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Friday, 24<sup>th</sup> February 2017

Dear Karen, Thomas,

**Re: I-SEM Capacity Remuneration Mechanism, Capacity Market Code, Consultation Paper SEM-17-004**

Bord Gáis Energy (**BGE**) welcomes this opportunity to respond to the Consultation on the Capacity Market Code (**CMC**). BGE has been an active participant in the Rules Working Group (**RWG**) process which has dealt with a significant number of complex issues in a compressed timeframe. BGE has however certain outstanding concerns relating to particular elements of the draft CMC (**the Code**) which we urge the Regulatory Authorities (**RAs**) to review and resolve before finalisation of the Code.

BGE has provided its detailed response in terms of proposed amendments to the legal drafting and rationale in accordance with the template provided by the RAs and included in Appendix A attached. In summary, our key concerns with the legal text of the Code are as follows:

- i. **The approach to satisfying Locational Constraints in the CMC lacks a clear process (section F.4):** As the Rules emerge around the management of Locational Constraints in the Capacity Market, we are becoming more and more concerned about the impact they will have on the market. First and foremost, we believe that Locational Constraints should be a temporary measure that is solved by reinforcing the Transmission Grid to create a level playing field for all Generators. It is extremely important that market participants are given the opportunity to fully engage in the development and determination of locational issues through consultation processes. According to F.4.1.3, locational issues will only be discussed and developed between the TSOs and RAs, which we believe is inappropriate. We are also concerned around the process for reducing the minimum MW requirement in local areas if there is not enough available generation to satisfy the constraint (this is particularly related to paragraphs F.4.1.4 to F.4.1.13). In order to maintain competition in the primary auction, we believe that locational constraints should be minimised insofar as possible from the outset. The opportunity to further reduce these constraints should be only in the event that Grid modifications can/ must be made. On that basis, we believe the process for adjusting locational constraints should be supported by clear criteria and should be open to consultation for industry engagement.
- ii. **For transparency and certainty, a Capacity Auction Timetable needs to be developed for the CMC akin to the timetable in the UK Capacity Market (sections D.2.1.11, F.5.1.2):** In the current drafting, there remains large uncertainty over when certain key dates will occur in the capacity auction, e.g. publication of the Capacity Market Information Pack. First and foremost, we believe it should be specified that the Capacity Market Information Pack is published by a date being at least three months before the Capacity Auction. It is essential that this information is provided in this timeframe in order to allow market participants to appropriately conduct their activities ahead of the Capacity Auction. Furthermore, it is understood from section F.5.1.2 that the Final Auction Parameters may be published as close as three Working Days before the Capacity Auction. This timeframe is unacceptable and we therefore request that any Final Parameters are published at least fifteen Working Days before

the Capacity Auction. As a way of ensuring this key information is published on a timely basis, we believe that a timetable akin to the UK Capacity Market is provided for in the CMC where deadlines are specified as T – “X” weeks before the Capacity Auction.

- iii. **The purpose and rationale of the Offer Price Clearance Ratio is unclear (section 8.4):** It is not clear as to the rationale for inclusion of the concept of an Offer Price Clearance Ratio nor is it clear what policy objectives the RAs/TSOs are trying to achieve with its inclusion. Before we can properly respond on this point, we require a lot more information in terms of the rationale and objectives for including this concept. At a high level, we interpret that once the Offer Price Clearance Ratio is implemented, the marginal unit will never receive an RO contract (this is implied where it says "less than 100%"). Is this the intended consequence? The process for determining the Offer Price Clearance Ratio should be subject to further industry engagement before being hard-coded in the CMC.
- iv. **Suspension and Termination provisions (sections B.13.3.1(h); B.13.6.1 (d)):** BGE does not believe that it is good process to deem suspension of termination/ deregistration to arise in the CMC on foot of such suspension or termination in the Day-ahead/ Intra-day markets (**DAM/IDM**). There needs to be an additional process or link between suspension/ termination in these other markets and its application in the CMC beyond merely just requiring RA approval. A clear evidential breach of the CMC itself should be necessary. Consideration should be given to adding additional requirements to the CMC for parties to meet when suspended/ terminated from another market. This would ensure suspension/ termination under the NEMO rules does not increase the risk of defaulting under the CMC or heighten uncertainty in participating under the CMC;
- v. **Existing Units should be liable for penalties if they terminate their contract before the end of the Capacity Year (section B.13.9.3):** We are concerned that an Existing Unit could use the termination provisions within the CMC as a means of opting out of the CRM without penalty. We therefore believe that existing units should be liable for all RO paybacks for a given contract year even if it is terminated from the market during the Year. Their obligation to payback could be managed through the TSC where the TSOs could retain the Capacity Market-related collateral provided under the TSC and draw down on it as and when difference payments occur. On that basis, we believe it should be explicitly provided in the CMC that Parties who either voluntarily terminate early or are terminated for Default remain liable for difference payments until the end of their contract for that Capacity Year.
- vi. **To avoid Conflicts of Interest, the roles of the Capacity Auction Auditor and Monitor should be performed by separate entities (section B.11.1.5):** We believe the roles and duties of the Auditor and Monitor are part of a governance system which ensures a transparent and well-functioning capacity market. Working backwards from the end of the process, the Auditor's function is an ex-post determination of whether all processes in the capacity market (including the Monitor's activities) have been carried out appropriately and in line with the Rules of the CMC. The Monitor's function is an ongoing process which ensures that the TSOs are conducting their role in the capacity market as per the Rules of the CMC. By allowing the Auction Monitor and Auditor to be the same entity, we are concerned that the integrity of each of their functions will be undermined as it creates a conflict of interest. As the same entity the Auditor would effectively be carrying out an audit on themselves. To avoid this conflict and to ensure market participants have confidence in the capacity market, we believe that the roles of the Auditor and Monitor should be performed by different entities.
- vii. **New Units who are delayed in Commissioning should be allowed to Secondary Trade if the TSOs are unable to procure their capacity in a subsequent auction (section G.3.1.6):** In instances where the TSOs have been unable to procure capacity to replace delayed new capacity in the T-1 auction, the unit which is delayed should be allowed to secondary trade and manage the RO risks as if they were commissioned instead of being terminated. For example, a Unit might only realise close to the Delivery Year that they will be delayed (i.e. because of Grid Code testing delays). In such instances, it may be preferential for a Unit to take the RO

