

APPENDIX C – RESPONSE TEMPLATE

SUMMARY INFORMATION

Respondent's Name	Bord Gáis Energy
Type of Stakeholder	Generator in the all-island single electricity market; supplier in the Irish retail market
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Context for response

Bord Gáis Energy (**BGE**) welcomes the opportunity to respond to this SEM-20-025 consultation on combining units into a single Capacity Market Unit.

1.1 At a high level, BGE sees considerable merit in permitting demand side units (**DSUs**) in the capacity market to aggregate to an unlimited level under a capacity aggregation unit (**CAU**), but we are strongly opposed to adjusting the existing rules with respect to generation in the capacity market of any size, including the rules for aggregated generator units (**AGUs**).

1.2 In BGE's view, the policy, regulatory and legislative framework that is currently shaping the direction of our electricity markets is the starting point for this discussion. In general, taking account of overall climate action objectives and plans at a local and EU level and applicable legislation such as the EU Clean Energy Package's Electricity Regulation and Electricity Directive, it is clear that there is significant impetus behind ensuring electricity markets both promote and facilitate emerging technologies specifically in the renewables and active customer space. In the context of the applicable policy/ regulatory/ legislative environment as well as recent developments in the Irish landscape in terms of the changing nature of demand and behind the meter developments we believe the case for facilitating, and minimising risks for DSUs is strong.

1.3 This modification consultation (specifically the aspect of CMC_06_20 that deals with DSUs) provides a good opportunity to address the direction of travel of EU electricity markets. With respect to the promotion and facilitation of renewables, BGE believes that laudable measures already exist to achieve this objective, through for example (a) government renewable supports, and (b) being permitted to aggregate to an unlimited level under the current capacity market rules with no limits on the size of renewable unit being aggregated. DSUs on the other hand do not benefit from such supports and while we do not believe they should be conferred an advantage in terms of supports, we do firmly believe that the current capacity market code (**CMC**) rules need to better accommodate them with a view to minimising risks where proportionate and justified. Ultimately, we do not see it as proportionate or justifiable that DSUs would be treated differently under the capacity market rules to renewables and therefore we believe DSU rules should align with those for variable/ renewable units under section E.7.6.1 and facilitate DSUs to aggregate to an unlimited level. Importantly, the size of the individual sites behind the DSU should also be permitted to go above the current 10MW limit given experience in the market shows that individual demand sites are likely to exceed 10MW MEC and access to this cohort of customers is stifled by the current de minimus limitation for participation in a DSU. We believe there is sufficient evidence and justification for removing this 10MW limitation and address this point below in our response to CMC_06_20.

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1.4 We believe that it is also important to note that from our review of the CRM Detailed Design phase consultations and decisions, it appears that the RAs' original intention was to ensure that renewables and DSUs were treated on a par under CAUs. In this regard we refer to CRM Detailed Design Consultation 3 which stated that *"the rationale for allowing Capacity Aggregators to enter the market is that they can: Provide a service to small generators (particularly intermittent generators) and DSUs, allowing the pooling of risk, and share the risk diversification benefits, increasing the ISEM CRM participation rates amongst these classes"*¹. Furthermore, in CRM Detailed Design Decision 3 we note that the RAs stated that they *"...are keen to ensure that renewable generators and DSUs are able to access aggregators who can pool their risk, and enhance participation by renewables..."*² Finally we note that in the context of discussing ex-post-secondary trading during the CRM design process the RAs stated that, in deciding against ex-post-secondary trading that *"[T]he principal need identified for ex-post-secondary trading related to portfolios of DSUs. This should be covered by the implementation of capacity aggregator units (CAUs) within the CRM without recourse to ex-post-secondary trading. A CAU would allow the component DSUs to bid at separate prices into the energy markets, but they would be considered as a single unit within the CRM for the purposes of difference payment obligations."*³ BGE is unclear as to why these decision elements did not find their way into the final rules but from the above it is apparent to us that the intention was always that DSUs would be able to combine under a CAU. The portion of CMC_06_20 that relates to DSUs could therefore be seen as rectification of the issue with a view to reflecting the RAs' original intention for DSUs in the CRM Detailed Design phase.

