

MODIFICATION PROPOSAL FORM			
<b>Proposer</b> <i>(Company)</i>	<b>Date of receipt</b> <i>(assigned by System Operator)</i>	<b>Type of Proposal</b> <i>(delete as appropriate)</i>	<b>Modification Proposal ID</b> <i>(assigned by System Operator)</i>
<b>Bord Gáis Energy</b>	<b>2<sup>nd</sup> November 2023</b>	<b>Standard</b>	<b>CMC_24_23</b>
<b>Contact Details for Modification Proposal Originator</b>			
<b>Name</b>	<b>Telephone number</b>	<b>Email address</b>	
<b>Eoghan Cudmore</b>		<b>ecudmore@bordgais.ie</b>	
<b>Modification Proposal Title</b>			
<b>Revision of the Exception Application timelines</b>			
<b>Documents affected</b> <i>(delete as appropriate)</i>	<b>Section(s) Affected</b>	<b>Version number of CMC used in Drafting</b>	
<b>Capacity Market Code</b>	<b>J.5, J.6, Glossary, AP3</b>	<b>9.0</b>	
<b>Explanation of Proposed Change</b> <i>(mandatory by originator)</i>			
<p>The timelines around the Exception Application process and how it interacts with the Opt-Out notification process do not align to provide participants with full transparency on the economic signals for their participation in capacity auctions in bidding in of their existing units. It's an unreasonable situation for generation units not to know their Unit Specific Price Cap (USPC) before losing the option to Opt-Out of a capacity auction under the Capacity Market Code and auction timetable for each auction. Should this situation remain we see it as a threat to the security of supply for consumers as the lack of economic transparency is considered a definite exit signal for conventional thermal plant to leave the market.</p> <p>Changing the timelines around the exception application process would reduce the security of supply risk that exists today with the timing for the confirmation of a USPC under the Exception Process long after the close out of the Opt-Out Process for participants. The current sequencing of these process may see viable generations units needed for security of supply for the SEM simply choose to shut down for economic reasons rather than risking running for a year at significant loss due to the uncertainty of the outcome of their Exception Application for a USPC at the point of the close of the Opt-Out process and therefore being committed to qualification for the auction. This level of uncertainty and lack of economic transparency for the operators of thermal generation units we believe will bias units to exit the SEM early so realising a substantial risk to the security of supply for consumers.</p> <ul style="list-style-type: none"> <li>• Currently a unit must make an Opt-Out decision <b>prior</b> to the Exception Application Date.</li> <li>• This puts units who need a USPC to cover their operational costs exposed to the uncertainty of the outcome from the Exception Application process, with no recourse available if they are not granted a USPC at a level necessary to align with their exception application.</li> <li>• BGE agreed with the RAs in CMC Workshop 33 that moving the opt-out notification to come after the FAIP as proposed in Mod_20-23 is too close to the auction and leaves consumers at an increased risk of security of supply.</li> </ul>			

- To remediate the current situation, BGE proposes that the Exception Application process is implemented and completed earlier than is scheduled in auction timetables to date essentially before the Opt-Out process date. We believe that the outcome should be that in the event of a unit requiring to notify the RAs of an opt-out on foot of the economic signals (including the level of any USPC) for a forthcoming auction, there will remain sufficient time for the market to react. This also means no changes are required to other auction timelines minimising disruption.

BGE is proposing:

- To Introduce of a new event in the Auction timeline – Exception Application Decision Date
- To move the Exception Application Date to be the first event in the auction timeline allowing sufficient time for a determination to be made.

See the example of the proposed changes to auction timelines for T-4 2028/2029 Auction (Dates used for existing events are based of the T-4 2027/2028 action rolled over to 2024).

04/01/2024	PT Initial Exception Application Deadline	
07/03/2024	RAs IAIP Final Publication Date	45 Working Days
28/03/2024	RAs Exception Application Decision	15 Working Days
04/04/2024	PT Opt-out Deadline	5 Working Days
19/04/2024	PT Qualification Application Date	11 Working Days

Legend
New Dates
Expected dates based on 2027/2028 IAIP

- **Event 1:** Market Participants submit Exception Application by COB 4<sup>th</sup> of Jan 2024 (**New earlier deadline, moves from Event 3 to Event 1**). This will allow the RAs approx. 60 working days to make decisions on Exception Applications which BGE expects should be sufficient time.
- **Event 2:** RAs publish IAIP (**Unchanged Date**) based on 2024 Calendar on 7<sup>th</sup> of March 2024.
- **Event 3:** RAs notify participants of Exception Application Decision by 28<sup>th</sup> of March (**New Event added**). This is 15 working days after the publication of FAIP and 5 working days prior to the opt-out deadline.
- **Event 4:** Market Participants opt-out deadline 4<sup>th</sup> of April 2024 (**Unchanged Date**).

