



**Single Electricity Market
(SEM)**

Capacity Market Code Working Group 12

CMC_04_20 and CMC_06_20

Modifications Decision Paper

SEM-20-039

25 June 2020

EXECUTIVE SUMMARY

The purpose of this decision paper is to set out the decisions relating specifically to the Proposed Modifications CMC_04_20 and CMC_06_20 to the Capacity Market Code (CMC) discussed at the Working Group held on 31 March 2020.

The decisions within this paper follow on from the associated consultation (SEM-20-025¹) which closed on 22 May 2020.

This paper considers the proposed modifications presented at WG12. The proposed modifications relate to:

- CMC_04_20 – Providing greater flexibility for New Capacity to combine Candidate Units into a single Capacity Market Unit

This modification proposed an amendment to the requirements for Combining Candidate Units into a Capacity Market Unit in section E.7.6 of the CMC such that New Capacity can combine Candidate Units into a single Capacity Market Unit without being subject to the same restrictions as Existing Capacity.

- CMC_06_20 – Combining Capacity Units into a Capacity Market Unit - Proposed Changes

This modification proposal sought to make changes to section E.7.6 – Requirements for Combining Candidate Units into a Capacity Market Unit to allow Demand Side Units and aggregated generation units to combine candidate units into a capacity market unit.

Five responses were received to the Capacity Market Code Working Group 12 CMC_04_20 and CMC_06_20 Modification Consultation Paper, none of which were marked as confidential.

Summary of Key Decisions

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

CMC_04_20 –

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

- (b) *to facilitate the efficient, economic and coordinated operation, administration and development of the Capacity Market and the provision of adequate future capacity in a financially secure manner;*
- (d) *to promote competition in the provision of electricity capacity to the SEM;*

¹ Capacity Market Code Working Group 12 CMC_04_20 and CMC_06_20 Modifications Consultation Paper: https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-025%20CMC_04_20%20CMC_06_20%20Consultation%20Paper.pdf

- (g) *through the development of the Capacity Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.*

CMC_06_20 –

- (c) *to facilitate the participation of undertakings including electricity undertakings engaged or seeking to be engaged in the provision of electricity capacity in the Capacity Market;*
- (d) *to promote competition in the provision of electricity capacity to the SEM;*
- (f) *to ensure no undue discrimination between persons who are or may seek to become parties to the Capacity Market Code; and*
- (g) *through the development of the Capacity Market, to promote the short-term and long-term interests of consumers of electricity with respect to price, quality, reliability, and security of supply of electricity across the Island of Ireland.*

Following consideration of the proposal and the responses received to the consultation the SEM Committee have decided to reject both CMC_04_20 and CMC_06_20

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1. OVERVIEW

1.1 BACKGROUND

1.1.1 Decisions made during the development of the I-SEM CRM Detailed Design were translated into auction market rules to form the Capacity Market Code (CMC) (SEM-17-033) which was published in June 2017. The most recent version was published on 10 October 2019. The CMC sets out the arrangements whereby market participants can qualify for, and participate in, auctions for the award of capacity. The settlement arrangements for the Capacity Remuneration Mechanism (CRM) form part of the revised Trading and Settlement Code. The most recent version of the Trading and Settlement Code was published on 12 April 2019. Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the handling of proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

Process for modification of the CMC

1.1.2 Section B.12 of the CMC outlines the process used to modify the code. In particular, it sets out the processes for proposing, consideration, consultation and implementation or rejection of Modifications to the CMC.

1.1.3 The purpose of the Modifications process is to allow for modifications to the CMC to be proposed, considered and, if appropriate, implemented with a view to better facilitating code objectives as set out in Section A.1.2 of the CMC. (B.12.1.2).

1.1.4 Modifications to the CMC can be proposed and submitted by any person, (B.12.4.1), at any time. Unless the modification is urgent modifications are subsequently discussed at a Working Group held on a bi-monthly basis. Each Working Group represents an opportunity for a modification proposer to present their proposal(s) and for this to be discussed by the workshop attendees.

1.1.5 For discussion at a Working Group, Modification proposals must be submitted to the System Operators at least 10 working days before a Working Group meeting is due to take place. If a proposal is received less than 10 working days before a Working Group and is not marked as urgent it is deferred for discussion to the next Working Group.

1.1.6 Following each Working Group, and as per section B.12.5.6 of the CMC, the RAs are required to publish a timetable for the consideration, consultation and decision relating to the Modification(s) proposed during a Working Group.

