiting for the required system developments. EAI highlight that they do not wish for anything to frustrate the implementation of this secondary trading proposal.

8.2.15. With regard to the legal drafting containing in the proposal, upon review of existing legal drafting referencing such a limit (section H.7.4.4 of the CMC), the EAI recommend that, should the SEM Committee proceed to implement a limit on trading above de-rated capacity, the legal drafting be amended to refer to Obligated Capacity Quantity rather than Net Capacity Quantity as they are of the view that this provides a more appropriate metric.

8.2.16. The EAI refer to the SEM Committee minded-to position to support the proposal subject to the practicality of implementing a reduction in the notice period. Whilst they are cognisant that a system change will be required to facilitate the reduced notice period, they recommend that a workaround can be included during the intervening time period. The EAI advised that this was previously recommended in response to the original modification CMC_09_19 such that the concept of an effective date and time for the trade could be introduced.

They have provided an example of this, which would be when both parties to the trade submit identical ‘trade details’. They highlight that this could subsequently be validated and included in the Trade Register, but the RO would be transferred in the system at the effective date and time for the purposes of settlement. For the avoidance of doubt, they would not want the essential purpose of the modification to implement trading above de-rated capacity, to be hindered by the development of this secondary part of the proposal, which they understand was proposed by the SOs.

8.2.17. BnM note that the time period for which a Secondary Trade can be implemented is currently set at 5 Working Days after notification and that Modification proposal CMC_11_21 seeks to replace this by implementing a 2-hour notification period for activating a secondary trade.

Further to this, BnM commented that they, and industry have previously commented that the current 5 working day term is too long, and we recognise from the authorities' response that facilitation of this will require system changes.

8.2.18. With regard to CMC_09_19, BnM highlighted that an effective date and time for the trade could be introduced – i.e. when both parties to the trade submit identical 'trade details'. They stated it is their belief that there is firm rationale for such a work-around to avoid delays dependent on the aforementioned system changes.

8.2.19. In their response, BGE stated that they supports the proposal to give Sellers the option to trade capacity in the Alternative Secondary Trade Arrangements (ASTA) above their unit(s) de-rated capacity but not exceeding their nameplate capacity.

8.2.20. BGE referred to their response to the *CMC_09_19 CMC_07 CMC_08 Consultation Paper (SEM-20-040)* where they encouraged the SOs to establish a plan to reduce the operational timescales of the trade validation and execution activities. Taking account of this, BGE stated that they support this proposal to reduce the notice period between submitting an Alternative Secondary Trade Notification and the change becoming effective in the Capacity and Trade Register to benefit participants with additional flexibility in trading.

8.2.21. BGE also state that they appreciate the proposed reduction in notice period would impact systems and ask the SOs to complete their assessment as quickly as possible to establish and agree a suitable cost for the work to enable a timely implementation of the system changes needed.

8.2.22. With regard to the limitation on the duration of secondary trades by a unit above its de-rated capacity in any CRM year, BGE have requested clarity be provided as to the rationale for this limit on the Seller in a secondary trade within the context of the risk which is being addressed. Further to this they have requested that that the current 70-day value for this limit is re-examined against the SEM outage data gathered from the last 3 years of operation for the best appropriate value should the need for the limit endure.

8.2.23. BGE proposed that, in the event that the SEM Committee confirm the need to maintain a duration limit on secondary trades by units above their de-rated capacities in any CRM year to mitigate against potential erosion of the hedge to consumers or impacts on the security of supply, any limitation to the duration of secondary trades above the de-rated capacity should be applied to the unit(s) on outage (being the Buyer of the secondary trade).

BGE highlight that this would mean that secondary trades in a CRM year under the ASTA can be held by the unit on outage only up to the duration limit if maintained and as set by the RAs and they believe that secondary trade liquidity for capacity will be helped by moving the current limit for secondary trades of capacity above de-rated capacities in any CRM Delivery Year from the unit backing the secondary trade over to the unit on outage.

8.2.24. BGE also advised that they support increases in liquidity of secondary trading of capacity in SEM, however changes should not undermine the hedge to consumers or security of capacity supply for the contracted portfolio.

8.2.25. Energia referred to [SEM-20-064](#) where the current ASTN arrangements as per M.12 of the CMC were approved. Energia advised that the ability for generators with capacity market contracts to trade above their de-rated capacity was de-scoped as part of this decision, and referred to section 2.3.15 of the decision paper noted that “The CRM Team will continue to engage with the SOs to develop the systems necessary to extending the scope of the Alternative Secondary Trading Arrangements to allow trading above de-rated capacity”.

Energia sought an update on this issue in response to the Roadmap for Market Development 2020-2025 consultation, whereby the SOs advised that a modification was needed to trigger these changes. Energia stated in line with the previous decision and response from SOs, modification CMC_11_21 (Version 2) seeks to implement the ability for generators to trade above their de-rated capacity as was originally intended.

8.2.26. With regard Secondary Trade De-Rated Capacity Tolerance, Energia requested clarification on whether the Secondary Trade De-Rated Capacity Tolerance is currently published and if so, where this information is published. Energia stated that if this value is not currently published they would recommend that the value of the tolerance needs to be set at a level that does not prohibit a plant selling up to the lower of its Initial Capacity and Commissioned Capacity as was the intention of the modification proposal.

