

APPENDIX C – RESPONSE TEMPLATE

SUMMARY INFORMATION

Respondent's Name	Federation of Energy Response Aggregators (FERA)
Type of Stakeholder	<i>Demand Side Response</i>
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Confidential Response	No

CAPACITY MARKET CODE MODIFICATIONS WORKSHOP 43 (PART B) CONSULTATION COMMENTS:

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ID	Proposed Modification and its Consistency with the Code Objectives	Impacts Not Identified in the Modification Proposal Form	Detailed CMC Drafting Proposed to Deliver the Modification
CMC_10_25: Amendments to E.7	There must have been issues in the past that encouraged the RAs to propose this Mod. Those should have been provided as examples as to why the Mod is needed. If this is an outcome of lessons learned from Court Cases then that would have been useful to know within the consultation document. FERA agrees with the identified difference between 'Feasibility' and 'Achievability' given the number of awarded volumes that have struggled to deliver in time.	Ambiguity could still remain around the wording of E.7.2.1 using 'may'. Is there an identifiable reason or example that the SOs would not reject under 'administrative considerations'? Are the proposed changes addressing issues that undermined the RAs position in a court case or are they truly to benefit participants	The use of Achievability is an acceptable substitute for feasibility as it provides a more definitive understanding of delivering an awarded volume at the expected time.

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CMC_11_25: Clarification on provisions relating to ‘final and binding’ and dispute resolution under the CMC	It would again be useful to understand the background to this proposal, within the consultation paper, and if it derived from a court case. The suggestion that the CMC is the only process to settle contractual concerns is not consistent with general commercial practice. The modification suggestion that all decisions within the CMC process are final and binding unless through Malice or Dishonesty neglects to understand other errors in the decision-making process that could be made.	This appears to address a wider issue under the CMDRB than that of ‘qualification’. The proposed wording covers any issue that the CMDRB may be asked to look at. There appears to be three separate areas that this modification is intending to cover – 1. The decision on qualification by the RAs 2. The decision on auction results by the RAs 3. The decision by the CMDRB on ALL disputes Are these the full intention of the proposed modification? Any commercial contract between parties can not prohibit the use of the legal court process, although it may suggest that it can deal with all the issues within the ‘contract’.	Using ‘dishonesty’ and ‘malice’ is too restrictive. It does not cover ignorance, stupidity or lack of knowledge. There is a double lock being introduced in B.14.7.1 and B.14.8.10 No litigation unless malice or dishonesty OR referred to CMDRB (B.14.7.1). Then CMDRB decision needs also to be dishonest or malicious (B.14.8.10)

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CMC_12_25: RAs' role in relation to FQDs	The Part 1 option proposes to allow the SOs to have the decision on the final qualifications and it is up to participants to challenge any rejection via the CMDRB. The outcome of this can then be referred to the RAs for further decision if a participant believes it is needed. This is allowing the SOs further powers in the decision-making process whilst the RAs take a back seat and wait for participants to engage the CMDRB.	The proposed adjustments to B.14.10.1 may be open to challenge under legislative guidance as it deliberately attempts to exclude actions of error by individuals or parties. Final Qualification decisions by the SOs may include outcomes that are not beneficial to the overall system and only the RAs would have the wider knowledge to identify that. Individual participants would not be in a knowledgeable position to refer decisions to the CMDRB. In addition, participants would not be able to challenge decisions not directly related to themselves. That is the role of the RAs.	There are two options and significant wording change required as part of option 1. This shall require legal review to ensure full governance is maintained by the RAs.

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CMC_13_25: Amendments to the Capacity Auction Timetable	Currently the SOs submit a timetable TEN months prior to the proposed auction run start. The RAs need to give FIVE days notice to the SOs if they want to delay or cancel the auction. Under D.2.1.10 the SOs can delay the auction by amending the timetable without any specific notice, albeit with approval by the RAs. This could leave participants and investors at a significant commercial risk.	Maintaining this level of lack of clarity does undermine investor confidence and can place increased stress on deliverable dates. There has yet to be a full 4 years gap between awarded volume and start of the capacity year, under a T-4 auction. There needs to be more certainty on the auction dates, not less.	The modification should restrict D.2.1.12(b) to auctions that are T-3,T-2,T-1 as they are top up auctions. D.2.1.1 should be strengthened regarding its timings in providing the T-4 auction.
CMC_14_25: New Dates in the Capacity Auction Timetable	The RAs stated in the workshop that the PTE is in procurement but may not be in place for the next capacity auction. This suggests more time can be taken over decisions on the mod	Obtaining any information on LCC in advance of auction preparation is to be welcomed but there needs to be a level of certainty/uncertainty attached to such information by the SOs. It is noted that this information is only for the RAs and not participants.	

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CMC_15_25: Performance Securities for Extended Projects in T-4 2026/7	Decisions under CMC_15_23 reflected developers struggle to deliver equipment and projects due to global conflict and supply chain issues. However, the fact that local state bodies can continue to impact deliverability timelines must be understood and accommodated.	The lesson learned over the last number of T-4 auctions is twofold – 1. There are external party delays to generator projects. These are outside the control of developers 2. Repetition of the same problem/issue highlights the fact that four years is insufficient for many generator developments to deliver within. There needs to be a serious look at T-5 timeframes. Alternative approach is for key/strategic developments to be given priority within the planning and permitting sectors.	

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All Mods in the consultation	Most of the proposed modification in the consultation paper refer to the “next T-4 auction”. The next auction process shall have commenced prior to the decision on these modifications.	These Mods were not marked as Urgent and were all marked as Standard. The published timetable identifies a date of 29/08/2025 for RA approval of the Mods. This is after the start of the T-4 2029/2030 auction process. Due to Estoppel there should be no attempt to implement any of these modifications into the CMC to affect the T-4 2029/2030 auction process.	

NB please add extra rows as needed.