It is important to stress that BGE is not proposing a change to E.5.1.11 as was suggested in CMC\_20\_2023. The grounds for a participant giving an opt out notification will remain as they are; a Plant Closure, a Planned outage in excess of 3 months, or Mothballing.

By having the decision on an Exception Application, market participants can make evidence-based decisions around the opt-out process. The current timing of the Exception Application process in our view could result in market Participants making the

decision to opt-out without having all the facts with respect to whether an Exception Application would have been successful.

BGE have marked this as 'Urgent' as we see it being critical to preventing the continued inadvertent exit signal being sent to existing capacity and subsequent opt out of said capacity. For this change to be in place in time for the T-4 2028/2029 Auction it must be treated as urgent.

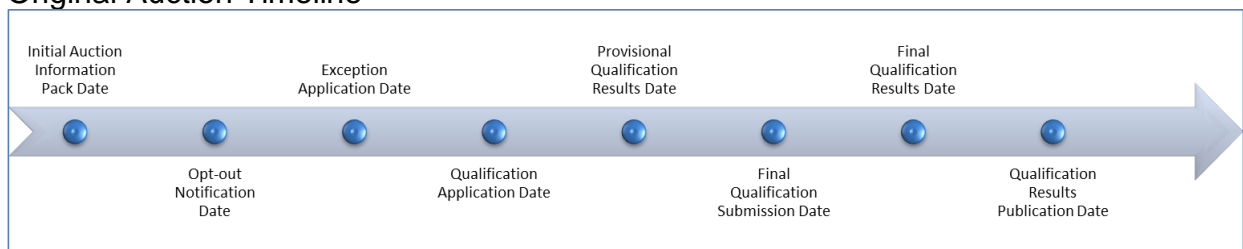
### Legal Drafting Change

*(Clearly show proposed code change using **tracked** changes, if proposer fails to identify changes, please indicate best estimate of potential changes)*

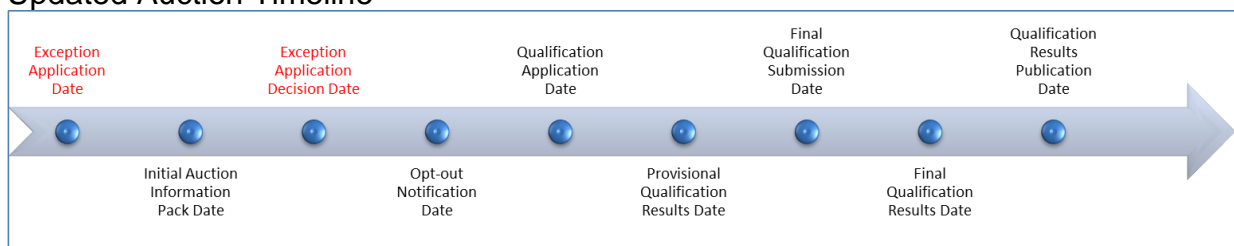
The following changes (in red) will be made to CMC-Agreed-Procedure 3 'Qualification and Auction Process' specifically with respect to the event timelines with one new event being added, and the order of events being minorly shifted.

There are some changes (in red) needed to the CMC to ensure that it remains consistent with the AP3.

### Original Auction Timeline



### Updated Auction Timeline



**Exception Application Date:** the last time a Participant can make an Exception Application to the Regulatory Authorities.

**Initial Auction Information Pack Date:** the last publication date for the Initial Auction Information Pack.

**Exception Application Decision Date:** the date by which Regulatory Authorities must notify a Participant of the outcome of their Exception Application Decision.

**Opt-out Notification Date:** the last date a Participant can submit an Opt-out Notification.

**Qualification Application Date:** the last date a Participant can submit an Application for Qualification in respect of the Capacity Auction.

**Provisional Qualification Results Date:** the date by which the System Operators are expected to inform persons who submit Applications for Qualification of Provisional SO Qualification Results in respect of the Capacity Auction.

**Final Qualification Submission Date:** the date by which the System Operators are expected to provide Final Qualification Results in respect of the Capacity Year to the Regulatory Authorities for approval.

**Final Qualification Results Date:** the date by which the System Operators are expected to inform persons who submit Applications for Qualification of Final Qualification Results in respect of the Capacity Auction.