1.5 On the contrary however, BGE has significant concerns about, and strongly opposes, permitting the aggregation of generation in the capacity market beyond the already suitable existing rules that exist for smaller generation (i.e. AGU, AOLR rules). In this regard we refer to Energia's modification CMC_04_20, the AGU part of DRAI's modification CMC_06_20 and the RAs' proposal to permit aggregation of any new or existing technology up to a limit of 100MW.

1.6 Firstly, BGE believes that extending aggregation to any unit provided the aggregator is capped at 100MW is contrary to the rationale described in the CRM detailed design process (referenced above), which focused on enabling renewables and DSUs. We do not see sufficient evidenced justification for moving away from this rationale particularly in light of the EU direction for electricity markets where renewables and active customers dominate the agenda. Secondly, BGE urges the RAs to exercise considerable caution in contemplating changes that may facilitate the exercise of market power in our already heavily constrained market where a number of "pivotal suppliers" already exist.⁴ There is in our view scope for such pivotal suppliers to use and potentially abuse any type of conferred aggregated generation advantage, to the detriment of growing competition and ultimately consumers. We see the proposals around aggregating generation as having the potential to undermine the basis for unit bidding in the wholesale electricity market enabling some, particularly those with strategically located units, to exercise market power in future. A cap on aggregating generation does not appease our concerns. Thirdly, in the CRM detailed design phase, the RAs acknowledged the existence of structural market power in the capacity market and we have already seen what the RAs described as *"predatory pricing (where generators offer at prices below competitive levels to suppress prices to the detriment of their competitors, thereby increasing their market share)"*⁵ manifest in last year's T-4 capacity auction results. The capability to exercise market power therefore already exists and it is measures that control this growth of market power that are required, rather than measures that might facilitate its growth which is what we believe could happen if proposals here are adopted. Fourthly, permitting aggregating generation as suggested in the modification completely undermines the rationale and ever-important role that unit-based bidding plays in mitigating market power. Fifthly, the benefits of aggregating generation whether capped or not, would initially at least be limited to a small cohort of market participants. We refer to the issue further in response to CMC_04_20 below but ultimately, we believe it would confer an unfair and unjustifiable competitive advantage to participants particularly with sites in

¹ SEM-16-010, paragraph 4.7.28

² SEM-16-039, paragraph 3.3.40

³ CRM Detailed Design decision 2, SEM-16-022, paragraph 4.5.12. CRM consultation 1, SEM-15-044 in paragraph 4.7.6 also provides useful reference wherein it is noted that to enable entry of demand side participation, it will be key to *minimise "barriers to entry and ensuring the RO provides strong enough incentives to ensure that the value of capacity that would otherwise be sitting idle, is unlocked by parties such as aggregators"*

⁴ As determinable against the pivotal supplier test outlined in <https://www.semcommittee.com/sites/semcommittee.com/files/media-files/SEM-16-024%20I-SEM%20Market%20Power%20Decision%20Paper.pdf>

⁵ CRM Detailed Design consultation 3, SEM-16-010

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constraint zones. It may further facilitate the predatory pricing effects already seen whereby new entrants in constraint areas are less able to compete with increasingly dominant players given the portfolio benefits of the latter being able to reduce bids. Further concentration of the market would also lead to already pivotal suppliers being better positioned to protract the life of inefficient units and, if located in constraint areas, displace more economical and efficient plant at a higher cost to the consumer. The size of SEM, network bottlenecks and market power issues dictate that for the short-medium term at least there should be no permission to aggregating generation to any level at all (aside of course from AOLR, AGU rules).

1.7 With respect to AGUs, BGE believes that a clear delineation must be made between small generators seeking a route to market and DSUs. In our opinion the same impetus does not exist for amending the capacity market aggregation rules for AGUs as exists for DSUs. We believe that there may be scope for pivotal suppliers in particular to take advantage of aggregating generation rules and are opposed to any relaxation of the rules in this regard. BGE supports the need for a route to market for smaller generators but believe that the existing rules around AGUs (and AOLR) are more than adequate and are enabling market access and growth in the sector. We do not believe, nor do we see rationale put forward in CMC_06_20, that extending the aggregation rules for AGUs is justified. Importantly, we note from the DSO's list of connected non-wind generators that those small generators requiring a route to market via an aggregator are often well under the de minimus with most being in the 1-2MW size.⁶ The current AGU rules therefore are already fit-for-purpose.