1.1.7 If a proposal is received and deemed to be contrary to the Capacity Market Code Objectives or does not further any of those objectives, the Regulatory Authorities (RAs) will reject the proposal on the grounds of being spurious, as set out in section B.12.6 of the CMC.

1.1.8 If a proposed modification is deemed urgent by the RAs, CMC Section B.12.9.5 will become active and the RAs will determine the procedure and timetable to be followed in the assessment of the Modification Proposal. The CMC states that the procedure and timetable may vary from the normal processes set out in the code, allowing for the modification to be fast-tracked.

Process and Timeline for these Modifications

- 1.1.9 On 16 March 2020 the RAs submitted a modification proposal (CMC_05_20) under the terms of B.12.4. The Modification Proposal was initially not deemed 'urgent', given the proximity of the scheduled Working Group, however following the Working Group and given the proximity to the upcoming T-4 CY2023/24 Capacity Auction, this modification was deemed Urgent.
- 1.1.10 On 31 March 2020, the System Operators convened Working Group 12 where these Modification Proposals were considered. The Regulatory Authorities, following WG12, determined these Modification Proposals were to be consulted on together. This was because, were these proposals to be approved and implemented, they would have an impact on the processes involved with qualifying to participate in a Capacity Auction.
- 1.1.11 The Qualification process for the T-4 CY2024/25 Capacity Auction is due to begin in June 2020. Within this being the case, the RAs deemed it prudent to consult on the proposals to ensure any negative impacts on the qualification process for this auction would be avoided.
- 1.1.12 On the 22 April 2020 the RAs determined the procedure to apply to these proposals. A timetable was published (SEM-20-024²) indicating a consultation response time of 20 Working Days (as defined in the CMC and given that the proposals were being treated as "standard") from the publication date of the Consultation (SEM-20-025). The Consultation closed on Friday, 22 May 2020.
- 1.1.13 An overview of the timetable is as follows:
- i. The System Operators organised a workshop on 31 March 2020 to discuss a range of Modification Proposals including these Modifications.
 - ii. The System Operators were then required to prepare a report of the discussions which took place at the workshop, provide the report to the RAs and publish it on the Modifications website.
 - iii. The RAs were required to publish a Modification Process Timetable for consideration, consultation and decision relating to the Modification Proposal.
 - iv. The RAs were to proceed with the consultation process on the Proposed Modification, with a response time of 20 Working Days (as defined in the CMC), from the date of publication of the Consultation. The paper was published on 22 April 2020 and an updated version was subsequently published on 24 April. This was to correct a typographical error, whereby BGE were incorrectly referenced as making comments that should have been attributed to another Working Group attendee.
 - v. As contemplated by B.12 the RAs will make their decision following the public consultation and if they are satisfied that the Modification will or is likely to contribute to the achievement of the Capacity Market Code Objectives.

² https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-024%20WG12%20CMC_04_20%20%20CMC_06_20%20Timetable.pdf

1.1.14 The purpose of this decision paper is to set out the decisions relating to the Modification Proposals CMC_04_20 and CMC_06_20 discussed during Working Group 12 to either:

- a) Implement a modification;
- b) Reject a modification; or
- c) Undertake further consideration in regards to matters raised in the modification proposal.

1.1.15 This decision paper sets out a summary of the consultation proposals and sets out the SEM Committee's decision.

1.2 RESPONSES TO CONSULTATION

1.2.1 This paper includes a summary of the responses made to the Capacity Market Code Modifications consultation paper (SEM-20-025³) which was published on 22 April 2020.

1.2.2 A total of five responses were received by close of the consultation period. The respondents are listed below and copies of the responses received can be obtained from the SEM Committee website.

- SSE
- ESB GT
- Demand Response Association Ireland (DRAI)
- Energinia
- Bord Gáis Energy (BGE)

³ https://www.semcommittee.com/sites/semc/files/media-files/SEM-20-025%20CMC_04_20%20%20CMC_06_20%20Consultation%20Paper.pdf

2. CMC_04_20 – PROVIDING GREATER FLEXIBILITY FOR NEW CAPACITY TO COMBINE CANDIDATE UNITS INTO A SINGLE CAPACITY MARKET UNIT

