P378 'Introduction of a CM Supplier Interim Charge'

This Modification Consultation was issued on 16 January 2019, with responses invited by 29 January 2019.

Consultation Respondents

Respondent	No. of Parties/Non-Parties Represented	Role(s) Represented
Centrica	8/0	Generator, Supplier
Drax Group PLC	2/0	Generator Supplier
E.ON Energy Solutions	4/0	Supplier
EDF Energy	6/0	Generator, Supplier
Energy UK *(Email response)*	0/1	Trade Association
ENGIE Power Limited	2/0	Supplier
EP UK Investments	1/0	Generator, Non Physical Trader
ESB	3/0	Generator
Flexible Generation Group	0/1	Trade Association
Flexitricity Limited	1/0	Supplier
Gazprom Marketing & Trading Retail Limited *(Email response)*	2/1	Supplier, Interconnector User, Non Physical Trader, ECVNA, MVRNA
Green Network Energy	1/0	Supplier
Intergen	0/1	Generator
National Grid Electricity System Operator	1/0	Transmission Company
Npower Group Limited	6/1	Supplier, Non Physical Trader, HHDA, HHDC, NHHDA, NHHDC, MOA
Ørsted *(Email response)*	6/0	Supplier Generator
RWE Supply & Trading GmbH	2/1	Generator, Supplier, Interconnector User, Non Physical Trader, ECVNA, MVRNA

Respondent	No. of Parties/Non-Parties Represented	Role(s) Represented
ScottishPower	4/1	Generator, Supplier, ECVNA, MVRNA, Supplier Agent
SmartestEnergy	1/0	Supplier
SSE PLC	4/0	Generator, Supplier, Interconnector User
TOTO Energy Limited	1/0	Supplier
Triton Power Limited	0/1	Generator
UK Power Reserve	1/0	Generator
Uniper UK Limited	2/1	Generator, Interconnector User, Non Physical Trader. ECVNA, MVRNA
Utilita Energy	1/0	Supplier

Question 1: Should this Fund be set up to cover the period up to the end of the current CM Delivery Year (as drafted) or cover the Delivery Year 2019/20 as well?

Summary

Yes	No	Neutral/No Comment	Other
7	12	2	1

Responses

Respondent	Response	Rationale
Centrica	Yes	If Supplier payments are re-instated this year we would prefer that these are collected via the established ESC mechanism. Notwithstanding the above, it is not necessary to cover 2019/20 as well. It is the expectation of BEIS and industry that we will have a decision from the EC on State Aid clearance in time for October 2019, when the 2019/20 delivery year begins. In addition to this there would be a number of practical issues relating to 19/20 how payments would be calculated for the 19/20 delivery year such as the fact that forecasts for this period have not been provided.
Drax Group PLC	No	It's not clear how long it will be until the scheme is reinstated or when the ESC will continue collecting CM charges from suppliers. We believe it is prudent to set this scheme up to collect payments for both the current CM Delivery Year and the 2019/20 delivery year, aligning with the longstop date. If it becomes apparent that an enduring solution beyond 2019/20 is required, then this would need additional features such as reconciliation and mutualisation arrangements. This could be developed at a later date through another, more comprehensive Modification. We do not want to delay the implementation of this urgent Modification.
E.ON Energy Solutions	Yes	The fund should only cover the initial year to allow BEIS to progress their solution. Should additional time be required then a separate Modification can be raised to extend the end date.
EDF Energy	Yes	For simplicity, the fund should be set up to cover the period up to the end of the current Capacity Market Delivery Year only. A new Modification proposal could be raised to cover the Delivery Year 2019/20 in the case that it becomes clear that the

Respondent	Response	Rationale
		issue is unlikely to be resolved by the start of October. This would give more certainty in the charge when setting customer prices for 2019/20. However, it would be preferable to have the Fund to be to be set up for as long as possible to provide price cap certainty.
ENGIE Power Limited	No	The fund should be established as a backstop to cover both the current CM delivery year and the 2019/20 delivery year. The ability for the fund to cover the next delivery year gives certainty to investors that both existing and new (such as T-1) CM contracts will be honoured if there is not an early resolution by the European Commission.
EP UK Investments	No	We consider that the fund should be set up to cover both the 2018/19 and 2019/20 Delivery Years. There is a significant risk that a new State Aid approval for the capacity market will not have been received before October 2019 and it would therefore be prudent to ensure that arrangements are in place to allow the ongoing collection of the CM Supplier Interim Charge until State Aid approval is received. This would also remove any uncertainty about the requirement for suppliers to make ongoing payments when, for example, Ofgem sets price caps and prevent the need for a further modification process (with associated resource requirements) to extend the CM Supplier Interim Charge later this year.
ESB	No	Given the uncertainty over when the European Commission will make a decision on State Aid approval for the Capacity Market, and recollection by the ESC is not guaranteed, ESB believes that there should be provision to allow for an extension of this date, to account for extended timelines. Industry need clear timelines from BEIS and Ofgem if there is no decision on reinstating the ESC, or the re-approval of the CM, in order to raise a further modification to extend the timelines.
Flexible Generation Group	No View	As CM providers we fully support BEIS' policy aim to reinstate the CM and back-pay the companies, like ours, who have complied with their agreements, despite not being paid. At the point such payments need to be made it will be less distortionary and disruptive to the market if the suppliers have continued collecting money from customers in preparation.