1.8 Our views therefore on the Energia proposed modification (CMC_04_20) and the AGU aspect of the DRAI proposed modification (CMC_06_20) are therefore aligned. We believe that there is a legal basis for distinguishing between the treatment that will be applied to DSUs versus AGUs under Article 15 of the Electricity Directive which allows for a difference in the treatment of jointly-acting active customers as long as it is proportionate and duly justified. Our concerns outlined above in paragraph 1.6 around the potential for pivotal suppliers to exercise market power and urging caution about relaxing rules that may undermine unit-based bidding as well as our point in paragraph 1.7 that existing small generators are sufficiently protected and no reason has been put forward for needing to better enable them, in our view justifies extending the current treatment of variables/ renewables in CRM aggregation to only DSUs.

1.9 It is against this context that we deal with each proposed modification individually below in the format outlined by the RAs response template. Please also note that we include a summary and conclusion section at the end of the response for reference.

⁶ Of the 273MW connected generators to distribution system, all are ≤ 5 MW (most are close to 1-2MW), except 5 small generators whose MEC is < 10 MW and then 2 other larger generators

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ID	Proposed Modification and its Consistency with the Code Objectives	Impacts Not Identified in the Modification Proposal Form	Detailed Drafting Proposed Deliver to the CMC Modification
<p>CMC_04_20 Providing greater flexibility for New Capacity to combine Candidate Units into a single Capacity Market Unit</p>	<ul style="list-style-type: none"> In light of our Context section above, BGE strongly opposes this proposed modification to the Capacity Market Code (CMC). We therefore agree with the RAs' minded-to position to reject this modification. BGE cannot support the prospect of allowing aggregation of generator units beyond the already existing, and sufficient, rules for generation aggregation in the form of AGUs and the AOLR. We address the AGU approach in our response to CMC_06_20 below. The proposal grossly undermines the unit-based bidding principle that applies across all markets in SEM and which was introduced, and remains pertinent, for mitigating long-standing market power concerns. The capacity market is already quite concentrated, particularly in constraint areas which have not changed and are not expected to change greatly in the coming years. By limiting this modification to only combining new units that are on the same Generation Site or Contiguous Site, this modification would have a limited reach. Its reach is also limited in our view even if extended to existing units. The modification would only serve to benefit those with sites where a number of units can be built or where costs can be shared, which applies only to a small mainly pivotal cohort of generators in the market. It does little to help competition in the market which in our view reinforces the need for continuation of unit-based-bidding for generators above relevant thresholds. As also outlined in our Context section, we already have concerns regarding the use of strategically well-located sites in Dublin. This modification, even if capping the level of generator aggregation, does not alleviate our pivotal supplier concerns around increasing market shares and enhancing capability to exercise market power. BGE does not believe that a limitation of 100MW (or any cap) would appease our concerns outlined above. We believe that a softening of the rule around unit-based bidding could prove detrimental for auction outcomes, competitor numbers and consumer prices at least in the medium term. BGE agrees with the RAs' concerns around limiting the combination of units to "new" as being discriminatory and possibly raising state aid issues, as well as the "lumpiness" issues an unlimited aggregation of generation units would introduce. In general, on the issue of "lumpiness" we believe that there is a substantial concern with the risk of large new units being cleared in whole rather than in part, in the constrained run of the auction. While not part of this consultation, we ask the RAs to incorporate the issue into their next capacity auction parameters consultation with a view to assessing the extent of the problem and whether it is causing consumer harm, and to determine options to mitigate that harm. 	<ul style="list-style-type: none"> Agree that applying the proposal to only new units is unduly discriminatory Major market power concerns particularly if unit-based bidding for generators is undermined to any extent (please see the second column and our Context section) It favours mostly pivotal suppliers with already strategically well-located sites, enhancing capability for exercising market power Knock on impacts of above concerns on competitor numbers, market concentration and consumer prices 'Lumpiness' in auction outcome- introduces risks for consumer prices and value for money. 	<p>BGE does not support any proposal to aggregator generator (as opposed to DSU) units together, regardless of their size. A cap on the aggregation size would not alleviate our concerns outlined in the second column here. We do not believe the proposal should be accepted and reject the proposed drafting amendment put forward.</p>