2.1 CONSULTATION SUMMARY

- 2.1.1 The modification proposed amendments to section E.7.6 of the CMC which currently prevents Candidate Units combining into a single Capacity Market Unit unless each unit is below the De-Minimis Threshold or is Variable.
- 2.1.2 The Modification was proposed by Energia, who had stated that an amendment to the Code is required due to the restrictive nature of this section in relation to New Capacity.
- 2.1.3 The discussion on this Modification at the Working Group gave an opportunity for the TSOs and other
- 2.1.4 The proposal was intended to make an amendment to the requirements for Combining Candidate Units into a Capacity Market Unit in section E.7.6 of the CMC such that New Capacity can combine Candidate Units into a single Capacity Market Unit without being subject to the same restrictions as Existing Capacity.
- 2.1.5 Within the proposal, Energia highlighted that an amendment is also necessary to allow Existing Capacity to combine Candidate Units into a Capacity Market Unit without the normal restrictions applying in circumstances where the same combination of Candidate Units were combined into a Capacity Market Unit in a previous Capacity Auction. They have justified this advising that this is to ensure that New Capacity combining Candidate Units into a single Capacity Market Unit can continue to do so in future when they become Existing Capacity.
- 2.1.6 During Working Group 12 Energia had been actioned with submitting a revised version of the proposal, whereby they tightened the definition of being co-located in a site in E.7.6.1 and added an additional reporting requirement in the Final Auction Information Pack in F.5.1.3. This was provided ahead of the consultation paper being published.
- 2.1.7 Given the concerns raised by the RAs, with regard to the difference in treatment of New and Existing Capacity and the potential to generate adverse auction outcomes and increased costs to consumers, the RAs adopted a minded-to reject the proposed Modification to E.7.6.1.
- 2.1.8 In the consultation paper the RAs commented that with a suitably low MW limit on the maximum size of an aggregation, e.g. 100MW, the adverse impacts on the auction solution would be significantly reduced and it would be easier to allow both New and Existing Capacity to aggregate. The RAs recognised the possibility that this would not meet the objectives of the proposer, however commented that such a limit could be a valid option in the context of CMC_06_20.
- 2.1.9 In addition to their proposed change to E.7.6.1, Energia also proposed a change to F.5.1.3 (d) (ii). Where multiple Candidate Units have been aggregated to form a CMU under E.7.6, this requires the reporting of each of the Candidate Units which are capable of contributing to solving a constraint.

The RAs were minded to approve this aspect of the Modification as it provided greater clarity regard Locational Capacity Constraints.

- 2.1.10 In reviewing the proposed modification to F.5.1.3, the RAs noted that the composition of CMUs which are aggregations of Candidate Units does not currently form part of the SO Qualification Decisions nor of the Other Qualification Decisions as set out in E.9.1.1 and E.9.1.2. They stated that this leaves the source of this data somewhat unclear in the CMC

The RAs further elaborated that if this proposal were to implement changes to F.5.1.3 there would also be the requirement to make a modification to E.9.1.1 to clarify that this composition data forms part of the SO Qualification Decisions.

2.2 SUMMARY OF RESPONSES

- 2.2.1 A total of five responses were received to the consultation. In summary the majority of respondents raised concerns with the proposal and were not fully supportive of the modification.
- 2.2.2 SSE stated that they are supportive in principle of the intent of this modification. They elaborated, advising that combined units at thermal or wind sites where there are for instance three units physically co-located on the same site, is reasonable and that such a modification would also avoid future issues arising from the inability to combine units at the same site.
- However, in relation to DSUs, they highlighted that these are individual customers offered interruptible contracts and cannot be treated the same in terms of combined units. They state that in its current drafting they are not supportive of the proposal, advising that they have concerns about special treatment for New Capacity in CMC_04_20.
- 2.2.3 SSE have queried whether CMC_04_20 should be tabled for further discussion and redrafted to address industry concerns, including a parameter to limit any undue advantage created by an otherwise infinite ability to combine units, as well as equal treatment of all capacity (new and existing).
- 2.2.4 This suggestion that the proposal could be tabled for further discussion was also mirrored by other respondents.
- 2.2.5 ESB GT reiterated, that as discussed during the Working Group, Section E.7 does warrant a further discussion on the issues that all participants face and whether the experience from the six auctions to date supports the original decision not to limit the aggregation of a small subset of units into a combined unit.
- 2.2.6 They advised that without the inclusion of existing capacity units into this modification, the proposed modification will distort the level playing field and create undue discrimination between new and existing units.
- 2.2.7 In their response, ESB GT stated it is their belief that the current version of the proposed modification fails to meet several CMC objectives.