Respondent	Response	Rationale
		What is vital to Suppliers is to be able to point at something (BSC or ESC) which will allow them to collect the money from customers and facilitate safe storage of that money until it is required. For CMU owners, and their investors, it is vital that they can see that the funds are being built up to repay them once the Commission has given state aid approval to the CM. We recognise that this proposal is moving in parallel to BEIS' own consultation of allowing the ESC to restart CM payment collections. We would prefer the ESC route as they can then do the full reconciliations to keep the saved pot as correct as possible. However, if the ESC route cannot be achieved, or can only be achieved later than the BSC route, then this modification allows some pragmatic planning.
Flexitricity Limited	No	The fund should also cover the 2019/2020 delivery year as well as the 2018/19 delivery year because the 2018/19 year will be over soon, and it would mean we can avoid going through this process again if a decision has not yet been reached by the middle of this year. As long as appropriate provisions are in place that if a decision is made on the Capacity Market the process set out in this consultation will end. This will also offer some assurances and stability for the wider market. If the solution is extended to 2019/20, it should be looked at whether suppliers who entered the market after Summer 2018, and therefore did not have a schedule of CM payments should have their contribution estimated in some other way.
Green Network Energy	No	It should cover the delivery year 2019/20 too as this will ensure that there is enough time for the legislation to come into place. It allows greater certainty on our future costs and can be removed when the necessary changes that allow the CM to function occur.
InterGen	No	The suspension of the CM has serious consequences including: loss of security of supply; investor flight and job losses. Beyond the direct financial implications, the CM suspension is negatively impacting the GB energy market through increased uncertainty. As such, we would encourage ELEXON to set up the fund to cover, if needed, both the current and the 2019/20 deliver year to provide the market with a longer term outlook.

Respondent	Response	Rationale
National Grid Electricity System Operator	No view	Maintaining a framework that collects CM funds will give confidence to investors that these will be available following the reinstatement of the CM. This will also allow Suppliers to continue paying into a central mechanism removing the need for any immediate repayments to consumers as well as supporting the continued inclusion of the CM cost recovery amounts within the Supplier default tariff price cap.
Npower Group Limited	Yes	In the scenario where ESC charging is not resumed imminently, we recognise the reasoning for introducing charging under the BSC. However, the Fund should be set up to cover the Current CM Delivery Year only. The Fund under the BSC should be viewed as a temporary, short term solution and it is not appropriate to extend this into the 2019/20 Delivery Year. The time value of money prevents this from being a process that should be used for anything longer than a few months, and the cost of capital issue means that it is not a sustainable solution for both Suppliers and Generators.
RWE Supply & Trading GmbH	Other	The fund should be set up to cover the end of the current delivery year (as drafted) and include the option for a review by the Panel during the current delivery year to determine whether a fund should be established for delivery year 2019/20.
ScottishPower	No	We see no harm in implementing it to cover the period 2019/20 as well. It will either come to an end based on a decision by the Government to reintroduce the CM, or there will be a clear signal that it should be revoked.
SmartestEnergy	No	Ideally, neither. However, if this proposal is to be implemented it might as well cover the eventuality of a further delayed decision to implement the ESC process.
SSE PLC	Yes	As the fund is intended to operate purely on an interim basis, it should be set up to cover the minimum period expected for a decision upon reinstatement (and retrospective application) of the Capacity Market to be reached. SSE therefore support the current drafting. A further Modification can be brought forward to extend the scheme should it be deemed necessary in future months
TOTO Energy Limited	Yes	The Fund should be seen only as in interim solution for 2018/19. If ESC does not signal intention to collect payments for 2019/20 by August/September

Respondent	Response	Rationale
		2019 then the fund can be extended in time to begin collecting 2019/20 payments in October 2019.
Triton Power Limited	No	The Fund should cover the realistic timescale until a formal decision is made by the European Commission as to the reinstatement of State Aid approval. This is expected to be within the current CM Delivery Year however any delays could easily push the timescales into the next Delivery Year so the period of cover for the Fund should allow for that possibility and include the 2019/20 Delivery Year.
UK Power Reserve	Yes	Current indications suggest that conclusions on the Capacity Market suspension should be drawn by August 2019. Therefore, September 2019 – covering the period up to the end of the current CM Delivery Year – acts as a suitable duration for the fund to be maintained for.
Uniper UK Limited	No	Ideally these arrangements should be implemented in respect of both delivery years if necessary as there is the possibility that the State Aid approval process could run into 2019/20 delivery year. However, if it were to only cover the 2018/19 delivery year, it would still be better than the baseline if no payments were being recovered through a different route. The present drafting appears to facilitate an extension into 2019/20 if the conditions in 1.3.2 are met.
Utilita Energy	No	Whilst the European Court of Justice decision on the Capacity Market remains in place and the BEIS Standstill period is in operation, the collection of Supplier payments relating to a scheme which does not comply entirely with EU law is wholly without merit.

Question 2: Do you agree that for reasons of simplicity, charges are based on the existing schedule of CM payments (the Regulation 27(1)(c) Notice) and will not be varied whether for reconciliation purposes or because of changes to customers numbers or volumes, or for supplier default?

Summary

Yes	No	Neutral/No Comment	Other
19	2	1	0

Responses

Respondent	Response	Rationale
Centrica	Yes	If it is decided to use the BSC route then this proposal seems reasonable.
Drax Group PLC	Yes	For the purpose of this Modification we do not want to add additional layers of complexity which could cause delays to implementation. Any reconciliation can be done by ESC after funds are released and shouldn't be a matter for the BSC.
E.ON Energy Solutions	Yes	Agree to keep this original Modification simple. Should a second year be required then reconciliation should be included in the Modification to ensure fair and equitable payment.
EDF Energy	Yes	We agree that this would be the simplest and most practical approach as all suppliers will already have received the CM payment notice for the 2018/19 Delivery Year. It should be sufficient to protect against significant mutualisation costs building up and give the market certainty around the charge.
ENGIE Power Limited	Yes	Yes, we agree that the existing schedule should be used for simplicity.
EP UK Investments	Yes	We agree that this is the simplest approach and will therefore make it easier to establish and administer the CM Supplier Interim Levy. We assume that reconciliation will be carried out by ESC once the standstill period has ended.
ESB	Yes	ESB supports the principle of simplicity guiding the workgroup on this Modification.
Flexible Generation Group	Yes	No solution is ideal given the situation in which the GB market finds itself. However, the Modification will facilitate at least some forward planning and the use of the existing schedule makes the proposal simple and efficient to implement. The Suppliers