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	<p>Regarding BGE’s view on how aligned the CMC_04_20 proposal is with the CMC objectives, BGE does not believe that it is consistent with or furthers any of the CMC objectives. We don’t believe our view on this would change with extending aggregation to all types of units with the imposition of a cap of <100MW. In particular:</p> <p>(i) <i>“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”</i> – is undermined by mod CMC_04_20 given: our market power concerns outlined above; our view that the modification would serve to only benefit those in constraint areas and grossly undermine the utility of the unit-based-bidding rule across all SEM markets;</p> <p>(ii) <i>“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”</i> – is not furthered given the preference in the mod for application to “new” units although extending it to existing units with or without a cap would also not in our view be consistent with this objective either given the limited reach of the modification, potential beneficiaries and scope to exercise market power;</p> <p>(iii) <i>“to promote competition in the provision of electricity capacity to the SEM”</i> – given the limited cohort of pivotal suppliers this would likely benefit most and the impacts we have noted above for example around predatory pricing effects and the use of legacy sites, we do not see consistency with this objective;</p> <p>(iv) <i>“to provide transparency in the operation of the SEM”</i> – as it stands the modification would reduce transparency and we suggest that all units (at e.g. DSU/ wind farm level) behind CAUs (existing and future CAUs) should be published by the SO for transparency reasons;</p> <p>(v) <i>“to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code”</i> - the limited reach of potential benefits of this modification undermine the consistency with this objective;</p> <p>(vi) <i>“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”</i> - overall, the facilitation of enhanced market power share and capability to exercise market power that this modification would result in undermines consistency with this objective.</p>		
<p>CMC_06_20 Combining Capacity Units into a Capacity Market Unit - Proposed Changes</p>	<ul style="list-style-type: none"> As outlined in our Context section above, BGE believes that in light of the direction of EU markets in terms of promoting and facilitating renewables and active customers, and recent changes in demand types and behind the meter generation developments, we do not see why DSUs would not be treated in the same way as renewables when it comes to aggregation in the capacity market. We therefore believe that DSUs should be allowed aggregate in the same way as variables/ renewables currently can under a CAU – i.e. to an unlimited level and with no limitation on the individual sites behind each DSU. The commercial market-based nature of the RO should be permitted to operate such that DSU aggregators should be allowed to bid in whatever level of MWs they are commercially 	<ul style="list-style-type: none"> Current drafting of modification raises the same market power concerns as outlined in response to CMC_04_20 above, e.g. undermining of the utility of unit-based-bidding for generators 	<p>If BGE’s proposal to permit only DSUs to be aggregated to an unlimited level (and remove the 10MW limit on sites behind them) is accepted:</p>