risk for this delayed period rather than be temporarily terminated for one year. Such a solution would also be beneficial for the hole in the hedge as the appropriate level of RO contracts would remain on the system.

- viii. **We believe the TSOs have too high a level of oversight in parts of the CMC (in particular, section J.5.1.1):** As a remedial action, the CMC requires Participants to obtain approval from the TSOs if they wish to change their EPC contractor. BGE does not believe that the TSOs should have this level of control on Participants as the risk to the system of not delivering a New Build project is managed through the Performance Security provided at the beginning of the contract. We therefore request that this condition is removed from the CMC.

We urge the RAs to take these comments and concerns into account, particularly concerns regarding potential weakening of the exit signals under the RO (e.g. the locational constraint proposals) which will likely lead to higher consumer costs, before finalising this CMC.

I hope that you find the above outlined and detailed response in Appendix A helpful. Please do not hesitate to contact me should you have any queries on any of the above.

Sincere regards,

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Brian Larkin  
Regulatory Affairs – Commercial  
Bord Gáis Energy

{By email}

*Encl. (1)*

## APPENDIX A RESPONSE TEMPLATE

### SUMMARY INFORMATION

<b>Respondent's Name</b>	Bord Gáis Energy Limited
<b>Type of Stakeholder</b>	Generator in the Irish all-island electricity market and electricity and gas supplier in the Republic of Ireland electricity and gas retail markets
<b>Contact name (for any queries)</b>	
<b>Contact Email Address</b>	
<b>Contact Telephone Number</b>	