Respondent	Response	Rationale
		themselves will know what they should be paying, so they can plan around these numbers. Collecting some money as soon as possible is important to ensure that any defaulting Suppliers do not create substantial mutualisation at the point the CM is reinstated. This is important to make sure that the "right" customers make the correct contribution throughout the year. We further note that with the 1 April contract round, defaulting Suppliers and customers, there is a substantial risk that reinstating the CM payments at some point in the future, then trying to gather the back payments, will result in the customers being incorrectly billed, not following the policy intent. There is a serious risk that some customers will pay more than they otherwise would have to.
Flexitricity Limited	Yes	This is the most simple and practical approach. The Panel should maybe consider the number of suppliers who have entered the market after summer 2018, and if the number is significant whether they need to have a schedule created because they currently will not have one.
Green Network Energy	Yes	None Provided
InterGen	Yes	Since time is of the essence, where possible, complexities should be minimised and existing processes and routes utilised.
National Grid Electricity System Operator	No View	None Provided
Npower Group Limited	Yes	We agree on the basis of simplicity, and that operational risk is minimised with the proposed approach. However, we wish to highlight the risk to Suppliers who need to accrue for reconciliation and mutualisation of charges, without knowing when/if charging under the ESC will be reinstated. The charges in the existing schedule of CM payments were calculated at a point prior to now known significant supplier defaults.
RWE Supply & Trading GmbH	Yes	The use of the existing payment schedule will ensure that the payments under the BSC are fully aligned with the expected payments under the capacity market.

Respondent	Response	Rationale
ScottishPower	Yes	The proposed approach strikes the right balance between the implementation of a straightforward solution and the comfort required by industry that the majority of the payments will be available in the event the CM is reinstated.
SmartestEnergy	No	If this is to be done it should be done properly.
SSE PLC	Yes	SSE's preference is for the ESC CM Supplier Charges to be reinstated, thus avoiding the need for this Modification, as this best utilises all the existing administrative and systems support infrastructure already in place. Notwithstanding this, SSE agree that the proposed BSC charge is not intended to, nor should it, fully mirror the current set of payment Regulations set out in support of the Capacity Market. A simple charging mechanism is necessary therefore to ensure that it can be implemented quickly and to minimise additional administration costs.
TOTO Energy Limited	No	The existing schedule of CM payments are based on forecasts provided by suppliers back in May 2018 and may not be reflective of Supplier's actual liability for CM payments. Suppliers who have grown faster than forecast, or new Suppliers that did not provide a forecast, may still be faced with a substantial bill when actual charge is calculated and there is still a risk of these Suppliers defaulting when these payments fall due. In addition, prudent suppliers who provided accurate or high forecasts will be disadvantaged compared to those who have under forecast and/or had high growth. In-line with the original methodology for CM Payments there must be an update to payments to account for actual peak supply volumes rather than relying on historic Supplier forecasts.
Triton Power Limited	Yes	The scheme should be kept as simple as possible, reflecting existing schedules and mechanisms wherever possible, to ensure it is easily understood by suppliers and customers.
UK Power Reserve	Yes	UKPR are firmly of the view that Supplier payments should be restarted and collected as soon as possible in order to ensure that any defaulting suppliers do not create substantial mutualisation at the point CM is reinstated. The proposed Modification allows for some forward planning to be made – with the use of the existing CM payment schedule acting as an efficient method of

Respondent	Response	Rationale
		administering charges – and should provide additional assurance and clarity to both Suppliers and Generators.
Uniper UK Limited	Yes	The arrangements should be kept simple as the mechanism effectively is an enforced saving scheme to allow suppliers to meet obligations due under the CM Supplier Payment Regulations. It does not alter those obligations or the sums liable under the regulations in due course.
Utilita Energy	Yes	If this Modification is to be approved by the Panel then this approach would seem to be appropriate. However, Utilita reject the Modification as it supports a process which has been forced to cease operating as the ECJ deemed it against EU law.

Question 3: Is it appropriate to include monthly amounts for all months since and including January 2019 in the first invoice?

Summary

Yes	No	Neutral/No Comment	Other
17	4	1	0

Responses

Respondent	Response	Rationale
Centrica	No	We think it would be more reasonable to spread the payments evenly over the remaining months dependant on when the scheme is implemented.
Drax Group PLC	Yes	We support the proposed payment schedule which recovers missed retrospective payments in a manageable but timely fashion.
E.ON Energy Solutions	Yes	This limits the exposure of outstanding payments.
EDF Energy	Yes	We believe that this is an appropriate payment profile to ensure that the CM Supplier Charges are collected as quickly as possible so to reduce the risk of large invoices building up.
ENGIE Power Limited	Yes	Yes, we agree the first invoice should include these periods. This approach minimises the risk of missing money in the CM fund.
EP UK Investments	Yes	We consider that the payment profile set out in the consultation strikes the correct balance between smoothing the profile of collection from Suppliers and providing generators with confidence that sufficient monies are being collected upfront to make deferred capacity payments in full as soon as State Aid approval is received. Suppliers had been expecting to make ongoing monthly payments in respect of the capacity market and therefore collecting monies for all months since January 2019 should not present an additional burden to them.
ESB	No Comment	None Provided
Flexible Generation Group	Yes	By raising this change as an urgent Modification in December, the Suppliers have had fair warning that this is coming and would have been able to use the proposal to either collect money from their customers and safely save it ready for repayment, or to have flagged to their customers that they could relatively quickly face a back bill for the CM.

Respondent	Response	Rationale
		While energy companies often have policy changes impacting them out of the blue (for example the removal of LECs) the proposers of this change have righty tried to flag to all parties what may happen if the proposal is approved. Ofgem will rightly have concerns about retrospective changes. However, this is not retrospective in the normal sense as the whole market has been aware of the BEIS policy to get the CM reinstated and back-payments made for some months. No one knows when the CM will restart, but the prudent Suppliers and customers will have been trying to plan. Combined with the Modification being raised in December, referring to payments from January, it has provided a firm proposal to Suppliers to restart levy collection. We note that BEIS has proposed that if the ESC is reinstated they may ask for ALL missing money in one go. We believe that the BSC modification has a more sensible profile for collecting back payments in order to try and limit any negative shock in the retail power market for both suppliers and customers.
Flexitricity Limited	Yes	Suppliers should be able to recover these payments, or were already recovering them, so this should be an easy process.
Green Network Energy	No	We understand that the proposed payment profile has been designed to avoid Suppliers being given a substantial shock bill whilst also ensuring that missing funds are quickly recovered. Our view is that the current profile will recover 8 months of payments over a 3 month period and a more appropriate profile would be to recover the amounts instead over a 5 month period. This could be done by recovery of 2 months of payments each month starting from March. So in March payments for January and March would be made. In April payments for April and February would be made. In May payments for May and October (18) would be made. In June payments for June and November (18) would be made and finally in July payments for July and December (18) would be made. This would ensure a smooth level of payments of 2 months per month over a 5 month period rather than over a 3 month period.
InterGen	Yes	Assuming that collection will restart within the next month or so, this seems like a rational approach.