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	<p>comfortable bidding into the RO auction in the context of the implicit exit signals/performance incentives in the RO mechanism.</p> <ul style="list-style-type: none"> • This modification has brought to light an issue we see with the definition of DSUs in general. We believe that limiting the size of each individual site behind each DSU to 10MW inhibits the development of DSUs by limiting their size and economies of scale, thus curtailing their ability to mitigate risk. We therefore believe the limit should be removed. Market experience has shown that likely future contributors to the DSR space may breach the 10MW limit which limit prevents maximisation of the energy contribution DSR can provide not only in capacity but energy markets. We consider it a ‘regulatory distortion’ and note that the EU Electricity Regulation requires that when addressing resource adequacy concerns, Member States must consider eliminating any identified regulatory distortions to demand side participation.⁷ The limit may in fact be a legacy issue given that in the CRM Detailed Design phase the RAs referenced the use of the 10MW threshold in SEM as the point at which a unit had to bid in individually to the Pool.⁸ The related RAs’ decision settled on the 10MW as “<i>it would appear administratively simplest to apply the same 10MW Maximum Export Capacity de-minimis threshold as is currently applied in the SEM and ETA arrangements...</i>”⁹ In line with our proposal to allow aggregation of DSUs to an unlimited level, we suggest that this unnecessary and potential barrier to entry, (i.e. the limit on site size behind each DSU), be removed simultaneously. This would also bring DSUs more in line with the treatment of renewables in terms of capacity market aggregation. • In our Context section we also highlighted several RA statements made throughout the course of the CRM detailed design phase that strongly imply that it was always the intention that DSUs would be permitted to aggregate under a CAU akin to renewables. From a DSU perspective therefore, this modification could be deemed a rectification of the CMC rules to reflect those earlier decisions. • On the contrary, we do not believe that climate action ambitions and the low carbon transition regulatory framework place the same emphasis or need on adapting rules to better facilitate small generators (<10MW) beyond what SEM already has. As explained in our Context section, we support the need for a route to market for AGUs and under AOLR but believe that the current rules are performing well in that regard and we do not see a justification for changing those rules at this time. The rules as they stand now for AGUs and the AOLR sufficiently facilitate market access and growth in the sector. We do not believe that there is sufficient rationale (and note the CMC_06_20 does not offer similar rationale for AGUs as for DSUs) to consider bigger aggregating of AGUs. Furthermore, the DSO’s list of connected non-wind generators shows that those small generators requiring a route to market via an 	<p>in SEM, with knock on impacts of above concerns on competitor numbers, market concentration and consumer prices. Please see also our Context section for BGE views on extending aggregation to any size of generator unit aside from DSUs</p> <ul style="list-style-type: none"> • Unlevel playing field between DSUs and renewables which is not aligned with Irish and EU energy and climate policy – adopting BGE’s suggestion to aggregate DSUs akin to how renewables are currently allowed aggregate in the CRM would alleviate this concern • Brings to light limitation of 10MW on sites behind DSUs and how this inhibits the scope for demand side participation – we suggest this can be rectified 	<ul style="list-style-type: none"> • Section E.7.6.1 (i) would need amendment to treat DSUs akin to ‘Variable Generator Units’ • Section E.9.1.1 on the data required at qualification stage to enable publication of units behind a CAU would be required • The ‘Registered Capacity’ definition under section E.7.6.1 (i)(i) needs revision to ensure it does not inadvertently include DSUs
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⁷ Article 20 EU Electricity Regulation (EU) 2019/943

⁸ CRM Detailed Design consultation 1, SEM-15-044

⁹ CRM Detailed Design decision 1, SEM-15-103, paragraph 4.8.21

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	<p>aggregator are often well under the de minimus with most being in the 1-2MW size¹⁰ demonstrating that increased aggregation limits would likely have limited effect.</p> <ul style="list-style-type: none"> • BGE also has significant reservations about softening the rules to any extent in the generation side considering that over time they may be used as a loophole to merge variously sized units on the same site whereby our market power concerns around pivotal suppliers and use of legacy, or constraint area, located sites would further concentrate the market and undermine new entry as well as existing competition. • Article 15 of the Electricity Directive provides a legal basis for distinguishing between DSUs and AGUs and we believe there is due reason for such a distinction as outlined in our Context section. In this context therefore, we believe DSUs should be permitted to aggregate under a CAU in the same unlimited manner as variable/ renewable units; but that this aggregation would not extend to AGUs. • With regard to the RAs' proposal to allow aggregation of all unit types to a 100MW limit (and not just to DSUs and AGUs), BGE vehemently disagrees with the need for the proposal and believes it is not adequately justified. Firstly, with regard to aggregating DSUs we note the RAs are of the view that a modification to permit their aggregation to an unlimited level would not create issues of increased market power – looking at the size of the DSU market and the number of players and their respective shares, as well as the risks inherent in RO auctions particularly 4 years out from delivery, we agree that it should not be seen as posing a market power risk. Secondly, on the contrary there are significantly bigger market power risks that could fall out of the RAs' proposal to extend aggregation to all unit types whether limited or not (e.g. enhanced concentration of units in constraint areas and predatory pricing). Please refer to paragraph 1.6 of our Context section but overall, we believe that Article 15 of the Electricity Directive provides a legal basis to extend the rules of aggregation of units under a CAU that currently apply to variable/ renewables to apply only to DSUs, and not to any other generator participant in the market. • BGE agrees with the RAs' position that under I.1.3 if DSU sites are 'swapped' under a CAU the RO obligations around contracted delivery should remain. • BGE agrees that all units behind CAUs should be identifiable for transparency. We suggest that this requirement should extend to all existing or new CAUs i.e. that a list of units behind each CAU should be published on the TSO's website for transparency purposes. To allow this occur, amendment to section E.9.1.1 wording on the data required to be submitted at qualification stage is required. • We believe further consideration needs to be given to the possible need to alter section E.7.6.1 (i)(i) to facilitate an alternation in the rules for aggregating DSUs as under the current 		
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¹⁰ Of the 273MW connected generators to distribution system, all are <=5MW (most are close to 1-2MW), except 5 small generators whose MEC is <10MW and then 2 other larger generators