### I-SEM CMC COMMENTS

<b>ID</b>	<b>I-SEM CMC Reference</b>	<b>Short Title</b>	<b>Commentary / Explanation</b>	<b>Suggested Drafting Change to the CMC</b>	<b>Relevant Cross-Reference for any impacted section</b>
<b>Main body of the Draft Capacity Market Code – BGE comments</b>					
1	B.5.1	Legal and Governance:  Parties, Accession Process and Participants	<p>There is an additional paragraph in the Trading and Settlement Code ("TSC") (B.5.1.9) which states "The Market Operator shall publish the fact and date of the accession of each new Party to the Code."</p> <p>This was originally included in the CMC but then subsequently removed in this most recent version. For transparency and consistency with the TSC, we request that this information be re-included in the CMC.</p>	<p>Please include the following text as a new paragraph, B.5.1.9: "The System Operator shall publish the fact and date of the accession of each new Party to the Code".</p>	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
2	B.5.1.1	Legal and Governance:  Parties, Accession Process and Participants	It is difficult to comment on the details of the Capacity Market Framework Agreement as we have no sight of a template/ draft version to review or comment on. We request that a draft version of the Capacity Market Framework Agreement be released to market participants for consultation feedback as soon as practically possible, in order to allow the final version of the Capacity Market Framework Agreement to be published in parallel with the final version of the Capacity Market Code.		
3	B.5.2	Legal and Governance:  Participants	The process for registering a Candidate Unit is unclear and needs to be clarified. For example, in B.5.2.2(a), it states that a Generator Unit under the TSC is taken to have also registered that Generator Unit as a Candidate Unit under this Code. However, the words "is taken to have also registered" are not clear. Does it mean that no further action is required on the part of a Party with a Generator Unit registered under the TSC? Another example is B.5.2.5 where it states that if a Party intends on registering a proposed Generator Unit or Interconnector under the TSC, the Party may apply to provisionally register the proposed Generator Unit or proposed Interconnector as a Candidate Unit under this Code. This paragraph potentially contradicts B.5.2.2(a) mentioned above so again, we request that this section (B.5.2) be revised to be clearer in how a Party registers a Candidate Unit under the CMC.	Please revise section B.5.2 as explained in the commentary.	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
4	B.5.2.6	Legal and Governance: Participants	<p>We believe the request for Participation Notice to include "details of the proposed Generator Unit" is too vague and should instead outline all information required. We note the significant level of extra detail required for Participation Notice under the proposed I-SEM TSC (please see sections B.7.2.1 to B.7.2.11 in this document). Recognising that not all details in this TSC document are relevant for the CMC, there are still a large number of overlapping details. We therefore request that either:</p> <p>a) section B.5.2.6 of the CMC is updated to include all details in the TSC that are relevant to the CMC; or</p> <p>b) reference the TSC paragraphs mentioned above in the CMC as a way to help Parties avoid submitting duplications. Again, clarification as to when a Participation Notice is required should be provided as it conflicts with other provisions in section B.5 in respect of registration under the TSC, which seems to indicate a further registration in the CMC is not required.</p>	<p>Please consider adding either of the following to the CMC:</p> <p>(a) add all relevant paragraphs of between Sections B.7.2.1 to B.7.2.11 in the I-SEM TSC to this section in the CMC; or</p> <p>(b) reference paragraphs B.7.2.1 to B.7.2.11 in the I-SEM TSC in B.5.2.6 of the CMC in order to help Parties avoid submitting duplications.</p>	
5	B.5.2.7	Legal and Governance: Participants	<p>Re-iterating our point made above on section B.5.2, there is a high chance that the TSOs will require additional information from Participants given that "details" as written in B.5.2.6(b) is vague and could be misinterpreted. Therefore for completeness, we request that Section B.5.2.6 be reworded in line with our suggestion above so that the TSOs and Participants can work together to efficiently participate in the capacity market.</p>		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
6	B.5.5.1(d)	Legal and Governance: Intermediaries	Understanding that the "Note" in this paragraph is subject to change based on the outcome of the current consultation on Intermediaries Transition (SEM-17-006), the replacement text that will be entered into the CMC should be open to consultation before it is hard-coded and finalised in the CMC.		
7	B.7.1.1	Legal and Governance: System Operator Fees	It is not clear in the CMC how the total SO fees will be split between Generator Units and Supplier Units. We request that the methodology for how this is determined be provided, including details such as whether or not it is linked to inflation before finalising the CMC.		
8	B.7.1.9(b)	Legal and Governance: System Operator Fees	Typo: "Charged" should be "Charges" and "capacity Year" should be capitalised as "Capacity Year"	Change "System Operator Charged" to "System Operator Charges" and change "start of the capacity Year" to "start of the Capacity Year"	
9	B.10.2.1	Legal and Governance: Capacity Market Monitoring	We note that the Monitor's remit covers only the TSO processes and procedures in the Capacity Market and understand that the Market Monitoring Unit (" <b>MMU</b> ") will have a role of monitoring Participant's Bids (as outlined in the Terms of Reference (" <b>ToR</b> ") for Auditor/Monitor Consultation, SEM-17-007). For clarity and transparency, we request that the role of the MMU for monitoring Participant's bids be defined in the CMC.		



ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
10	B.11.1.5	Legal and Governance: Capacity Auction Auditor	<p>We believe the roles and duties of the Auditor and Monitor are part of a governance system which ensures a transparent and well-functioning capacity market. Working backwards from the end of the process, the Auditor's function is an ex-post determination of whether all processes in the capacity market (including the Monitor's activities) have been carried out appropriately and in line with the Rules of the CMC. The Monitor's function is an ongoing process which ensures that the TSOs are conducting their role in the capacity market as per the Rules of the CMC. By allowing the auction Monitor and Auditor to be the same entity, we are concerned that the integrity of each of their functions will be undermined as it creates a conflict of interest. Allowing the Auditor and Monitor to be the same entity means that the Auditor would be carrying out an audit on themselves. To avoid this conflict and to ensure market participants have confidence in the capacity market, we believe that the roles of the Auditor and Monitor should be performed by different entities.</p>		
11	B.12.2.1 (g)	Legal and Governance: Modifications	<p>Given that Modifications for Agreed Procedures are covered by section B.12.12 which explicitly disapples section B.12.2, we believe that B.12.2.1(g) should be deleted.</p>	<p>Please delete paragraph B.12.2.1(g): "proposing any appropriate changes to Agreed Procedures arising out of Mod proposals to other parts of this Code" from this paragraph.</p>	



ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
12	B.12.5	Legal and Governance: Modifications	We believe Modification Proposals should go through a formal Committee process, similar to the TSC. The TSC Modifications Committee has been working well in the past and it would be good precedent for introducing a Modifications Committee for the CMC.		
13	B.12.7.2	Legal and Governance: Modifications	We believe the phrase "Substantial compliance ... is sufficient" is a very broadly used phrase and should be removed. Should the System Operators deem a certain step to be unnecessary, it should be at their risk. We do not believe that the TSOs should have such subjective flexibility if an issue arises as a result of not following procedures appropriately. Therefore we believe that this clause should be deleted from the CMC.	Please delete this paragraph	
14	B.12.11.4	Legal and Governance: Modifications	The RAs should not be allowed to make different (or materially different) Modifications compared to what was consulted on without undertaking a full impact assessment and liaising with market participants, which should be included in their Decision paper.		
15	B.12.11.7(c)	Legal and Governance: Modifications	We believe that the words "including full impact assessments" should be added to the end of this paragraph for complete transparency in the RAs' reports on Modification Decisions.	Please add "including full impact assessments" at the end of this subclause	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
16	B.13.3.1 (h)	Default, Suspension and Termination:  Suspension	It is good process that suspension from the CMC is only triggered where a Party is evidently in breach of this Code, and not for example in circumstances where it has been suspended pursuant to day-ahead and/ or intraday markets (DAM/ IDM). Instead of suspension occurring as outlined, a transparent, firm set of rules/ hurdles should apply before suspension from the DAM/ IDM applies to the CMC.	Please consider adding at the end of subparagraph (h), the following wording: “and has failed to pass the requirements (determined by the Regulatory Authorities) necessary to maintain participation in the Capacity Market in these circumstances.”	
17	B.13.6.1 (d)	Default, Suspension and Termination:  Termination	It is good process that termination from the CMC is only triggered where a Party is evidently in breach of this Code, and not for example in circumstances where it has been terminated pursuant to day-ahead and/ or intraday markets (DAM/ IDM). Instead of termination occurring as outlined, a transparent, firm set of rules/ hurdles should apply before termination from the DAM/ IDM applies to the CMC.	Please consider adding at the end of subparagraph (d), the following wording: “and has failed to pass the requirements (determined by the Regulatory Authorities) necessary to maintain participation in the Capacity Market in these circumstances.”	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
18	B.13.9	Default, Suspension and Termination:  Consequences of Termination of a Party	We are concerned that an Existing Unit could use the termination provisions within the CMC as a means of opting out of the CRM and therefore believe that they should be liable for all RO paybacks for a given contract year even if it is terminated from the market during the year. Their obligation to payback could be managed through the TSC where the TSOs could retain the capacity market-related collateral needed and draw down on it as and when difference payments occur. On that basis, we believe it should be explicitly provided in the CMC that Parties who either voluntarily terminate early or are terminated for Default remain liable for difference payments until the end of their contract for that Capacity Year.	We propose amending clause B.13.9.3 to provide that, for the avoidance of doubt, a Party should continue to be liable for payment of any amount which was or becomes payable under this Code or the TSC for the duration of the Capacity Year for which the Party was awarded Capacity.	
19	B.14	Legal and Governance:  Disputes	In terms of Disputes, we understand that there may be tight timelines in the processes given the short amount of time between the different phases of the capacity market (i.e. Qualification, Auction, etc.). We would therefore like to ensure that there is a strict timeline of events developed for each Disputes process and if a Disputing Party wishes to escalate a Dispute to the Capacity Market Dispute Resolution Board quickly, they could do so as they please.	We request that these be provided in a clear timeline in the CMC in the form of T – X weeks/ Working Days	
20	B.17.1.1	Legal and Governance:  Waiver	The reference made to "Framework Agreement" should be replaced with "Capacity Market Framework Agreement"	Please add "Capacity Market" before "Framework Agreement"	
21	B.18.1.1	Legal and Governance:  Severance	The reference made to "Framework Agreement" should be replaced with "Capacity Market Framework Agreement"	Please add "Capacity Market" before "Framework Agreement"	
22	B.26.1.1 (h)	Legal and Governance:  Notices	B.26.1.1(h) is referencing the wrong paragraph. It should be B.5.5.2 rather than B.5.5.1	Please replace reference B.5.5.1 with B.5.5.2	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
23	C.2.2.2(a)	De-rating and Capacity Concepts: Local Capacity Constraints	For clarity, we believe the word "identifier" should be capitalised and defined in the Glossary		