2.2.8 They highlighted that, in their opinion, the proposal fails to meet several of the CMC objectives, specifically referring to:

(d) to promote competition in the provision of electricity capacity to the SEM – as it will provide new entrants with an unfair competitive advantage over existing units

(f) to ensure no undue discrimination between persons who are or may seek to become parties to the CMC – as new units will have an unfair economic advantage over existing in the following auctions where it become an existing unit.

2.2.9 BGE also took this opportunity to state their opinion that the proposal is not consistent with, or furthers any of the Code Objectives set out within the CMC.

2.2.10 Following the feedback from ESB GT they have advised they agree with the minded-to position to reject the modification.

2.2.11 Energia stated they have concerns with the RAs minded to position for this proposal. They indicated that on the basis of these concerns they would strongly recommend against proceeding in this way.

2.2.12 They state, that upon proposing this modification, the intention was to be limited to generator units locating on a single site where potential cost savings associated with economies of scale of locating on a single site could be reflected in capacity market bids through aggregation.

2.2.13 They raised concerns that the minded-to position of the RAs appears to relax the ‘single site’ restriction (given the intention to provide greater flexibility to all CMUs, including AGUs and DSUs). They are of the opinion that this would fundamentally change, and undermine, the basis for the proposed modification and cannot be in consumers’ interests because it would allow aggregation in circumstances where it is difficult to see any commensurate benefits for consumers through economies of scale whilst at the same time increasing delivery risk in circumstances where consenting risk is magnified by the aggregation of generator units across multiple sites.

2.2.14 Energia stated that, given the minded to position is also to allow both existing and new capacity greater flexibility to aggregate, subject to a maximum aggregation size of 100MW, this would fundamentally change and undermine the basis for the proposed modification.

2.2.15 They highlighted they have a number of concerns with this position:

- They state that the proposed 100MW limit is too low to serve its intended purpose and is difficult to reconcile with the level of aggregation already permitted in the capacity market for variable units (i.e. c190MW).
- They have advised that increasing the limit applicable to all CMUs, including existing as well as new, presents a concern about market power in circumstances where dominant incumbents have the ability to aggregate multiple existing units in locational constrained areas. They stated that their understanding is that CMC_05_18 was previously rejected by the RAs on this basis.

- On a third point they have advised that extending flexibility to aggregate both existing and new capacity, subject to a 100MW limit fails to serve the intended objective of CMC_04_20 whilst simultaneously increases the risk of market power being exerted by dominant incumbents.

2.2.16 ESB GT proposed several amendments to the current drafting within the proposal including the recommendation to remove E.7.6.1 from the proposal.

2.2.17 In relation to drafting proposed to F.5. ESB GT stated they are concerned with the process for making additions to a proposed modification that were not discussed in a Working Group. They stated that without discussion participants are at a disadvantage for ensuring they are aware of all the pros and cons and any potential impacts not assessed by a proposed modification. ESB GT were of the view that a modification should not go to consultation if a participant wants to introduce a new element in a proposed modification that was not discussed at the Working Group.

2.2.18 BGE advised that a high level, they see considerable merit in permitting demand side units (DSUs) in the capacity market to aggregate to an unlimited level under a capacity aggregation unit (CAU), however they 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).

2.2.19 However, BGE have stated their strong opposition this proposal and do not support any aspect of the draft text. They elaborated to advise that the proposal 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.

2.2.20 They have stated their belief that extending aggregation to any unit, provided the aggregator is capped at 100MW is contrary to the rationale set out in the CRM detailed design process. BGE have elaborated that they also do not see any justification for moving away from this rationale. They advised that a limitation of 100MW would not appease their concerns and have stated they 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.

2.2.21 BGE advised that from their point of view there is the scope for pivotal suppliers to potentially abuse any type of conferred aggregated generation advantage, to the detriment of growing competition and ultimately consumers. BGE advise they see the proposals with regard to 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. With this being the case they advise that a cap on aggregating generation does not appease their concerns.

2.2.22 In relation to impacts not identified by the proposal, BGE have advised that with the proposal being applicable to only new capacity this would result unduly in discrimination.

They further stated they have concerns that proposal will have impact with regard to Market Power. They state that the proposal appears to favour pivotal suppliers with strategically located sites, which would further exacerbate the capability for exercising Market Power.