Respondent	Response	Rationale
National Grid Electricity System Operator	Yes	We expect that participants would have anticipated that a requirement to carry on collecting these funds would be implemented.
Npower Group Limited	Yes	The proposed invoicing profile is pragmatic, working on the basis of simplicity.
RWE Supply & Trading GbmH	Yes	In order the manage cash flows it is essential that provisions are put in place as soon as practicable. Since the issue was raised prior in December 2018, it would seem appropriate to commence the scheme from January 2019.
ScottishPower	Yes	Yes, the prudent approach is to include these accrued months. Accordingly, the funds will be available to pay for the missed months.
SmartestEnergy	No	For cash flow purposes we would suggest that two months' payments are collected each month after the proposal has been approved until the system has caught up.
SSE PLC	Yes	The aim of the fund is to provide assurance that sufficient monies will have been collected to cover future liabilities, should State Aid approvals be achieved and CM payments to Capacity Providers be reinstated retrospectively; and avoid potential future price shocks to Suppliers and consumers. It therefore seems appropriate to recover shortfalls as quickly as is reasonable to deliver the required assurance.
TOTO Energy Limited	No	For simplicity, Supplier's overall liability should be recovered over the number of remaining invoice months.
Triton Power Limited	Yes	Suppliers have had notice of the intention to reinstate collection of the Supplier Charge since December 2018 therefore should have been accruing the monies in preparedness for the first invoice to include all months since and including January 2019.
UK Power Reserve	Yes	It is important that all relevant payments are collected in a simple and practicable manner. UKPR believes that the proposed invoicing schedule achieves this.
Uniper UK Limited	Yes	It recovers the expected liability in a reasonable timescale. In most cases suppliers will have recovered these costs already from customers, through tariffs set in the expectation that these

Respondent	Response	Rationale
		costs would be incurred.
Utilita Energy	Yes	If this Modification is to be approved by the Panel then this approach would seem to be appropriate. However, Utilita reject the Modification as it supports a process which has been forced to cease operating as the ECJ deemed it against EU law.

Question 4: Is the profile of payments outlined above (i.e. where the 'missing months' of October to December 2018 are recovered over the second and third invoices) appropriate?

Summary

Yes	No	Neutral/No Comment	Other
16	5	1	0

Responses

Respondent	Response	Rationale
Centrica	No	See response to Q3
Drax Group PLC	Yes	We strongly support recovering missed payments from October to December 2018. The proposed payment schedule will recover missed retrospective payments in a manageable but timely fashion.
E.ON Energy Solutions	Yes	None provided.
EDF Energy	Yes	We believe that this seems to provide a reasonable balance between the collecting the money as soon as possible and not hitting Suppliers with significant charges in one go. It also gives Suppliers good notice of these charges. However, it should be noted if P378 is implemented Suppliers that have still have monies lodged with the Electricity Settlements Company (ESC) for October and November 2018 will need to claim this back from ESC.
ENGIE Power Limited	Yes	Yes, we agree that the CM levy should be collected as soon as possible from suppliers and that the proposed timeline is reasonable. This approach minimises the risk of missing money in the CM fund.
ESB	No Comment	None Provided
EU UK Investments	Yes	We consider that the payment profile set out in the consultation strikes the correct balance between smoothing the profile of collection from Suppliers and providing generators with confidence that sufficient monies are being collected upfront to make deferred capacity payments in full as soon as State Aid approval is received.
Flexible Generation Group	Yes	As noted above, we believe that the Modification tries to strike a balance between retrieving the missing money quickly and limiting the impact of a negative price shock.

Respondent	Response	Rationale
Flexitricity Limited	No	The approach outlined in Question 3 is more appropriate because it is simpler. [i.e. all payments covering the period from October 2018 should be collected in the first invoice]
Green Network Energy	No	See explanation provided in Question 3
Intergen	Yes	We support this proposal since it will spread the missed payments over a longer period and will be transparent for Suppliers.
National Grid Electricity System Operator	Yes	This appears to strike a balance between ensuring cost recovery and allowing time for Suppliers to contribute these amounts to the fund.
Npower Group Limited	Yes	The proposed invoicing profile is appropriate for collection under the BSC.
RWE Supply & Trading GmbH	Yes	The proposal will ensure that suppliers can appropriately manage the cash flows.
ScottishPower	Yes	Yes, the prudent approach is to cover all accrued months and we support the proposed collection profiling. Accordingly, the funds will be available to pay for the missed months.
SmartestEnergy	No	These months should be collected over the first and second months after implementation, then January over the third and so on until the system has caught up.
SSE PLC	Yes	See Question 3.
TOTO Energy Limited	No	For simplicity, Supplier's overall liability should be recovered over the number of remaining invoice months.
Triton Power Limited	Yes	The missing money should be recovered in expedient manner and this approach seems reasonable. However, we would not wish to see any suppliers fail as a result of this creating undue stress on any supplier therefore the responses and alternative suggestions from suppliers should be considered.
UK Power Reserve	Yes	No further comment.
Uniper UK Limited	Yes	For similar reasons given in response to question 3.
Utilita Energy	Yes	If this Modification is to be approved by the Panel then this approach would seem to be appropriate. However, Utilita reject the Modification as it supports a process which has been forced to cease

Respondent	Response	Rationale
		operating as the ECJ deemed it against EU law.

Question 5: What is the commercial impact of the proposed collection profile, as outlined above, on your business?