24	C.2.2.2(d)	De-rating and Capacity Concepts: Local Capacity Constraints	We note that the term "Nesting level" is used on numerous occasions in the CMC but it is not defined anywhere. For transparency and clarity, we request that its definition is included in the CMC.		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
25	D.2	Pre-Capacity Auction Processes:  Capacity Auctions and Timetables	<p>In the current drafting, there remains a large uncertainty over when certain key dates will occur in the capacity auction, i.e. publication of the Capacity Market Information Pack. First and foremost, we believe it should be specified that the Capacity Market Information Pack is published by a date being at least three months before the Capacity Auction. It is essential that this information is provided in this timeframe in order to allow market participants to appropriately conduct their activities ahead of the Capacity Auction. Furthermore, it is understood from section F.5.1.2 that Final Auction Parameters may be published as close as three Working Days before the Capacity Auction. We believe this timeframe is unacceptable and therefore request that any Final Parameters are published at least fifteen Working Days before the Capacity Auction in order to give market participants adequate time to prepare for the auction and to make informed bidding decisions. As a way of ensuring this key information is published on a timely basis, we believe that a timetable akin to the UK Capacity Market is provided for in the CMC where deadlines are specified as T – “X” weeks before the Capacity Auction. At minimum, we believe the following should be provided for in the CMC Capacity Auction Timetable:</p> <ol style="list-style-type: none"> <li>i. <b>T – 12 weeks:</b> Capacity Auction Information Pack published</li> <li>ii. <b>T – 12 weeks:</b> Qualification Start Date</li> <li>iii. <b>T – 6 weeks:</b> Qualification Close Date</li> <li>iv. <b>T – 5 weeks:</b> Qualification Results published</li> <li>v. <b>T – 5 weeks:</b> Updated Capacity Auction Parameters published</li> </ol>		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
26	D.2.1.4	De-rating and Capacity Concepts:  Local Capacity Constraints	For clarity, we believe a paragraph in this section should be added stating that the contents and parameters included in the Information Pack will be consulted on periodically before they are published/issued.		
27	D.2.1.11	Pre-Capacity Auction Processes:  Capacity Audtions and Timetables	In paragraph D.2.1.4 as explained above, it states that the TSOs shall prepare a Capacity Auction Timetable no later than 10 months before the auction date. While this paragraph (D.2.1.11) states that the TSOs must publish it within 2 Working Days after the RAs approve it, there is no indication of what timeline the RAs have for making assessments and determining whether or not it can be approved. Therefore, for clarity and completeness, we believe there should be a timeline by which the RAs must respond to the TSOs for assessment/ approval of the Capacity Auction Timetable and this should all occur before the publishing deadline.		
28	D.3.1.2	Pre-Capacity Auction Processes:  Capacity Auction Information Pack	For clarity, we believe a paragraph in this section should be added stating that the contents and parameters included in the Information Pack will be consulted on periodically before they are published/ issued.		
29	D.3.1.2(c)	Pre-Capacity Auction Processes:  Capacity Auction Information Pack	Where it states "indicative" in this paragraph with reference to parameters that need to be finalised, i.e. "indicative demand curve", we request that the final parameters are published no later than 15 Working Days before the auction in order to allow market participants to carry out their appropriate activities to compete in the capacity auctions.		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross- Reference for any impacted section
30	E.3	Qualification: Opt-Out Notifications	For the purposes of preventing market manipulation, we believe that Director Certificates should be a requirement when submitting Opt-Out Notification application forms to minimise frivolous applications and reinforce the importance of this step.	Please include a sub-clause in Section E.3 requiring Director Certificates to be signed and submitted when a Generator submits an Opt-Out Notification.	
31	E.3.1.6	Qualification: Opt-Out Notifications	We are concerned there is an opportunity for market manipulation by allowing Units who opt-out of T-4 auctions to be allowed to opt back into a T-1 auction for that same Capacity Year. A Unit which is part of a portfolio for example may submit an opt-out notification for a relatively cheap unit in order to force a more expensive unit (who otherwise would be out-of-merit) into receiving a capacity contract. The relatively cheap unit which had foregone the T-4 auction would then be in a strong position to compete for a T-1 contract for the same Delivery Year. As a way of removing this market manipulation potential, we believe that a unit which opts out of a T-4 auction should not be allowed to opt back in to a subsequent auction for the same Delivery Year. Therefore we request that "the same or" words from the last line in E.3.1.6 be deleted.	Please remove the words "the same or" from the last line in this paragraph, E.3.1.6	



ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
32	E.7.7.1(i)(ii)	Qualification: Requirements for Qualification	<p>The CMC appears to provide that a Capacity Market Unit may comprise a Variable Generator Unit (defined as Wind Power Units or Run-of-river Hydro Units in the Glossary) above the de-minimus threshold (i.e. 10MW). However the TSC defines Aggregated Units as a collection of Units each with a Capacity of no greater than 10MW. Therefore to maintain consistency with the TSC, clause E.7.7.1(i)(ii) should be qualified with the addition of the de-minimus threshold.</p> <p>The definition of “Variable Generator Unit” includes both Wind Units and Hydro Units and as such, it could be interpreted that both types of unit could be capable of jointly aggregating their capacity. For settlement purposes against the RO (among other reasons), we believe this type of aggregation should not be possible. We therefore request the RAs to confirm that Wind Units and Hydro Units are unable to jointly aggregate their capacity.</p>	<p>Please add the words “with Registered Capacity below the De Minimus Threshold” after the words “Variable Generator Unit”.</p> <p>Please clarify/ amend the definition of Variable Generator Unit.</p>	
33	E.9.4	Qualification: Notification of Qualification Decisions	<p>For transparency, we believe a report should be published detailing what units have opted out of the capacity market; what units have applied for bidding above the existing capacity price cap; what units were authorised to bid above that cap and the justification therefore without undermining commercially sensitive information.</p>		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
34	F.3.1.6	Capacity Auctions:  Demand Curve	We believe the term "periodically" as written in this paragraph is too vague without the support of a more defined timeframe. For certainty, we believe it would be appropriate for this paragraph to include "but no more than once per year".	Please revise paragraph to say "...shall periodically (but no more than once per year) consult on the methodology..."	
35	F.3.1.7	Capacity Auctions:  Demand Curve	Where this paragraph states "If the Regulatory Authorities have not provided the Demand Curve [...] to the System Operators five Working Days prior to the date of the Capacity Auction", this would indicate that the final demand curve may be published to industry only 3 Working Days prior to the Capacity Auction (as paragraph F.5.1.1(b) states that the TSOs have 2 Working Days to publish the Final Auction Parameters after the RAs have approved them). We believe that 3 Working Days is too short a timeframe before the Capacity Auction for market participants to receive this key information. In order for market participants to conduct necessary modelling for the Capacity Auction, a minimum of 15 Working Days should be provided for Final Auction Parameters.	Please replace "five Working Days" with "fifteen Working Days" on line 2 of paragraph F.3.1.7	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
36	F.4	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	<p>As the Rules emerge around the management of Locational Constraints in the Capacity Market, we are becoming more and more concerned about the impact they will have on the market. First and foremost, we believe that Locational Constraints should be a temporary measure that is solved by reinforcing the Transmission Grid to create a level playing field for all Generators. It is extremely important that market participants are given the opportunity to fully engage in the development and determination of locational issues through consultation processes. We are also concerned around the process for reducing the minimum MW requirement in local areas if there is not enough available generation to satisfy the constraint (this is particularly related to paragraphs F.4.1.4 to F.4.1.13). In order to maintain competition in the primary auction, we believe that locational constraints should be minimised insofar as possible from the outset. The opportunity to further reduce these constraints should be only in the event that Grid modifications have to be made. On that basis, we believe the process for adjusting locational constraints should be supported by clear criteria and should be open to consultation for industry engagement.</p>		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
37	F.4.1.1	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	We believe that management of locational constraints should be handled through Grid reinforcements rather than allowing out-of-merit units to receive RO contracts. Therefore as a way of prioritising Grid reinforcements we believe a sub-clause should be inserted at the top of this paragraph stating the TSOs shall first and foremost "assess how transmission infrastructure can be upgraded or reinforced to remove the capacity constraint and what the costs/timelines are".	Please consider adding the following sub-clause as F.4.1.1(b)(i): Assess how transmission infrastructure can be upgraded or reinforced to remove the capacity constraint and what the costs/ timelines are	
38	F.4.1.5	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	For our reasons outlined in comment 37 above, we believe this paragraph should be deleted.		
39	F.4.1.7	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	For our reasons outlined in comment 37 above, we believe this paragraph should be deleted.		
40	F.4.1.8	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	In line with our response in comment 37 above, we believe there should be no further reduction in the minimum local constraint. However, notwithstanding the above, should this report be shared between the TSOs and RAs, we believe it should also be published to industry for transparency.		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
41	F.4.1.9	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	For our reasons outlined in comment 37 above, we believe this paragraph should be deleted.		
42	F.4.1.10	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	For our reasons outlined in comment 37 above, we believe this paragraph should be deleted.		
44	F.4.1.12	Capacity Auctions:  Determination of Local Capacity Constraints for a Capacity Auction	For our reasons outlined in comment 37 above, we believe this paragraph should be deleted.		
45	F.5.1.2	Capacity Auctions:  Publication of Final Auction Parameters	We believe this paragraph should include all parameters listed in Section D.3.1.2 (i.e. Full ASP, Strike Price parameters and Operating Reserve parameters also). To provide industry with enough time to make appropriate model adjustments for bidding, these final parameters should be published at minimum 15 working days before the auction, as per our comment to F.3.1.7.		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
46	F.5.1.2(b)(ii)	Capacity Auctions:  Publication of Final Auction Parameters	We believe this paragraph should be re-phrased as if one Unit alone can meet the capacity constraint in an area, then two units should not be classified as being expected to contribute to satisfying that constraint. Therefore, instead of saying qualified Units in locally constrained areas are "expected to contribute to satisfying the constraint", this paragraph should say "are located in an area that is capable of contributing to satisfying the constraint". Otherwise the market dynamics and competitive element that the RO is intended to introduce, ultimately for the benefit of consumers, is further undermined.	Please replace "expected to contribute" on line 3 to "are located in an area that is capable of contributing".	
47	F.6.2.2	Capacity Auctions:  Capacity Auction Submissions	While it is reasonable for the Participant to be responsible for ensuring their Offer is received by the TSOs, we believe there should be a high degree of automation in this process to reduce the need for helpdesk/administrative work on the TSOs' end. When a Participant submits an Offer, we believe they should firstly receive an automated response of confirmation. In addition to this, there should be a dedicated portal where a Party can check whether or not the Offer was received. If neither of these can confirm the Offer has been received, only then should a Participant contact the TSOs to confirm.		
48	F.6.2.3	Capacity Auctions:  Capacity Auction Submissions	The CMC initially had "within X working days" and have since removed it. We believe there should be a timeline highlighted here by which the TSOs must revert to Participants to notify if their bids are not valid. We believe that 2 Working Days would be sufficient and appropriate.	Please include "within 2 Working Days" after the words "shall notify the Participant submitting it"	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
49	F.6.2.4	Capacity Auctions: Capacity Auction Submissions	We believe this paragraph should be subject to paragraph F.6.2.3	Please add "subject to paragraph F.6.2.3" to this paragraph so that paragraph F.6.2.4 states: "The System Operators have no obligation to follow up any Participants (subject to paragraph F.6.2.3)..."	
50	F.8.2.4	Capacity Auction: Conduct of a Capacity Auction	We believe the wording of this paragraph is difficult to interpret and request that it is simplified. In any event we believe the CMC should include the criteria for determining if the costs of procuring Locational Constraints are too high from a consumer cost perspective.		
51	F.8.3.2	Capacity Auction: Conduct of a Capacity Auction	Typo - this paragraph references the same paragraph (F.8.3.4) twice.		
52	F.8.3.5	Capacity Auction: Conduct of a Capacity Auction	We believe the wording in this paragraph could be improved by revising it with the following: "The Net Social Welfare of a PQ pair is the difference between: (a) the maximum value determined by the TSOs of the area under the Demand Curve between CWS and CWS + q, in each case as set out in the x axis in the diagram in paragraph F.8.3.6; and (b) the price of the PQ pair multiplied by the value of q."	Please see commentary for suggested drafting	
53	F.8.3.6	Capacity Auction: Conduct of a Capacity Auction	Typo in figure description		



ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
54	F.8.4.5	Capacity Auction:  Conduct of a Capacity Auction	It is not clear as to the rationale for inclusion of the concept of an Offer Price Clearance Ratio and it is further not clear what policy objectives the RAs/TSOs are trying to achieve with its inclusion. Before we can properly respond on this point, we require a lot more information in terms of the rationale and objectives for including this concept. At a very high level, we interpret that once the Offer Price Clearance Ratio is implemented, the marginal unit will never receive a RO contract (this is implied where it says "less than 100%"). Is this the intended consequence? The process for determining the Offer Price Clearance Ratio should be subject to industry engagement through consultation before being hard-coded in the CMC.		
55	F.9.1.1	Capacity Auction:  Capacity Auction Results	Where it says "The Auction Results shall comprise the following", it is unclear whether this means the "Capacity Auction Results" or the "Final Auction Results". These terms have different meanings in Appendix G (Data Publication) where one term means a privately published and other means publicly published. To be clear, we believe the results stated in this paragraph should be published publically, i.e. all out-of-merit clearing prices and quantities should be published.	Please add "Capacity" so that it reads: "The Capacity Auction Results shall comprise..."	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
56	G.3.1.6	Registries and Settlement Data:  Commissioned Capacity	In instances where the TSOs have been unable to procure delayed new capacity in the T-1 auction, the unit who is delayed should be allowed to secondary trade and manage the RO risks as if they were commissioned. For example, a Unit might only realise close to the Delivery Year that they will be delayed (i.e. because of Grid Code testing delays). In such instances, it may be preferential for a Unit to take the RO risk for this delayed period rather than be temporarily terminated for one year. From a supplier point of view, this solution would appropriately manage the hole in the hedge issue as the level of procured capacity will not be affected. We therefore believe this section should be revised to reflect this opportunity.		
57	H.3.1.6	Secondary Trading:  Product Type Description	Considering that Participants will be heavily involved in the trading of Secondary Products, we believe that the process for determining and changing Product Types should be open for consultation.		
58	H.3.2	Secondary Trading:  Product Type Description	We believe Price Caps for the Secondary Trading market should be consulted on with industry before being set. It is also unclear whether the same price cap will be applied to every auction, or will it change depending on the product type. We believe this should be addressed within the aforementioned Consultation process.		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
59	J.5.1.1	Delivery of New Capacity:  Remedial Actions	In this section, the CMC requires Participants to obtain approval from the TSOs if they wish to change their EPC contractor. We do not believe that the TSOs should have this level of control on Participants as the risk to the system of not delivering a New Build project is handled through the Performance Security provided at the beginning of the contract. We therefore request that this condition is removed from the CMC.		
60	L.2	Data and Information Systems:  General	In previous drafts of the CMC, there was a section detailing IT Security Requirements which has subsequently been removed in this most updated drafting. However there is reference made to this section in the Agreed Procedure 4 (Communication Channel Qualification). We believe this section is still relevant for Type 2 Channels and therefore the section on IT Security Requirements should be restored to the CMC main body.		
61	L.2.5.7	Data and Information Systems:  General	We believe it would be more practical if the TSOs developed (and subsequently defined in CMC) a test environment for any Users looking to undertake testing / upgrading on their Communications Systems. This would remove the risk of a user overdriving and potentially disrupting the system.		
62	L.3.1.3	Data and Information Systems:  Submission, Validation and Rejection of Data Transactions	Typo: dataas - should read "data as"	Please replace "dataas" with "data as" in this paragraph.	