2.2.23 The DRAI advised that they recognise the RAs concerns with regard to creating a distinction in treatment between Existing and New Capacity and noted the potential application of a maximum limit on the MW that can be aggregated to avoid the possibility of larger scale CMUs being aggregated and bid inflexibly into a Capacity Auction, causing potential market power issues.

They have stated that if Modification CMC_06_20 is approved, with the amendments proposed by the RAs to allow increased flexibility in the aggregation of any unit types, this will allow a wide range of unit types (including both Existing and New Capacity) the flexibility to aggregate and optimise.

2.3 SEM COMMITTEE DECISIONS

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

2.3.2 Whilst the SEM Committee understand the objections raised by the respondents with regard to the changes proposed by the RAs, the SEM Committee are in a position whereby we are unable to justify the difference in treatment that the proposal would create between new and existing capacity.

2.3.3 The SEM Committee remain concerned that an increased degree of aggregation coupled with the ability to bid inflexibly into the auction could lead to sub-optimal auction outcomes for consumers. This is a particular issue for the resolution of Locational Capacity Constraints where in order to solve the constraint the auction may be forced to clear a larger excess of capacity over requirements than would be the case if capacity had not been aggregated and, in the case of new capacity, to potentially take this capacity for 10 years.

2.3.4 The SEM Committee are of the view that without the proposed amendments to the proposal, put forward by the RAs, the potential impact on the auction process is too great with the potential for seriously adverse consequences for the consumer bill.

2.3.5 Taking these concerns into account and those put forward at WG12 and in response to the consultation, the SEM Committee hereby reject this proposal.

3. CMC_06_20 – COMBINING CAPACITY UNITS INTO A CAPACITY MARKET UNIT - PROPOSED CHANGES

3.1 CONSULTATION SUMMARY

3.1.1 This modification proposed amendments to section E.7.6 whereby it seeks to amend this section to allow Demand Side Units (DSUs) and Aggregated Generation Units (AGUs) to combine candidate units into a capacity market unit.

- 3.1.2 The modification was proposed by the DRAI, who stated that the purpose of the modification is to accommodate a number of unique characteristics associated with DSUs and AGUs and through doing so better utilise demand response flexibility.
- 3.1.3 The DRAI justified the proposal by highlighting that within the current drafting of the CMC, it is difficult for demand response providers to optimise response between the capacity market and system services markets, leading to a loss of flexibility capability from existing sites.
- 3.1.4 The proposal stated that the amendments to the CMC could help to mitigate against increased costs to the end customer caused by more costly flexibility solutions that may need to be implemented if the full capability of demand response is not realised.
- 3.1.5 The modification proposed the following amendments to E.7.6.1 (h) of the CMC:
- (h) the Capacity Market Unit includes all of the individual Candidate Units that it included in any prior Capacity Auction in which it has already been allocated Awarded Capacity for the Capacity Year (though it may include additional Candidate Units);
- (i) each of the Candidate Units is either:
- (i) a unit with a Registered Capacity (~~or in the case of a Demand Side Unit, a DSU MW Capacity~~), whether based on Existing Capacity or a combined Existing and New Capacity, below the De Minimis Threshold; or
 - (ii) a Variable Generator Unit; or
 - (iii) a Demand Side Unit or Aggregated Generation Unit.**
- 3.1.6 During Working Group 13 the DRAI were actioned with providing an updated version of their Modification which addressed the changes to I.1.3 needed to allow elements of AGUs and DSUs to move between AGUs or DSUs that form part of the same aggregated CMU.
- 3.1.7 Within the consultation paper the RAs provided commented that while the proposed Modification related to third party aggregation of capacity, and so would fall within the issues considered in coming to the decisions on aggregation set out in SEM-15-103, the RAs advised it is unlikely that the proposed modification would create issues of increased market power.
- 3.1.8 The RAs were minded to allow increased flexibility in aggregation of all CMUs, not limited to only AGUs and DSUs, subject to a constraint on the maximum size of such aggregations. With the initial thinking being that there would be a maximum aggregation size of 100MW for aggregations not permitted under the existing drafting of E.7.6.1(i).
- 3.1.9 The RAs also noted that the proposed drafting only allowed the movement of Generators between AGUs in an aggregated CMU in the situation where all Candidate Units within the aggregated CMU are AGUs. The RAs further elaborated that it was not anticipated that this limitation would be a significant issue for participants.

- 3.1.10 The RAs also stated that if they were to approve a version of this Modification then they would be minded to also approve the Modification to increase transparency related to aggregated CMUs in Locational Capacity Constraints (affected F.5.1.3) proposed by Energia as part of CMC_04_20.