8.2.27. Energia recommended, upon reviewing the existing legal drafting in respect of a 70 day limit, that should such a limit be imposed, the legal drafting is amended to refer to Obligated Capacity Quantity rather than Net Capacity Quantity as is currently drafted under Section H.7.4.4 as this provides a more appropriate metric. However, Energia reiterated that they do not support the inclusion of such a limit for the reasons outlined in their response.

8.2.28. ESB GT agrees that the proposed modification facilitates CMC Objectives set out within the proposal and are cognisant that the proposal progresses the requests of [SEM-20-064](#).

8.2.29. ESB GT are supportive of the reduction of the trade notification period, it has been proposed as 2 hours. However, ESB GT believe that a reduction to 1 day would be a sufficient reduction to increase flexibility and provide a more workable interim solution for the SOs to manage during any required systems upgrades for the 2 hour process.

8.2.30. ESB GT requested the RAs review the appropriateness of the 70 day limit on trading de-rated capacity with a view to aligning it with more recent market conditions. They advise that this will have a commercial benefit to the market and ensure the best available value is available to participants.

8.2.31. The DRAI advised that the current processing time for an ASTN to be activated is too long, and therefore support the intent of the proposal to reduce this as soon as possible.

- 8.2.32. The DRAI recognise that this will require system changes to facilitate automated processing, therefore they would support the implementation of a workaround as an interim solution if the RAs assess that the required system changes to implement the enduring solution will take too long.
- 8.2.33. With regards to enabling a seller, when entering into a secondary trade, to have the option to trade above its de-rated capacity volume, the DRAI agreed that this is an important part of the overall market design as envisaged by the SEM Committee under [SEM-16-022](#). The DRAI supports the intent of modification CMC_11_21 to extend the ASTN arrangements to enable a seller to secondary trade above its de-rated capacity volume.

8.3. SEM COMMITTEE DECISIONS

- 8.3.1. The SEM Committee welcomes the feedback provided by participants, both as part of the Working Group forum and with regard to the Consultation process.
- 8.3.2. The SEM Committee notes the wide support for the Modification and the desire to implement some improvement to flexibility rapidly, even if this does not deliver the full improvement proposed in the Modification.
- 8.3.3. The SEM Committee note the desire by several respondents to replace Net Capacity Quantity with Obligated Capacity Quantity in any version of H.7.4.4 implemented with M.12 but would note that Obligated Capacity Quantity is only determined in real time and so will not be known, or defined, at the time of a secondary trade.
- 8.3.4. The SEM Committee note the concern that outage rates have changed since CRM Decision 2 (SEM-16-022) and would observe that for most classes of generation they have deteriorated. To the extent this deterioration is reflected in the determination of de-rating factors it could potentially impact on the choice of 70 days for the limit of trading above de-rated capacity.
- 8.3.5. Conversely, the SEM Committee note the concerns expressed by the SOs at allowing any trading above de-rated capacity.
- 8.3.6. The SEM Committee believes that the 70 day value chosen as part of CRM2 (SEM-16-022) continues to strike an appropriate balance between the release of liquidity to enable capacity providers to manage their positions while continuing to protect the hedge to consumers and security of supply.
- 8.3.7. The rationale for the original decision (SEM-16-022, paras 4.4.15-17) makes clear that the 70 day limit should be applied to the Buyer to protect against erosion of the security standard. On this basis, the SEM Committee agree that the limit should apply to the Buyer in a transaction and this has been reflected in the revised drafting of the modification.
- 8.3.8. We note that H.7.4.6 wrongly prevents secondary trade by a Seller for capacity below de-rated after the 70 day limit is reached. This is not in line with the original CRM decision and has not been replicated in the amended legal drafting.

- 8.3.9. We note the point made by SSE w.r.t. dispatch by the TSO but note that this relates to settlement of the CRM and so neither to this proposed Modification nor to the Capacity Market Code.
- 8.3.10. As per the CMC, the RAs have never determined a value for the Secondary Trade De-Rated Capacity Tolerance as Chapter H has not been brought into operation as yet. As there is no clear reason to implement a non-zero value of this tolerance within this Modification, the reference will be removed from the legal drafting of the proposed Modification.
- 8.3.11. Based on the discussion above, the legal text of the Modification has been modified to re-instate the 70 day limit but applying only to Buyers.
- 8.3.12. The SEM Committee is minded-to approve the modification with the revised legal drafting attached in Appendix F subject to an impact assessment to be carried out by the SOs. Based on the results of this impact assessment, it may be appropriate to make changes to the Modification to enable earlier or more cost-effective implementation.

9. NEXT STEPS

- 9.1.1. The SEM Committee require that the SOs incorporate the approved Modifications contained within this paper into the CMC via an appropriate version control process and the Modifications are to become effective by no later than:

Modification	Implementation Date
CMC_06_21	21/09/2021
CMC_07_21	02/11/2021
CMC_08_21	02/11/2021
CMC_09_21	21/09/2021
CMC_11_21	To be confirmed following the completion and analysis of the SOs impact assessment

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