

## APPENDIX C – RESPONSE TEMPLATE

### SUMMARY INFORMATION

|                                       |                                                                      |
|---------------------------------------|----------------------------------------------------------------------|
| <b>Respondent's Name</b>              | <i>iPower Flexible Energy</i>                                        |
| <b>Type of Stakeholder</b>            | <i>Demand Side Response</i>                                          |
| <b>Contact name (for any queries)</b> | <i>C. McGurran</i>                                                   |
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| <b>Confidential Response</b>          | No                                                                   |

### CAPACITY MARKET CODE MODIFICATIONS WORKSHOP 43 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                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <b>CMC_10_25:</b><br>Amendments to E.7 | <p>The proposed changes to Section E.7 clarify that units only qualify if all conditions are met, streamline overlapping rules, and replace “feasibility” with “achievability” to better reflect the realistic likelihood of delivery. These updates aim to improve clarity and consistency, supporting Code Objectives (b) and (c).</p> | <p>The proposed use of the “achievability” standard may lead to more early rejections where delivery plans are uncertain, potentially disadvantaging smaller or newer developers and increasing the risk of legal disputes, particularly without a clear, objective definition.</p> <p>Ambiguity may also persist due to the wording in E.7.2.1, specifically the use of “may,” raising questions about when SOs would choose not to reject applications under “administrative considerations.” It remains unclear whether these changes are genuinely intended to improve the process or are a response to issues that previously weakened a position in a court case.</p> | <p>The proposal updates E.7.1.1 to clarify that no unit is automatically qualified, removes vague “feasibility” criteria by deleting E.7.2.1(f), and merges E.7.5.1(b)-(c) to focus on whether delivery is clearly “achievable.”</p> <p>While “achievability” is a more suitable and definitive substitute for “feasibility,” offering better clarity on timely delivery, participants need clear guidance on how it will be applied to avoid potential unintended barriers for smaller developers.</p> |

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| <b>CMC_11_25:</b><br>Clarification on provisions relating to ‘final and binding’ and dispute resolution under the CMC | CMC_11_25 clarifies that “final and binding” RA decisions can still be challenged if made in bad faith and removes B.14.2.7 to streamline legal processes. Disputes must first go through the CMDRB, with limited scope for legal action. While this supports Code Objectives (b) and (c), it would be useful to know if the proposal stems from a court case. Restricting legal challenges to dishonesty or malice overlooks other possible errors and doesn’t align with standard commercial practice. | The modification appears to cover RA decisions on qualification and auction results, as well as all CMDRB disputes, extending beyond just qualification. While it allows legal challenges in cases of dishonesty or malice, larger participants may be better positioned to act, while smaller ones could struggle without clear guidance. It’s also important to note that no contract can fully prevent access to the legal court system. | The proposal updates the rules to allow legal action only after CMDRB review or in cases of dishonesty or malice, while also removing B.14.2.7. However, this narrow scope excludes errors, ignorance, or lack of knowledge, and creates a restrictive double lock, requiring both referral to the CMDRB and proof of dishonesty or malice, which could limit fair access to justice. |

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| <b>CMC_12_25:</b><br>RAs' role in relation to FQDs | CMC_12_25 shifts the RA's role to reviewing only CMDRB-referred disputes, considering new evidence only when justified. This reduces their workload, clarifies roles, and supports Code Objectives (b), (c), and (e). Under Part 1, SOs make final qualification decisions, with participants responsible for challenging rejections via the CMDRB, increasing SO authority. | The changes raise concerns about unclear dispute boundaries, especially where procedural and technical issues overlap, making RA reassessment uncertain. Reducing the RA's role without better SO feedback may leave participants unable to challenge FQDs effectively. B.14.10.1 may face legal issues by excluding individual errors, and SO-only decisions may overlook broader system impacts that only RAs can assess. Participants may lack the insight to raise such issues, highlighting the need for ongoing RA oversight. | The proposal adds a new section on "Review of CMDRB Decisions," with clear rules on submitting a Notice of Review, and updates E.9.4 and glossary terms to define the RA's review scope. While clear, it would benefit from guidance on evidence, format, and a plain-English summary for participants without legal support. Option 1's significant wording changes will also require legal review to ensure proper RA governance. |

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| <b>CMC_13_25:</b><br>Amendments to the Capacity Auction Timetable | CMC_13_25 clarifies that under D.2.1.10, RAs and SOs can amend auction timetables at short notice, even with existing delay rules in D.2.1.12. This boosts flexibility and efficiency (Objectives b, c, g), but short-notice changes may disadvantage smaller participants and increase commercial risk. While SOs currently publish timetables 10 months ahead and RAs require five days' notice to delay, D.2.1.10 allows timetable changes with RA approval and no set notice period, raising concerns about transparency and predictability. | Last-minute timetable changes under D.2.1.10 can disrupt planning, raise costs for smaller participants, and increase reliance on clear communication from SOs and RAs. Uncertainty around how D.2.1.10 and D.2.1.12 interact undermines confidence in auction timelines and adds pressure on delivery. With T-4 auctions yet to provide a full four-year lead time, more clarity, not less, is needed. | The proposal clarifies that D.2.1.12 doesn't limit powers under D.2.1.10. While helpful, it could be improved by urging SOs to explain major changes, restricting D.2.1.12(b) to T-3 to T-1 auctions, and strengthening D.2.1.1 to ensure clearer timing for T-4 auctions.                                                  |
| <b>CMC_14_25:</b><br>New Dates in the Capacity Auction Timetable  | CMC_14_25 sets A-25 and A-11 week deadlines for indicative and final LCC volumes, giving RAs more review time and reducing last-minute issues. It supports Objectives (b), (c), and (e) by improving efficiency, participation, and transparency.                                                                                                                                                                                                                                                                                                | While earlier LCC submissions are helpful, they may raise SO workload and still leave RAs with limited review time if delays occur. Participants risk misinterpreting early figures or rushing preparations without flexibility. The value of early data depends on visibility, clarity, and platform updates. Interaction with the new PTE also remains unclear.                                       | CMC_14_25 adds paragraph C.2.4 and updates F.4.1.1, F.4.1.5, and Appendix C to define LCC milestones at A-25 (indicative) and A-11 (final) weeks. While clear, it could be improved by publishing indicative values, providing interpretation guidance, and adding context or confidence levels to avoid misinterpretation. |

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| <b>CMC_15_25:</b><br>Performance Securities for Extended Projects in T-4 2026/7 | CMC_15_25 extends SEM-23-069 protections to T-4 2026/27 projects facing third-party planning delays, allowing timeline adjustments through a "Third Party Extension Period." It supports Objectives (b) to (f) by improving fairness, flexibility, and supply security, while giving developers more certainty amid supply chain and local authority delays. | While the proposal adds flexibility, it raises concerns about how SOs will assess planning delays consistently across councils, adding admin burden and risk of inconsistent or subjective application. Custom delays may complicate tracking, especially for multi-site projects, and strain SO resources. T-4 auction experience shows four years is often not enough, suggesting a need for T-5 timelines or prioritising key projects in planning processes. | The proposal adds flexibility but raises concerns over consistent SO assessment of planning delays, potential admin burden, and tracking issues for multi-site projects. T-4 experience shows four years is often insufficient, highlighting the need for T-5 timelines or prioritised planning for key projects. |

NB please add extra rows as needed.