3.2 SUMMARY OF RESPONSES

- 3.2.1 As with the previous modification proposal, a total of five responses were received to the consultation, with the majority of respondents raising concerns with the proposal and stating they are not supportive of the modification.
- 3.2.2 As the proposer of the modification, the DRAI stated the intention was to allow for DSUs to be structured optimally in both the CRM and DS3 and they are highly supportive of its approval and implementation. They have also advised that they recognise the feedback from other Participants that the modification should be open to enable all participants, as opposed to being restricted to AGUs/DSUs.
- 3.2.3 The DRAI state that following the Working Group and consultation process they recommend the RAs approve a revised version of CMC_06_20. They highlighted that they have no objection to the RAs approving the Modification with an amendment to the proposed drafting to increase transparency related to aggregated CMUs in Locational Capacity Constraints (as originally proposed within CMC_04_20).
- 3.2.4 They reiterated their support of the RAs minded to position to allow increased flexibility in the aggregation of all CMUs. They believe that this would allow for a wider range of unit types than permitted under the existing drafting of E.7.6.1(i), and both Existing and New Capacity the flexibility to aggregate and optimise.
- 3.2.5 The DRAI reiterated that the changes proposed under CMC_06_20 were to allow aggregators to aggregate more efficiently. They stated their belief that the proposal will allow this to take place in a manner that increases their ability to provide important flexibility services to the system, and also helping to reduce one of the barriers that has been identified in the FlexTech process.
- 3.2.6 The DRAI also highlighted that the demand side industry consists of a relatively large number of small portfolios across the two jurisdictions, and accordingly the DRAI does not believe there is an argument that the Modification would introduce any market power issues.
- 3.2.7 With regard to the RAs initial view to limit maximum aggregation size to 100 MW for aggregations not permitted under the existing drafting of E.7.6.1(i), the DRAI stated they were under the assumption that the 100 MW refers to the total de-rated capacity of the combined unit. They have further stated that it is their belief that using de-rated MW is important and appropriate as that is what the auction requirements and offers are based on. It would also help to ensure that there is a level playing field for unit types that have lower de-rating factors.

They advised that the limiting of aggregations to 100 MW (de-rated) is on the low side of their expectations and elaborated that given the makeup of the DSU/AGU market segment, they do not believe that a cap would be necessary, however, if this is extended to all unit-types they acknowledge the RAs concerns.

3.2.8 The DRAI stated their position is that they do not object to the aggregation of larger units, provided that this does not lead to market power issues or adverse impacts on the auction solution.

3.2.9 SSE have stated they are not supportive of this proposal and further advised that they consider there is a high degree of room for competitive advantage and the potential for gaming if this modification were to be approved. They stated that the proposal will lead to an unfair advantage in the market as this will increase the opacity of the Capacity Auction process.

They referred to similar concerns raised in GB relating to the DSUs being given the ability to swap components between different units. They advised that further concessions to Demand Side Response units in GB appears to have had unintended consequences, stating the example that some battery storage capacity are qualifying as demand side response to enjoy more favourable de-rating factors. SSE have advised they consider that this serves as an important consideration for regulators where DSUs are seeking further concessions within the CRM.

3.2.10 SSE raised concerns relating to the fact that the current CRM design approach is for capacity to be withheld from T-4 auctions, in order to provide an opportunity for DSUs to compete at T-1, on the assumption that they cannot participate in the longer-term auctions. However, with DSUs being successfully awarded Reliability Option Contracts in T-4 auctions they believe this is effectively rendering the withholding of capacity volumes to T-1 auctions as redundant.

3.2.11 SSE highlighted that with DSUs shortly to be exposed to Reliability Options charges this will ensure a level playing field for all participants and brings with it both upsides and downsides that all market participants have to manage. They have advised that where DSUs are being treated more like other market participants, it would be out of step to approve the proposed change in CMC 06_20. The modification proposal specifically points out that the impetus of this change is to accommodate further unique characteristics of AGUs and DSUs.

3.2.12 It is their view that it is not suitable for a fixed contract award like a Capacity Contract and therefore the Capacity Code, to be used to provide a favourable opportunity for the maximisation of a portfolio. They continued that if the complex markets structures of the Balancing, Intraday and Day Ahead markets cannot be appropriately utilised by DSUs and AGUs to maximise their portfolio, then they should seek to address this via the TSC, not the CMC.

