



**Single Electricity Market  
(SEM)**

**Capacity Market Code  
Terms of Reference for the Year 4 Market Audit  
Decision Paper**

**SEM-23-018**

**22 February 2023**

## EXECUTIVE SUMMARY

The SEM CRM detailed design and auction process has been developed through a series of consultations and decision papers, these are all available on the SEM Committee's (SEMC) website. These decisions were translated into legal drafting of the market rules via an extensive consultative process leading to the publication of the Trading and Settlement Code (TSC) and the Capacity Market Code (CMC).

Section B.11 of the CMC states the Regulatory Authorities (RAs) shall appoint a person or firm as Capacity Market Auditor who in turn is required to conduct an audit of the operation and implementation of the arrangements, procedures and processes under this Code at least once a Year, in accordance with the terms of reference determined by the Regulatory Authorities.

As stated under B.11.2.4 of the CMC the RAs shall specify the precise terms of reference for an audit following the consultation process under paragraph B.11.2.3 and in sufficient time to enable the Capacity Market Auditor to complete the work in a timely manner.

This paper sets out the Terms of Reference (TOR) as approved by the SEM Committee for the Capacity Market Year 4 Audit Report, following the publication of the Capacity Market Code Terms of Reference for the Year 4 Market Audit Consultation Paper ([SEM-22-083](#)). The RAs received one non-confidential response. The SEM Committee has considered the content of the response and decided to implement the following:

### **1. Timescale**

The SEM Committee have decided that the Year 4 Capacity Market Audit Report will cover the twelve-month period of 1 May 2021 – 30 April 2022.

### **2. Reporting**

The SEM Committee have decided the Market Auditor will continue to conduct audit process under the International Standard on Assurance Engagements (ISAE 3000).

### **3. Terms of Reference**

The SEM Committee have decided to implement the following TOR for the Year 4 Market Audit Report:

- Accession and Registration;
- Default, Suspension and Termination;
- Qualification;
- Operation of the auction and award of capacity;
- Secondary Trading;
- Implementation agreements;
- SO and other Charges;
- Invoicing and Payment;
- Credit Cover management;
- Disputes;
- Modifications; and
- Design Authority / Code development and Systems Upgrade

The Market Auditor will work on the Year 4 Audit Report following the publication of this Decision Paper. It is anticipated that the Capacity Market Audit Reports for both Year 3 and Year 4 will be available towards the end of Q2 2023.

## Table of Contents

<b>1. Background .....</b>	<b>4</b>
<b>2. Proposed Year 4 Audit Report Scope .....</b>	<b>5</b>
<b>3. Response to SEM-22-083.....</b>	<b>6</b>
<b>4. SEM Committee Response.....</b>	<b>7</b>
<b>5. SEM Committee Decision.....</b>	<b>8</b>
<b>6. Next Steps.....</b>	<b>10</b>

## 1. Background

As set out under section B.11.2.1 of the CMC the Capacity Market Auditor is required to conduct an audit of the CMC, its operation and implementation of the arrangements, procedures and processes under the CMC at least once a Year.

Ahead of the Auditor undertaking the steps required to compile the report, paragraph B.11.2.3 of the CMC firstly requires the RAs to consult with Parties on the Terms of Reference (TOR) for the audit. Paragraph B.11.2.4 requires the RAs to specify annually the precise TOR for the audit following this consultation process.

The purpose of this paper is to set out the SEM Committee decision relating to the TOR applicable to the Capacity Market Year 4 Auditor Report.

The first Capacity Market Audit was conducted in 2019/20 and covered the time period between 15 December 2017 and 30 April 2019. This 17-month period encompassed the following Capacity Auctions:

- T-1 CY2018/2019 – which took place on 15 December 2017
- T-1 CY2019/2020 – which took place on 13 December 2018; and
- T-4 CY2022/2023 – which took place on 28 March 2019

The second, Year 2, Capacity Market Audit covered the period from 1 May 2019 – 30 April 2020. This 12-month period incorporated the following capacity Auctions:

- T-1 CY2020/2021 – which took place on 26 November 2019
- T-2 CY2021/2022 – which took place on 5 December 2019; and
- T-4 CY2023/2024 – which took place on 27 April 2020

The basis of the Auditor's Opinion within the reports for both Year 1 and Year 2 was conducted under the International Standard on Assurance Engagements (ISAE 3000).