Summary

Yes	No	Neutral/No Comment	Other
0	0	20	2

Responses

Respondent	Response	Rationale
Centrica	-	As a prudent supplier we will continue to collect CM payments from our customers in readiness for the reinstatement of the scheme.
Drax Group PLC	N/A	We have not identified any major commercial impact as a result of the proposed collection profile.
E.ON	***CONFIDENTIAL RESPONSE***	***CONFIDENTIAL RESPONSE***
EDF Energy	-	We will need to ensure that we recover the October and November 2018 monies from the ESC.
ENGIE Power Limited	None	No Impact anticipated.
EP UK Investments	-	EPUKI is not a supplier and so the proposed collection profile would not directly affect us. However, as a generator that holds capacity agreements for the 2018/19 and 2019/20 Delivery Years, we consider that the upfront collection of missed payments and the ongoing monthly collection of the Supplier charge provide increased confidence for Generators, financiers and investors that all monies will be available to make deferred capacity payments in full as soon as State Aid approval is received for the capacity market.
ESB	No Comment	None Provided
Flexible Generation Group	None	The commercial impact on CM providers is already taking a grip as we are not in receipt of the income our businesses were expecting. In reaching a decision on this modification Ofgem needs to be mindful, not just of the impacts on Suppliers and customers, but also on the message it sends to CMU providers and their investors.
Flexitricity Limited	None	Flexitricity began trading as a supplier after summer 2018, so as the collection methodology is currently

Respondent	Response	Rationale
		written there will be no obligation.
Green Network Energy	-	See explanation provided in Question 3
Intergen	N/A	Any certainty of payments being collected will have a positive impact on InterGen.
National Grid Electricity System Operator	N/A	None Provided
Npower Group Limited	-	Our commercials are based on the assumption of paying all ESC charges (eventually) and receiving all ESC costs through supply contracts. Although difficult, we have worked closely with our I&C customer base to keep them informed of developments and would need to consider how any profiling was communicated to customers, who have indicated a desire to align customer billing with supplier charges.
RWE Supply & Trading GmbH	-	We do not envisage any direct impacts on our business. However, the proposal will ensure that appropriate provisions are made by suppliers to manage cash flows in the event that the existing Capacity Market receives State Aid approval by the European Commission**.**
ScottishPower	None	We are operating on the basis that the charges will be made and will eventually be paid to generators.
Smartest Energy	-	The first bill could be extremely high.
SSE PLC	***CONFIDENTIAL RESPONSE***	***CONFIDENTIAL RESPONSE***
TOTO Energy Limited	-	None Provided
Triton Power Limited	-	As a generator, the collection of Supplier Charge provides confidence that the monies will be available to ESC to pay once State Aid approval is reinstated. The impact of the collection profile is for suppliers to respond to.
UK Power Reserve	-	As we do not pay supplier payments, the impact is limited. However, UKPR reiterates the importance in maintaining the payment arrangements, both for Suppliers making payments as well as capacity providers who receive payments in the event the Capacity Market is reinstated.

Respondent	Response	Rationale
Uniper UK Limited	-	We would not experience a direct impact as we do not pay the supplier charge. However, as a capacity provider it is important that we have assurance that missing payments will be recovered and this seeks to provide this to some extent, whilst not requiring a very large one off payment straight away on implementation. Therefore, it is a compromise between the effects on suppliers and capacity providers.
Utilita Energy	-	There is a cost to placing capital into this process – it will result in suppliers incurring expense to fund capital for a BEIS process which is non-compliant with EU law. Utilita accept that if the ECJ ruling is quashed and the CM processes reinstated then retrospective payments may be due for the standstill period. However, Suppliers should not be financially disadvantaged for a process which they are not responsible for operating or making compliant with EU law.

Question 6: This proposal does not facilitate Suppliers who may want to make additional or ad hoc payments into this fund. Would you want the ability to pay more to plan for what you believe may be their financial exposure in the future?

Summary

Yes	No	Neutral/No Comment	Other
5	10	7	0

Responses

Respondent	Response	Rationale
Centrica	No	Suppliers are able to make their own arrangements if they believe additional payments are required
Drax Group PLC	No	This is not necessary and could add an additional complication. Suppliers can manage their own finances appropriately if they believe additional money needs to placed aside.
E.ON Energy Solutions	No	The need to have this scheme implemented ASAP leaves us to recommend the simpler it is to implement the better.
EDF Energy	Yes	We do not believe that Suppliers who may want to make additional or ad hoc payments into this fund should be prevented from doing so. However, this may add complexity as there may be additional work for ELEXON to monitor and record these transactions. Therefore, if it proves to be too challenging to implement quickly then it may not be appropriate to pursue at this stage.
ENGIE Power Limited	Yes	Yes, suppliers should have the ability to forward pay should they wish however this is a nice to have rather than an absolute necessity for the scheme.
EP UK Investments	-	None Provided
ESB	No Comment	None Provided
Flexible Generation Group	Yes	FGG supports Suppliers having this flexibility to account for growing portfolios. We note that once the CM is reinstated the ESC will have to do a full reconciliation of the actual monies each Supplier should have paid, so any over-payments by a single Supplier will simply be them trying to sensibly plan for the future given what they will know about their own CM liabilities. That said, it seems unlikely to us that a Supplier

Respondent	Response	Rationale
		would want to do this, so the complexity may not be worth it if there are no demand for it.
Flexitricity Limited	Yes	As written, Suppliers who entered the market after Summer 2018 have no obligation because they have no schedule for the 2018/19 delivery year. The easiest way to integrate these Suppliers into the process, especially if it were to continue into the 2019/20 delivery year would be to allow them to make may additional payments to cover their payments.
Green Network Energy	Yes	This gives Suppliers the option to fund and spread the cost of their exposure to future costs. There needs to be in place mechanisms for suppliers to receive funds back in the event that they have overestimated the future cost.
InterGen	N/A	N/A
National Grid Electricity System Operator	N/A	None Provided
Npower Group Limited	No	We do not think this extra complexity is required.
RWE Supply & Trading GmbH	No	The fund should be used to manage the cash flow requirements that are directly related to the CM payment schedule.
ScottishPower	No	If we want to accrue additional funds (eg to mitigate the risks of mutualisation or change in market share), then we can do that internally.
SmartestEnergy	No	We would not want this. We are not against it being available to others but it will entail further admin.
SSE PLC	No	This seems unnecessary and will add additional complexity to a process that needs to be kept simple. For its part, SSE is happy to apply prudent accounting principles and accrue for additional liabilities that it deems may not be met in full by the funds collected.
TOTO Energy Limited	No	The Fund should better reflect Suppliers actual financial exposure through the use of actual settlement data rather than payments based on historic supplier forecasts.
Triton Power Limited	N/A	This is not applicable to Triton Power Ltd.
UK Power Reserve	N/A	None Provided

Respondent	Response	Rationale
Uniper UK Limited	N/A	As we do not make payments this is not something we would comment on.
Utilita Energy	No	If this Modification is to be approved by the Panel then this approach would seem to be appropriate. However, Utilita reject the Modification as it supports a process which has been forced to cease operating as the ECJ deemed it against EU law.