3.2.13 SSE stated another concern for them is that another reasoning behind the change is for DSUs to be able to better accommodate the new Reliability Options (RO) charges that they will now be exposed to. They have advised that combining units to reduce exposure to Reliability Options charges is not in the spirit of the CRM design and that RO charges are a charge that must be accepted to help manage stress events on the system.

- 3.2.14 Energia mirrored the comments provided in their response to CMC_04_20, with regards to the fact that the minded to position of the RAs in terms of extending the proposal to all CMUs with a maximum aggregation size of 100MW gives rise to the significant concerns already discussed above. As such, Energia state they are strongly against this proposed amendment suggested by the RAs.
- 3.2.15 They state they also have wider concerns in relation to CMC_06_20 as originally proposed, and do not believe it should be approved at this stage.
- 3.2.16 Energia requested it be noted that the Flextech initiative covers more than DSUs and AGUs, and emphasised that it is at preliminary stage of development. With this being the case Energia advised it is their view that it is premature to progress a modification to the CMC with reference to this initiative for DSUs and AGUs when wider changes across DS3, capacity market and the energy market may be more appropriate for a broader class of technologies. They recommended that a wider review in relation to this is carried out before any implementation of the proposal.
- 3.2.17 In their response, ESB GT stated they do not support the RA's minded-to position to impose a broad sweeping maximum size to all aggregation of CMUs as they advise it will negatively impact on the participation of renewables in the CMC.
- 3.2.18 They referred to CRM Decision 1 (SEM-15-103⁴), specifically point 4.8.20, advising that there was no evidence provided in the consultation paper, proposal or during the working group to justify a move away from the SEMC's decision in this CRM Decision 1 paper.

Given their feedback in regards to the provision of evidence they recommend that no limit to the aggregation of renewable units should be implemented.

- 3.2.19 With regard to the modification drafting, ESB GT state they are unsure as to whether this proposal facilitates the improvement of any of the CMC objectives. They highlighted that the proposal appears to be changing the CMC due to issues with the DS3 market and is more about improving the finances of DSUs/AGUs in the DS3 market while minimising their exposure in the Capacity Market.
- 3.2.20 ESB GT were concerned that potential market power impacts have not been fully assessed with this modification.
- 3.2.21 They stated that Market Power concerns are for all units not just for the larger participating units. They have referred to the SEMC reference to this in CRM 3 Decision Paper (SEM-16-039) point 3.3.2, where it was highlighted "Concerns about the ability of one or more firms to exercise unilateral market power are clear.

⁴ https://www.semcommittee.com/sites/semcommittee.com/files/media-files/SEM-15-103%20CRM%20Decision%201_0.pdf

This point was reinforced by the Economic Social and Research Institute (ESRI), which considered this issue in a recent research paper on the I-SEM, and cautioned that there could be a danger that if the total amount of Reliability Options cannot be sold without the participation of one particular firm (i.e. they are pivotal), this firm will have both the ability and incentive to bid a high price for holding these options, which will lead to the auction clearing at a high price.”

3.2.22 ESB GT stated that when deciding on the proposed modification they believe a more detailed assessment of the potential market power issues is required considering:

- the ESRI paper;
- the fact that DSUs are not to be subject to a price taker offer cap primarily requires, and
- the results from the CY 2023/24 where a DSU cleared a CRM contract of £136,000/MW.

3.2.23 Based on the concerns they have raised with the increased market power that the proposed modification could create they do not support the proposed modification.

3.2.24 BGE comment that they believe, 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, they do not see why DSUs would not be treated in the same way as renewables when it comes to aggregation in the capacity market.

3.2.25 BGE state that DSUs should be allowed aggregate in the same way as variables / renewables currently can under a CAU and that 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 comfortable bidding into the RO auction in the context of the implicit exit signals/ performance incentives in the RO mechanism.

3.2.26 BGE believe that this proposal has brought to light an issue with the definition of DSUs in general, and elaborate that limiting the size of each individual site behind a DSU inhibits their size and economies of scale which curtails the ability to mitigate risk. They have therefore stated this limit should be removed.

3.2.27 BGE state that, based on market experience, it appears contributors to the Demand Side Response space in the future could breach limits, which they would consider to result in a regulatory distortion.

3.2.28 They have highlighted EU Electricity Regulation requires that when addressing resource adequacy concerns, Member States must consider eliminating any identified regulatory distortions to demand side participation.