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	<p>wording we believe that DSUs could still fall to be considered under the “Registered Capacity” phrase, undermining the effect of improved aggregation opportunities for DSUs.</p> <p>Regarding BGE’s view on how aligned the CMC_06_20 proposal is with the CMC objectives, our views on its consistency with respect to the AGU portion of the modification are aligned with what we have outlined above for CMC_04_20 and its consistency with code objectives. We address this briefly against certain objectives below but also capture our views on how our suggestions around better facilitating DSUs, by allowing them to aggregate to an unlimited level and remove the limit on the sites behind them, promote the CMC objectives:</p> <ul style="list-style-type: none"> (i) <i>“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”</i> – the AGU portion of the modification undermines this objective for the reasons cited above for CMC_04_20 (particularly, it undermines unit-based-bidding and could facilitate enhanced market power and the capability to exercise it). Should BGE’s proposal for DSUs be accepted however, we believe it is not only consistent but promotes this objective especially as it should enable DSU development in the capacity market in a more financially secure manner; (ii) <i>“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”</i> – as outlined in some detail in the main body of our response to CMC_06_20 above we believe that the existing AGU and AOLR rules adequately facilitate small generators and that there has been little justification to extend aggregation rules to any type of generator. The market power risk we have elaborated on in some detail far outweighs any potential benefit permitting generator aggregation could bring. DSUs on the other hand are currently inhibited by a) the limit on the unit size behind each DSU, and b) by not being treated in the same way as variables/ renewables notwithstanding EU and Irish energy and climate policy promoting renewables and demand side participation. BGE’s proposal around permitting DSU aggregation, rightly brings DSUs onto a more level playing field in emerging technologies with renewables and thus facilitates their market participation and the achievement of this CMC objective; (iii) <i>“to promote competition in the provision of electricity capacity to the SEM”</i> – expanding aggregation to generators of any size whether capped at <100MW or not, would undermine competition while facilitating the capability to exercise market power. Adoption of our DSU aggregation proposal would however greatly facilitate DSU market participation and develop competition in the market, in line with the spirit of this CMC objective; (iv) <i>“to provide transparency in the operation of the SEM”</i> – any risk of losing transparency due to the aggregation of DSUs (the only change to current aggregation rules that BGE can 		
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	<p>support) can be addressed by requiring that all units (at e.g. DSU/ wind farm level) behind CAUs (existing and future) should be published by the SO for transparency reasons;</p> <p>(v) <i>“to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code”</i> - as discussed in the main body of our response we do not see a need for, or believe that the necessity has been demonstrated for, changing the rules applying to small generators. The AGU and AOLR processes are adequately facilitating these contributors. On the other hand, DSUs could be better facilitated in the capacity market for reasons outlined in the modification but also with a view to achieving EU and Irish energy and climate policies that focus on renewables and demand side response. Article 15 of the Electricity Directive allows due discrimination for active customers- DSUs – and we believe permitting aggregation of DSUs is therefore warranted and justifiable in this regard. Placing DSUs on the same playing field as renewables in the capacity market best meets this objective and those of the low carbon transition;</p> <p>(vi) <i>“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”</i> - as drafted the modification is not consistent with this objective due to the market power concerns we outlined against this objective in CMC_04_20. However, adoption of our DSU proposal (aggregate with no cap, and no limit on individual sites) would in our view go a long way towards enhancing competition and diversity in the market with consequential benefits to consumers in terms of price, quality reliability and security of supply.</p>		
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Conclusion and summary