**Qualification Results Publication Date:** the date by which the System Operators are expected to publish the total qualified capacity in respect of the Capacity Auction.

Step	Step Description	Timing	Method	By / From	To
1	Submit an Exception Application to the Regulatory Authorities in accordance with paragraph E.5.1.3 of the Code.	Before the Exception Application Date ( <del>Event 3</del> Event 1)	As specified by the Regulatory Authorities	Participant	Regulatory Authorities
2	The Regulatory Authorities shall notify the System Operators, giving details as to the nature of the Exception Application.	-	-	Regulatory Authorities	Participant
3	The Regulatory Authorities may request further information or clarification by written notice to the Participant identifying the further information or clarification required and specifying a timeframe for providing it.	-	Email / Post	Regulatory Authorities	Participant
4	The Participant shall provide further information or clarification requested by the Regulatory Authorities within the timeline set out in the request. Otherwise the Participant shall be deemed to have withdrawn the application.	In accordance with the request	Email / Post	Participant	Regulatory Authorities
5	The Regulatory Authorities assess the Participant Exception Application for a Unit Specific Price Cap.	Before the Final Qualification Results Date ( <del>Event 7</del> Exception Application Decision Date (Event 3))	-	Regulatory Authorities	-
6	In accordance with paragraph E.5.1.8 of the Code, the Regulatory Authorities notify the Participant and System Operators whether or not they approve the Exception Application and if the Unit Specific Price Cap is approved, the capacity to which it relates and the Unit Specific Offer Price Cap (if applicable).	Before the Final Qualification Results Date ( <del>Event 7</del> By the Exception Application Decision Date (Event 3))	Email and Post	Regulatory Authorities	Participant and System Operators

## CMC Changes

Sections E.5.1.9 and E.5.1.10 are related to the SO decision making for qualification decision in the absence of RA determination on Exception Application Decisions. The proposed modification means RA decisions on Exception Applications would be issued long before qualification decisions need to be made by SOs. As such these two sections would no longer be needed hence their removal.

~~E.5.1.9 If:~~

- ~~(a) the Regulatory Authorities notify the System Operators that a Participant has made an Exception Application under paragraph E.5.1.2; but~~
- ~~(b) the Regulatory Authorities have not notified the System Operators whether or not they approve the Exception Application two full Working Days before the Provisional Qualification Results Date;~~

~~then, for the purposes of applying sections E.6, E.7 and E.8 so as to make the Provisional SO Qualification Decisions in respect of the relevant Capacity Market Unit, the System Operators shall assume that the Exception Application has been approved. If this paragraph applies, the relevant SO Qualification Decisions shall be subject to the condition that the Regulatory Authorities approve the Exception~~

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~~Application. For the avoidance of doubt, this paragraph does not limit the Regulatory Authorities' ability to reject the Exception Application or make any of the decisions contemplated by paragraph E.5.1.8 in respect of the Exception Application.~~

~~E.5.1.10 If the Regulatory Authorities do not notify the System Operators that they approve an Exception Application in respect of a Capacity Auction before the Final Qualification Results Date, then the Regulatory Authorities shall be deemed not to have approved it.~~

E.7.6.2 Where:

- (a) a proposed Capacity Market Unit comprises a combination of individual Candidate Units; and
- (b) the Application for Qualification indicates that one or more of the Candidate Units has been or will be the subject to an Exception Application,

then the System Operators shall consult with the Regulatory Authorities concerning the outcome of the Exception Application so that they are in a position to make a decision under paragraph **Error! Reference source not found.** by ~~the Provisional Qualification Results Date~~ **Exception Application Decision Date** specified in the applicable Capacity Auction Timetable.

## Glossary Addition

**Exception Application**

has the meaning given in paragraph **Error! Reference source not found.**

**Exception Application Date**

means the last day a Participant can make an Exception Application in respect of a Capacity Auction, as specified in the applicable Capacity Auction Timetable.

**Exception Application Decision Date**

means the date by which Regulatory Authorities must notify a participant of the outcome of their Exception Application.