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
63	L.3.1.5	Data and Information Systems:  Submission, Validation and Rejection of Data Transactions	As per our comment in Section F.6.2.2 (comment 47), we believe there should be a report accessible on the TSOs' website where a Party can check if they have successfully submitted a Capacity Auction Offer, whether or not they have not received an automated email. We believe this should be an intermediate step before contacting the TSO helpdesk to raise the query. Such a solution would reduce administrative burden.		
64	L.4.3	Data and Information Systems:  Communication Failure	Although the section details the necessary procedures and steps for managing a system outage, it does not detail what process should be taken in the event that an outage occurs during an auction period. For clarity, we request that this process be provided.		
65	L.4.5.1	Data and Information Systems:  Communication Failure	For transparency, we believe the disaster recovery plan should be published on the TSOs' website.		
66	L.7.1.1	Data and Information Systems:  REMIT Data	For consistency with the TSC, we believe REMIT Data applicable to the CMC should refer only to "Capacity related" REMIT data		

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross- Reference for any impacted section
67	M.3	Interim Arrangement s:  Transitional Capacity Auctions	With regards to the indicative auction timetable as set out in the Consultation, we believe that "block auctions" would be the optimal solution for the interim auctions. A "block auction" would offer better predictability and certainty of capacity prices leading up to the first T-4 auction. This in turn should reduce the risks in the first T-4 auction and in turn should reduce consumer prices. On that basis, we believe that interim T-1 auctions (i.e. CY2019/20, CY2020/21 and CY2021/22) should be held as a single "block auction" in March 2019 before the first T-4 auction.		
<b>Appendices of Draft Capacity Market Code - BGE comments</b>					

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross- Reference for any impacted section
68		Appendix C:  Capacity Auction Timetable	<p>As per our comment to D.2.1.11 in the main body, there remains a large uncertainty over when certain key dates will occur in the capacity auction, i.e. publication of the Capacity Market Information Pack. As a way of ensuring this key information is published on a timely basis, we believe that a timetable akin to the UK Capacity Market is provided for in the CMC where deadlines are specified as T – “X” weeks before the Capacity Auction. We believe a suitable approach would be to apply dates (in the form of T – “X” weeks) to each of the line items in Appendix C. In order to provide appropriate time for market participants to conduct their activities in the Capacity Market, we believe this following should be provided at minimum:</p> <ul style="list-style-type: none"> <li>vii. <b>T – 12 weeks:</b> Capacity Auction Information Pack published</li> <li>viii. <b>T – 12 weeks:</b> Qualification Start Date</li> <li>ix. <b>T – 6 weeks:</b> Qualification Close Date</li> <li>x. <b>T – 5 weeks:</b> Qualification Results published</li> <li>xi. <b>T – 5 weeks:</b> Updated Capacity Auction Parameters published</li> <li>xii. <b>T – 3 weeks:</b> Final Capacity Auction Parameters published</li> <li>xiii. <b>T:</b> Capacity Auction</li> </ul>		
<b>Agreed Procedures (APs) of Draft Capacity Market Code - BGE comments</b>					

ID	I-SEM CMC Reference	Short Title	Commentary / Explanation	Suggested Drafting Change to the CMC	Relevant Cross-Reference for any impacted section
69	AP1	AP1: Registration	As per our comment to B.5.2 in the main body of the CMC, the statement "is deemed to have registered that Supplier Unit under the CMC" is not clear. It is interpreted that a Unit who registers under the TSC is therefore automatically registered under the CMC. We request that clarity be provided on this.		
70	AP3	AP3: Qualification and Auction Process	The swimlane diagram indicates that the TSOs provide information on Qualification forms at the Qualification Application Date, however this would not be possible as this date is the final date participants are allowed to make submissions. Step 2 of this swimlane must also be before the Qualification Application Date (i.e. the last date a participant can apply for Qualification). This error should be amended.		
71	AP4	AP4: Communication Channel Qualification	Where this AP refers to "IT security guidelines set out in the Code", it is not clear where they are referring to as there is no explicit section called IT security guidelines. Please reference a specific section in the CMC in these cases (this is reference again in 2.7.1 and 2.7.2(f))		