By way of summary and conclusion, while BGE is in favour of facilitating business cases for emerging technologies it is critical that the rules for such are proportionate and justified. We believe that in line with the spirit of EU and local energy and climate policy (with its focus on renewables and demand side) and recent changes in demand and behind the meter developments in SEM the focus must be on better facilitating DSUs. In the capacity market rules, renewables already have favourability when it comes to aggregation given that they can aggregate unlimited sized units to an unlimited aggregate level. We do not see the rationale for distinguishing between renewables and DSUs. BGE advocates that the same approach be conferred to DSUs - in fact we believe that the CRM detailed design process evidences (as documented in our Context section) that it was the RAs' intention that DSUs should be permitted to aggregate under a CAU from the outset. On the contrary, BGE has significant concerns around the proposal to aggregate generation outside of the already existing, and what we deem and discuss above as sufficient, AGU and AOLR rules. In paragraph 1.6 of our Context section at the beginning we emphasise the impact any dilution of the unit-based-bidding rule for generators would have. We have considerable concerns about the enhancement of market power capability we believe any softening of the rules around aggregating generation would introduce. This concern persists regardless of whether a limit of any level applies or not. Ultimately our proposal is that only DSUs should be better facilitated in terms of aggregation in the capacity market akin to the current rules for variable/ renewable units. Article 15 of the Electricity Directive provides a legal basis for the RAs to take this approach.

In summary, BGE's position on the two modifications and possible way forward is:

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- i. We do not support modification CMC_04_20 primarily on the basis that it grossly undermines, and could undo the positive effects of, our current market power mitigation measures in SEM (particularly unit-based bidding principles are undermined). BGE strongly opposes any relaxation of the rules around permitting aggregation of generators in the capacity market. Any such relaxation towards aggregating generation would in our view undermine the current unit-based-bidding rules, possibly facilitate enhanced market power by those in constraint areas and the capability to exercise market power;
- ii. Considering that the AGU portion of the modification CMC_06_20 is effectively an extension of the aggregation proposal above to AGUs, it brings with it market power mitigation concerns akin to those raised under CMC_04_20. Thus, BGE cannot support this modification CMC_06_20 as drafted. Our summary view noted in (i) above applies equally to the proposal relating to AGUs here;
- iii. BGE does however believe that there is merit to the portion of CMC_06_20 that deals with DSUs. In this regard we believe that permitting DSUs to aggregate to an unlimited level would be in line with objectives of EU and Irish energy and climate policy. Treatment of DSUs akin to renewables should be permitted;
- iv. Related to CMC_06_20, we also believe there is a case for removing the limit in the size of units behind each DSU –we seek removal of the 10MW limit for individual sites given that likely future contributors to the DSR space may breach the 10MW limit which limit prevents maximisation of the energy contribution DSR can provide not only in capacity but energy markets. It reflects a ‘regulatory distortion’ under the Electricity Regulation- in combination with point (iii) above we believe this approach to DSUs aligns them with the approach currently taken to variables/ renewables in the capacity market for which we believe there is sound legal basis under EU law and that it is aligned with the original intention of the CRM detailed design. We understand that this will likely require a modification to the definition of DSU under the Trading and Settlement Code and we are available to assist the RAs in this regard;
- v. We do not believe the RAs’ suggestion of allowing aggregation up to 100MW would alleviate any of our concerns outlined above and we disagree with progressing with that proposal entirely given our noted market power concerns around permitting aggregation of any sized generators;
- vi. Finally, the differentiation we apply between AGUs and DSUs is in our view proportionate and justified mainly in the context of our market power concerns as outlined in some detail in paragraph 1.6 of our Context section and expanded on in our responses to CMC_04_20 and CMC_06_20 above. Its legal basis is also to be found in Article 15 of the Electricity Directive.

Finally, on the issue of “lumpiness” in auction outcomes, we believe that there is a substantial concern with the risk of large new units being cleared in whole rather than in part, in the constrained run of the auction. While not part of this consultation, we ask the RAs to incorporate the issue into their next capacity auction parameters consultation with a view to assessing the extent of the problem and whether it is causing consumer harm, and to determine options to mitigate that harm.

We hope that you find the above comments and suggestions helpful. Given the issues raised in this Consultation have potential far-reaching repercussions we would welcome an update on developing thinking on the decision before a final decision is made.

Please do not hesitate to contact me should you wish to discuss any aspect of this response in further detail.

Yours sincerely,

Julie-Anne Hannon
Regulatory Affairs – Commercial
Bord Gáis Energy

{By email}