Question 7: Do you agree that the use of Section H Default is appropriate to mitigate the risk of non-payment?

Summary

Yes	No	Neutral/No Comment	Other
18	4	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	We agree that the existing BSC Default arrangements are appropriate to mitigate the risks of non-payment
Drax Group PLC	Yes	We think the Section H Default process should be appropriate but further clarity is required on exactly how it will be applicable when suppliers default on this particular charge.
E.ON Energy Solutions	Yes	The Section H process will provide assurance that any missing payments will be limited as the process will ensure the financial exposure is captured within a short timescale.
EDF Energy	Yes	We believe that the use of Section H Default is appropriate; if suppliers do not pay this charge and are subject to the Section H Default they will be unable to participate in the energy market. We believe that this is enough incentive to make these payments.
ENGIE Power Limited	No	Recent history has shown that default under the BSC is not a deterrent to manage non-payment risk. It would be prudent to ensure that credit requirements are robust to minimise the mutualisation impacts on other suppliers should another supplier fail to pay.
EP UK Investments	Yes	We consider that the usual BSC provisions are sufficient to mitigate the risk of non-payment on the understanding that any outstanding non-payment would be dealt with by ESC once the capacity market standstill is over.
ESB	Yes	ESB agrees that there should be some process in place to ensure that there is sufficient incentive for suppliers to continue to make CM payments. Particularly as this Modification is not advocating mutualisation or credit cover, using Section H Default as a way to incentivise suppliers to collect CM charges, is sensible. ESB believes that if some

Respondent	Response	Rationale
		Suppliers were not incentivised to pay into the fund and others were, there would be a distortion in the market.
Flexible Generation Group	Yes	This seems like a pragmatic solution.
Flexitricity Limited	Yes	As Suppliers are all BSC parties this should be appropriate.
Green Network Energy Limited	Yes	None Provided
InterGen	Yes	Utilising the existing default process is a sensible proposal.
National Grid Electricity System Operator	Yes	It is an appropriate mechanism that enables consequences as a result of non-payment.
Npower Group Limited	No	We do not believe that a standard BSC Section H Default is an appropriate sanction for non-payment. Our view is that a supplier's ability to register meters should be suspended for the entirety of periods of non-payment.
RWE Supply & Trading GmbH	Yes	The existing BSC processes should be used in the event of non-payment.
ScottishPower	Yes	Section H could be appropriate to mitigate the risk of non-payment subject to amendments to Paragraph 3 which: (a) capture non-payment of CM Supplier Interim Charge (CMSIC) as an 'Event of Default', and (b) establish the liability of a Defaulting Party for all payments in respect of CMSIC, for example in paragraph 3.2.3.
SmartestEnergy	No	We object to this because the collection of the CM Obligation has nothing to do with the BSC. Sanctions should therefore not affect a Party's BSC activities.
SSE PLC	Yes	As the fund will not operate a reconciliation, credit nor mutualisation process, it is appropriate that any non-payment by a Supplier is dealt with swiftly and effectively to minimise potential shortfalls upon release of funds to ESC when and if required. SSE would expect any resolutions of the Panel required to remedy Section H default in these specific set of circumstances to be effective and able to be applied quickly (with the support of the

Respondent	Response	Rationale
		Authority where required). The Panel should be sure that this is the case, given the absence of interim credit arrangements.
TOTO Energy Limited	Yes	None Provided
Triton Power Limited	Yes	The scheme should use existing mechanisms wherever possible.
UK Power Reserve	Yes	Section H Default acts as a suitable set of criteria and we envisage will reduce the risk of non-payment.
Uniper UK Limited	Yes	Ideally we would want similar credit arrangements as exist in the Supplier Payment Regulations and CM Rules. However, we understand that there are practical reasons not to do so if this arrangement is to be implemented in a timely manner.
Utilita Energy	No	Utilita do not agree that suppliers should be penalised should they not submit capital for the supplier payments during the Standstill period, as to continue to collect supplier payments for a scheme which does not comply entirely with EU law is wholly without merit.

Question 8: Is the long stop date for repayments of the Fund to Suppliers set at the right point in time?

Summary

Yes	No	Neutral/No Comment	Other
17	3	2	0

Responses

Respondent	Response	Rationale
Centrica	Yes	Yes this seems reasonable.
Drax Group PLC	No	As currently drafted, we are not convinced the long stop date (September 2020) is appropriate, we think it's sensible to align the long stop date and the date that this Modification stops collecting payments from suppliers. Should the scheme be amended to collect for the 19/20 year also, the long stop date would be more appropriate.
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	We believe that the long stop date of 30 September 2020 for repayments of the Fund to Suppliers is appropriate.
ENGIE Power Limited	Yes	None Provided
EP UK Investments	Yes	We agree that a longstop date of 30 September 2020 is appropriate. The CM Supplier Interim Levy is intended to be an interim measure to be applied during the capacity market standstill period, which we expect to be resolved within two years.
ESB	Yes	ESB agrees that there should be a stop date for repayments of the Fund to suppliers.
Flexible Generation Group	Yes	Again we believe that this is a pragmatic solution. We expect the Panel to act sensibly and the money could not be transferred until the ESC can receive it. We note it is for the ESC to then run a full reconciliation.
Flexitricity Limited	Yes	After September 2020 it is unlikely that a decision will not have been made.
Green Network Energy	Yes	Having the longstop seems like a reasonable approach to take.
InterGen	No	We believe that a long stop date of September 2021