The third, Year 3, is currently in progress in line with the TOR set within the Capacity Market Code Terms of Reference for the Year 3 Market Audit Decision Paper ([SEM-21-049](#)). It is anticipated that the Year 3 report will be available at the end of Q2 2023. The Year 3 audit period covers the 12-month period between 1 May 2020 and 30 April 2021, incorporating one Capacity Auction:

- T-4 CY2024/2025 – which took place on 21 January 2021



The Year 3 report will also be conducted under the International Standard on Assurance Engagements (ISAE 3000).

## 2. Proposed Year 4 Audit Report Scope

On 9 December 2022, the RAs published the Consultation Paper on the proposed Terms of Reference for the Year 4 Capacity Market Audit ([SEM-22-083](#)). The key proposals for scope are outlined below.

The Year 4 audit will cover the 12-month period between May 2021 – 30 April 2022. The audit would incorporate the following Capacity Auctions:

- T-1 2022/2023 Capacity Auction – which took place on 21 October 2021
- T-3 2024/2025 Capacity Auction – which took place on 20 January 2022
- T-4 2025/2026 Capacity Auction – which took place on 24 March 2022

The Capacity Market Auditor's Opinion will continue to be conducted under the International Standard on Assurance Engagements (ISAE 3000);

The SEM Committee propose that the Year 4 audit will mirror the Terms of Reference set for Year 3. This includes:

- Accession and Registration
- Default, Suspension and Termination
- Qualification
- Operation of the auction and award of capacity
- Secondary trading
- Implementation agreements
- SO and other Charges
- Invoicing and Payment
- Credit Cover management
- Disputes
- Modifications; and
- Design Authority / Code development and Systems Upgrade

### 3. Response to SEM-22-083

This paper includes a summary of the response received in relation to the Capacity Market Code Terms of Reference for the Year 4 Market Audit Consultation Paper which was published on 9 December 2022. The consultation period closed for responses on 6 January 2023.

- One non-confidential response was received from Bord Gáis Energy (BGE). A copy of the response has been published alongside this Decision Paper.

BGE welcomed the opportunity to provide a response to the proposed Year 4 Capacity Market Audit TOR. In principle, BGE felt that retaining the TOR in line with those set for the previous three Capacity Market audits remained important for consistency. The response also noted the importance of retaining the requirements as detailed within the 2017 SEM Committee Decision Paper ([SEM-17-023](#)) which additionally supports continuity with respect to the audit approach, roles and continued application of recognised international standards (ISAE 3000).

BGE confirmed they maintain their belief, as also expressed within their Year 3 TOR consultation response, that the audit should provide a view on the operation of CMC Secondary Trading arrangements. They request that the design and operational requirements of the secondary trading processes are reviewed in the audit, with any potential improvements identified, given that the proposed Year 4 audit period saw the continued operation of both the Alternative and Interim Secondary Trading Arrangements.

In their response, BGE request that the Auditor includes their view on a number of aspects of the Secondary Trading processes. BGE also provide some potential market design/process improvements in support of their requests. They request a view on the following:

- Publication of Secondary Trade information
- Liquidity assessment including Constraint Area limitations
- Benefit to SEM participants
- Identification of other potential Secondary Trading operational/design improvements

BGE also ask that Capacity Market registration timelines are reviewed as part of this audit. They feel that current process limitations can increase the time taken to complete the registration process, impacting the commercial standing of units.

In addition, BGE would welcome the Auditor's opinion as to whether there may have been improvements in the outcomes of the three capacity auctions that took place during the period of time to be covered by this audit, had some of the recommendations made within [EY's Performance of the SEM CRM](#) Report been in place. They ask that the Auditor details which proposals could have provided a better cost benefit outcome for consumers, specifically with regards to entry signals for Existing and New Capacity.