**TABLE A: CAPACITY AUCTION TIMETABLE INDICATIVE TIMEFRAME**

	<b>Event</b>	<b>Indicative timeframe</b>
1	Exception Application Date: the last time a Participant can make an Exception Application to the Regulatory Authorities	A-39 weeks
2	Initial Auction Information Pack Date: the last publication date for the Initial Auction Information Pack	A-25 weeks
3	Exception Application Decision Date: The last date by which Regulatory Authorities can inform Participants who submit Exception Applications to the outcome of the Exception Application.	A-24 weeks
4	Opt-out Notification Date: the last date a Participant can submit an Opt-out Notification	A-23 weeks
5	Exception Application Date: the last time a Participant can make an Exception Application to the Regulatory Authorities	A-21 weeks
6	Qualification Application Date: the last date a Participant can submit an Application for Qualification in respect of the Capacity Auction	A-21 weeks

**Modification Proposal Justification**

*(Clearly state the reason for the Modification)*

The Current Exception Application process is not fit for purpose. The interaction between Exception Application process and Opt-out Process doesn't make sense. It is a symptom of a broken capacity market, that generators are forced to make decision to opt-out without any information about their financial viability for the year in question.

<b>Code Objectives Furthered</b>
<i>(State the Code Objectives the Proposal furthers, see Sub-Section A.1.2 of the CMC Code Objectives)</i>
<ul style="list-style-type: none"> <li>(c) to facilitate the efficient discharge by EirGrid and SONI of the obligations imposed by their respective Transmission System Operator Licenses in relation to the Capacity Market;</li> <li>(d) 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;</li> <li>(f) 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</li> </ul>
<b>Implication of not implementing the Modification Proposal</b>
<i>(State the possible outcomes should the Modification Proposal not be implemented)</i>
<p>If this modification is not implemented, it sends a clear exit signal for urgently needed existing capacity to opt-out. There will be a significant knock-on effect of this in terms of security of supply situation, system adequacy and prices for the end consumer.</p> <p>The timeline around the process means that if a unit seeks an Exception Application for USPC and is rejected, it will be forced to run at loss for the year with no mechanism to recoup its costs. In this scenario, it will expedite the opt-out decision for the following years auction.</p>
<b>Impacts</b>
<i>(Indicate the impacts on systems, resources, processes and/or procedures)</i>
<b>Please return this form to the System Operators by email to <a href="mailto:CapacityModifications@sem-o.com">CapacityModifications@sem-o.com</a></b>

### Notes on completing Modification Proposal Form:

1. If a person submits a Modification Proposal on behalf of another person, that person who proposes the material of the change should be identified on the Modification Proposal Form as the Modification Proposal Originator.
2. Any person raising a Modification Proposal shall ensure that their proposal is clear and substantiated with the appropriate detail including the way in which it furthers the Code Objectives to enable it to be fully considered by the Regulatory Authorities.
3. Each Modification Proposal will include a draft text of the proposed Modification to the Code unless, if raising a Provisional Modification Proposal whereby legal drafting text is not imperative.
4. For the purposes of this Modification Proposal Form, the following terms shall have the following meanings:

<b>CMC / Code:</b>	means the Capacity Market Code for the Single Electricity Market
<b>Modification Proposal:</b>	means the proposal to modify the Code as set out in the attached form
<b>Derivative Work:</b>	means any text or work which incorporates or contains all or part of the Modification Proposal or any adaptation, abridgement, expansion or other modification of the Modification Proposal

The terms "System Operators" and "Regulatory Authorities" shall have the meanings assigned to those terms in the Code.

In consideration for the right to submit, and have the Modification Proposal assessed in accordance with the terms of Section B.12 of the Code, which I have read and understand, I agree as follows:

1. I hereby grant a worldwide, perpetual, royalty-free, non-exclusive licence:
  - 1.1 to the System Operators and the Regulatory Authorities to publish and/or distribute the Modification Proposal for free and unrestricted access;
  - 1.2 to the Regulatory Authorities to amend, adapt, combine, abridge, expand or otherwise modify the Modification Proposal at their sole discretion for the purpose of developing the Modification Proposal in accordance with the Code;
  - 1.3 to the System Operators and the Regulatory Authorities to incorporate the Modification Proposal into the Code;
  - 1.4 to all Parties to the Code and the Regulatory Authorities to use, reproduce and distribute the Modification Proposal, whether as part of the Code or otherwise, for any purpose arising out of or in connection with the Code.
2. The licences set out in clause 1 shall equally apply to any Derivative Works.
3. I hereby waive in favour of the Parties to the Code and the Regulatory Authorities any and all moral rights I may have arising out of or in connection with the Modification Proposal or any Derivative Works.
4. I hereby warrant that, except where expressly indicated otherwise, I am the owner of the copyright and any other intellectual property and proprietary rights in the Modification Proposal and, where not the owner, I have the requisite permissions to grant the rights set out in this form.
5. I hereby acknowledge that the Modification Proposal may be rejected by the Regulatory Authorities and that there is no guarantee that my Modification Proposal will be incorporated into the Code.