Respondent	Response	Rationale
		will provide the market with more certainty in the case that the reinstatement of the CM is delayed. We also believe that a provision allowing for the long stop date to be pushed back in the case that CM implementation is still ongoing.
National Grid Electricity System Operator	No View	None Provided
Npower Group Limited	Yes	The long stop date of September 2020 is appropriate. The time/value of money problem associated to this solution could grow to an unmanageable level if moved to a later date.
RWE Supply & Trading GmbH	Yes	It is appropriate to include a long stop date and the end of September 2020 would seem appropriate.
ScottishPower	Yes	Yes, 30 September 2020 should be included in the solution as a backstop (see also our response to question 1). At this time, if no other triggers have been invoked, then the money should be returned to Suppliers.
SmartestEnergy	No	We do not see the point of this longstop date being at the end of a summer. It might as well be at the end of the previous winter.
SSE PLC	Yes	SSE agree that 30 September 2020 is an appropriate backstop date by which to repay Suppliers, should none of the triggers set out in the solution be invoked.
TOTO Energy Limited	Yes	None Provided
Triton Power Limited	N?A	This is not applicable to Triton Power Ltd.
UK Power Reserve	Yes	The use of 30 September 2020 as the long stop date for repayments seems suitable in the context of the European Commission investigation.
Uniper UK Limited	Yes	On balance we agree. We believe that there is the potential for the State Aid process to extend out beyond this point and so there is the risk that money is paid back to suppliers prior to a positive decision being reached. However, it will have largely achieved its purpose and if such an eventuality were to arise, then other arrangements could be looked into, including a new Modification.
Utilita Energy	Yes	None Provided

Question 9: Are there any other triggers that are not covered adequately by the above cases?

Summary

Yes	No	Neutral/No Comment	Other
1	16	5	0

Responses

Respondent	Response	Rationale
Centrica	No	No we have not identified any other triggers that are not covered
Drax Group PLC	Yes	It would be prudent to align the triggers in this Modification with the wording BEIS used in their December consultation, this would mitigate the risk of charging Suppliers twice (through ELEXON and ESC) in the event that the BEIS trigger (Domestic law trigger) is activated, but the BSC one isn't. We believe trigger one should be split into two separate triggers and reworded as follows: 1. Domestic law trigger signalling the end of the standstill period has occurred 2. Domestic law trigger signalling the end of the standstill period has not occurred but the ESC issues invoices to any Supplier or Suppliers for amounts payable by way of capacity market supplier charges
E.ON Energy Solutions	No	None Provided
EDF Energy	No	N/A
ENGIE Power Limited	No	None Provided
EP UK Investments	No	None Provided
ESB	No Comment	None Provided
Flexible Generation Group	No	We suspect that drafting any other triggers would not be as robust as the proposal as it stands.
Flexitricity Limited	No	The triggers seem appropriate.
Green Network Energy	No	None Provided
InterGen	N/A	N/A

Respondent	Response	Rationale
National Grid Electricity System Operator	No View	None Provided
Npower Group Limited	No	N/A
RWE Supply & Trading GmbH	No	At this stage we do not believe there are any other triggers that could be included in the proposed arrangements.
ScottishPower	No	None Provided
SmartestEnergy	-	No comment
SSE PLC	No	SSE believes that the triggers outlined in the solution are appropriate.
TOTO Energy Limited	No	None Provided
Triton Power Limited	No	We believe the triggers are adequately covered.
UK Power Reserve	N/A	None Provided
Uniper UK Limited	No	Not that we are aware of.
Utilita Energy	No	None Provided

Question 10: Is it possible to require Suppliers to return any collected payments to its customers in the event that the CM suspension is upheld or the long stop date reached, and is the inclusion of a BSC obligation the best way to achieve this? If so how would ELEXON be able to determine whether such an obligation has been fulfilled?

Summary

Yes	No	Neutral/No Comment	Other
0	22	0	0

Responses

Respondent	Response	Rationale
Centrica	No	We do not believe it is appropriate for the BSC to place obligations on Suppliers for the return of any collected payments to customers in the event that the CM suspension is upheld or the long stop date reached. This will be a commercial matter for Suppliers following guidance from government and the regulatory bodies.
Drax Group PLC	No	This is not a matter for the BSC and should be in the detail of contractual arrangements between suppliers and customers.
E.ON Energy Solutions	No	There would be a requirement for the Supplier to return funds to the end consumer which we would fully support however we don't feel the BSC obligation would be the best method for this. The BSC Modification is to facilitate the collection of the funds not to manage Supplier processes.
EDF Energy	No	We do not believe that it is possible to include a BSC obligation to require Suppliers to return any collected payments to its customers in the event that the CM suspension is up-held, or the long stop date reached. In addition, from a practical perspective Suppliers would need to invest in systems/ manpower to monitor customers that have changed Suppliers as well as analyse and determine which customers are affected by CM suspension. Further consideration is needed to ascertain how this obligation could be applied to suppliers that cease to exist or merge.
ENGIE Power Limited	No	No, this matter is outside the remit of ELEXON and is for Ofgem to monitor.

Respondent	Response	Rationale
EP UK Investments	-	We are not clear how this could be guaranteed through the BSC. It may be more appropriate for Ofgem to ensure that any unused sums are returned to customers.
ESB	No	ESB believes that it is not right to include this obligation in the BSC.
Flexible Generation Group	No	It is not for the BSC to interfere in the commercial relationships between parties outside the scope of the BSC itself. If there were to be obligations on Suppliers about how they treat their customers then that must be done via licences or legislation (as other obligations on Suppliers are). Even if there was some drafting in the BSC, there is no way for ELEXON to enforce the obligation as they will not know what Suppliers/customers have done, by agreement or contract. For example it may be that the Supplier agrees to reduce the customers' bill for say a year rather than make a lump sum repayment, and that may be something the customer prefers. Ofgem should be more concerned at the current time about how they will ensure the Suppliers will get the right money from the right customers if the repayment of CM providers does not occur until say September. In the meantime many customers will have changed Suppliers (notably I&C customers in the April contract round), possibly more than once, and the Supplier who was the Supplier in October may have no means to recoup the cost from the customer who owed them CM payments from that month. Getting money back to customers looks a lot less of a problem than collecting from the right customers. FGG understands that Ofgem may have concerns about getting money back to customers in the event that either the ESC or the BSC has to pay lump sums back to Suppliers, but they have the power to require the Suppliers to act by virtue of the licencing regime. The laws around licencing also have a more proportionate regime of sanctions for non-compliance, including the ability to force Suppliers to pay money to their customers. The BSC simply does not have these powers or sanctions, so is not an appropriate place to try and manage the relationship between Suppliers and their customers.
Flexitricity Limited	No	This issue feels like it should be resolved by Ofgem not by the BSC as it is about protecting consumer