BGE also request that the audit report provides assurance that participant responses to Modification Consultations receive due review and consideration throughout the Modification Process. They ask that focus be placed on rejected Modification Proposals during the term of the Year 4 audit.

In closing, BGE confirmed their support for the independent oversight of the operations of the CMC, roles which are fulfilled by both the Capacity Auction Monitor and Capacity Market Auditor. BGE state their position remains that these two roles should remain separate and should be performed by different entities to avoid any potential undermining of the integrity of each role due to any perceived or actual conflict of interest.

#### **4. SEM Committee Response**

In their response, BGE requested that the Auditor undertake a number of assessments with respect to the operation of the both the Alternative and Interim Secondary Trading Arrangements. BGE also asked that the Auditor identify process improvements during their review, including their findings and view of improvements within the audit report. The SEM Committee are not of the view that the Auditor's role should include an analytical review to identify process/market design improvements but rather that the Auditor's role is to report on any matters of non-compliance found in line with the CMC Secondary Trading requirements during the audit period.



The SEM Committee note BGE's request for the Auditor to review and identify process improvements with respect to registration timelines. Whilst registration and anticipated timelines are covered within [CMC Agreed Procedure 1: Registration](#), the scope of the audit should remain focused on identifying areas of non-compliance in line with the CMC and associated CMC Agreed Procedures during the term of the audit.

BGE also asked for the audit report to include the Auditor's view on proposals contained within EY's Performance of the SEM CRM Report, had some of the proposals been in place during the term of this audit period. The SEM Committee separately published a Call for Comments on the EY Review of the Performance of the SEM Capacity Remuneration Mechanism ([SEM-22-054](#)) on 26 August 2022. The RAs are currently reviewing responses received and will publish further information in due course. The SEM Committee are not of the view that it should be within the scope of the role of the Auditor to assess and form a view on processes that were not in place during an audit period.

BGE requested that the Auditor conducts a review of CMC Modification Proposals, with focus placed on proposals that were rejected during the term of the Year 4 audit, to provide assurance that responses have been considered. The SEM Committee are not of the view that such a review should form part of the Auditor's role.

In closing their response, BGE confirmed their continued support for separate entities completing the roles of the Capacity Market Auditor and Capacity Auction Monitor. Whilst CMC B.11.1.5 states that the same person may complete both roles, the SEM Committee notes BGE's preference.

## **5. SEM Committee Decision**

Following the analysis of the consultation response received, the SEM Committee has decided to implement the following approach and TOR for the Year 4 Capacity Market Auditor Report:

### **1. Timescale**

As set out under B.11.2.2 of the CMC the annual period covered by the audit shall be 1 January to 31 December unless the terms of reference specify a different period. In

this instance the SEM Committee hereby state that the Year 4 Audit report will cover the 12-month period between May 2021 – 30 April 2022.

## **2. Reporting**

Taking account of the fact that ISAE 3000 requires the Auditor to provide an assurance opinion, which is the preferred option, the SEM Committee have decided that in conducting the Year 4 Audit report, the Auditor will continue to do so under ISAE 3000.

The SEM Committee considers an assurance opinion is likely to produce the most useful information for the RAs and Market Participants.

## **3. Terms of Reference**

As set out in the consultation paper, the SEM Committee proposed that the TOR for the Year 4 Audit remain as they were for the Year 3 TOR.

The SEM Committee are of the view that there is merit in retaining the TOR from the Year 3, given no major changes have been implemented within the CRM.

It is the SEM Committee's view that the Year 4 Audit report will include:

- Accession and Registration
- Default, Suspension and Termination
- Qualification
- Operation of the auction and award of capacity
- Secondary trading
- Implementation agreements
- SO and other Charges
- Invoicing and Payment
- Credit Cover management
- Disputes
- Modifications; and
- Design Authority / Code development and Systems Upgrade

## 6. Next Steps

Following publication of this paper, the Capacity Market Auditor will work on the Year 4 audit. It is anticipated that the Capacity Market Audit Reports for both Year 3 and Year 4 will be available towards the end of Q2 2023.