3.2.29 BGE queried whether the limit may 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. They suggest that this is unnecessary and potential barrier to entry and should be removed. BGE believe this would bring DSUs more in line with the treatment of renewables in terms of capacity market aggregation.

3.2.30 BGE highlighted that several RA statements, made through the course of the CRM detailed design phase, imply that it was the intention that DSUs would be permitted to aggregate under a CAU akin to renewables. They elaborated that from a DSU perspective therefore, this modification could be deemed a rectification of the CMC rules to reflect those earlier decisions.

They state they 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. Whilst they advise they support the need for a route to market for AGUs and under AOLR, they believe that the current rules are performing well in that regard and do not see a justification for changing those rules at this time. They do not believe that there is sufficient rationale to consider allowing aggregation AGUs above the De Minimis Limit.

3.2.31 BGE stated they have significant reservations about softening the rules to any extent in the generation side. They have elaborated that over time they may be used as a loophole to merge variously sized units on the same site whereby 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.

3.2.32 They have also stated that with regard to the RAs proposal to allow aggregation of all unit types to a 100MW limit, they would vehemently disagree with the need for the proposal, stating their belief that it is not adequately justified.

3.2.33 With regard to the position set out by the RAs under I.1.3. BGE highlighted that they agree that all units behind CAUs should be identifiable for transparency and suggest that this requirement should extend to all existing or new CAUs. To facilitate this and amendments to section E.9.1.1 with regard to the data required to be submitted at qualification stage would be required.

3.2.34 BGE stated they believe further consideration should to be given to possibly amend section E.7.6.1 (i)(i) to facilitate an alternation in the rules for aggregating DSUs. Under the current wording they believe that DSUs could still fall to be considered under the “Registered Capacity” phrase, undermining the effect of improved aggregation opportunities for DSUs.

3.2.35 Mirroring their response to CMC_04_20, BGE state that from their view this proposal, CMC_06_20, is not consistent with the code objectives set out within the CMC.

3.2.36 They have advised that if the proposals they have put forward were to be accepted there would need to be several changes to the CMC. They elaborated that in order permit on DSUs to be aggregated to an unlimited level changes to the following areas would be required:

- 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

3.3 SEM COMMITTEE DECISIONS

- 3.3.1 The SEM Committee recognise that in earlier decision papers there were discussions around the facilitation of the aggregation of DSUs. However, we are also cognisant that the latest SEM Committee decision (SEM-16-039) is clear in that the De Minimis Threshold applies to all aggregation except intermittent renewables (i.e. it did not allow such aggregation for all renewables). The SEM Committee would also note that the limit on DSU aggregation does not apply to individual demand sites but to the aggregation of DSUs, which are themselves aggregations of demand sites.
- 3.3.2 The SEM Committee note that AGUs are treated in both the energy and capacity markets in the same way as other generator units and so it is difficult to justify treating them differently for aggregation in the CRM. In consequence, the SEM Committee reject this portion of the Modification.
- 3.3.3 With regard to DSUs, these are currently treated differently to other generator units, in particular they do not receive energy revenue, and while steps are being taken to bring their treatment in line with other generation, this will not occur for some time. Earlier SEM Committee Decisions, in particular SEM-16-022 (CRM2) and SEM-16-039 (CRM3) do make clear reference to allowing DSUs to aggregate and this capability was cited when deciding not to implement ex-post secondary trading recognising that DSUs were the primary driver for permitting such trade.
- 3.3.4 However, the SEM Committee highlight that that this Modification is not addressing an issue where DSUs are treated differently to other generator units.
- 3.3.5 The SEM Committee note that of the 61 DSUs which Qualified for the CY2023/24 T-4 Auction, 41 were larger than the De Minimis Threshold (10MW) as were 35 of the 45 DSUs awarded capacity, i.e. some 2/3 of the DSUs Qualified and 3/4 of those awarded capacity were too large to aggregate into a CAU. The SEM Committee further note that some individual Demand Sites, the lowest level component of a DSU, are larger than the De Minimis Threshold.
- 3.3.6 The SEM Committee also note that, as with CMC_04_20, increasing the level of aggregation permitted under the CMC does create potential issues in the resolution of lumpiness in the auction with the same issue of increasing costs for consumers.
- 3.3.7 Taking account of the feedback received at WG12 and as part of the consultation, the SEM Committee hereby reject this proposal.

4. NEXT STEPS

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