Respondent	Response	Rationale
		interests, not the functioning of the settlement process.
Green Network Energy	-	While it is right that customers receive any amounts that they overpaid, this will need to be evaluated carefully at the time closer to when it occurs. It is very likely that in the absence of a Capacity Market, balancing would have been achieved through others means which would represent additional costs for Suppliers. There will also need to be an evaluation of how to return the charge to customers. Many customers by this point would have switched away which would make tracing these customers and issuing refunds a costly process.
InterGen	N/A	N/A
National Grid Electricity System Operator	-	Requirements on Suppliers would need to be managed elsewhere to the BSC. Any requirement on Suppliers to return money to consumers should be driven through the Supplier Licence.
Npower Group Limited	No	Whilst the BSC is industry not customer facing and cannot contend with customer issues, it does have an effect on development of the competitive customer market. The development of pass through contracts for industrial and commercial (I&C) customers is to the benefit of customers. Uncertainties in pass through cause problematic uncertainties for customers, and there is uncertainty as to whether supplier costs to be contractually passed through will eventually have no, one or even two (BSC plus ESC) charges.
RWE Supply & Trading GmbH	-	The fund is required to ensure that Suppliers can manage cash flows and avoid the potential for bill shocks associated with the reinstatement of the Capacity Market. It is difficult to mandate the methodology associated with the return of any collected payments in the event that the CM suspension is upheld or the long stop date is reached. We would expect that Suppliers would operate in compliance with the licence obligations. Ofgem should ensure regulatory oversight of the orderly repayment of any funds that are held in the fund.
ScottishPower	Yes and No	The BSC is not the right vehicle to mandate the repatriation of costs to customers. The arrangements by which the funds are returned on

Respondent	Response	Rationale
		an equitable basis should be implemented and enforced by Ofgem.
SmartestEnergy	No	Provisions of this nature are wholly inappropriate. The obligation to pay is on the supplier. How (or indeed whether) this is explicitly passed on to customers is their business.
SSE PLC	No	SSE agree with the Proposer that it is a commercial issue as to how Suppliers choose to refund their customers. The BSC is a wholesale market agreement and does not (nor should it) govern the commercial relationship between Suppliers and their customers. SSE do not believe that it is appropriate nor practical to introduce an obligation into the BSC that sets out how Suppliers should refund their customers were CM Supplier Interim Charges to be returned.
TOTO Energy Limited	No	In relation to domestic customers, this is a matter for OFGEM and will be reflected in the price caps.
Triton Power Limited	Yes	Suppliers should be required to return any collected payments to customers if State Aid approval is not reinstated. We believe Ofgem is the appropriate body to enforce this if and when required.
UK Power Reserve	N/A	None Provided
Uniper UK Limited	No	In practical terms it is difficult to see how this could be enforced. It would appear to more of a regulatory issue to be enforced by Ofgem if necessary.
Utilita Energy	No	This is a matter for Ofgem.

Question 11: Do you agree that funds should be held in an ELEXON bank account rather than on trust or in escrow?

Summary

Yes	No	Neutral/No Comment	Other
21	1	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	Yes we agree that the funds should be held in an Elexon interest bearing bank account.
Drax Group PLC	Yes	This is the least cost option and is the easiest to implement.
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	We believe that the funds should not be held in a consolidated fund, but a ring-fenced account for each supplier.
ENGIE Power Limited	Yes	Given that the fund is most likely to be a temporary measure until the CM Supplier fund itself is re-instated then it is acceptable for the funds to be held in an ELEXON bank account so long as the fund is ring-fenced and subject to industry scrutiny.
EP UK Investments	Yes	We consider that this offers sufficient protection and would be simpler to implement.
ESB	Yes	ESB believes that this is the simplest and quickest solution.
Flexible Generation Group	Yes	This seems sensible and easy. Reading the legal advice there seems to be no benefit in Elexon setting up a new account for this purpose.
Flexitricity Limited	Yes	The reasoning set out by the proposer is sound.
Green Network Energy	Yes	There needs to be legal provisions in place that set out precisely what the account and funds are to be used for.
InterGen	Yes	We agree that the funds should be held in an ELEXON bank account given that this already exists and will be more straightforward compared to the alternatives.
National Grid Electricity System	Yes	None Provided

Respondent	Response	Rationale
Operator		
Npower Group Limited	Yes	The Elexon bank account would provide the most straightforward solution.
RWE Supply & Trading GmbH	Yes	Funds held in the ELEXON bank account would appear to be the simplest administrative solution.
ScottishPower	Yes	The BSC is not the right vehicle to mandate the repatriation of costs to customers. The arrangements by which the funds are returned on an equitable basis should be implemented and enforced by Ofgem.
SmartestEnergy	No	Funds should be held on trust or in escrow. We are talking about millions and millions of pounds here and the directors of ELEXON should not suddenly have the additional responsibility for this.
SSE PLC	Yes	Subject to the current governance and control process applied by ELEXON and its Funds Administration Agent being exercised in full for this charge; and subject to there being no adverse impact upon ELEXON's agreements with Tax Authorities. The account should be ring-fenced and subject to tight control and audit.
TOTO Energy Limited	Yes	None Provided
Triton Power Limited	Yes	Elexon is experienced in holding industry monies and the scheme should use existing mechanisms wherever possible.
UK Power Reserve	Yes	Using the ELEXON account allows greater continuity of payments, as ESC will continue to utilise existing pathways of collection and payment.
Uniper UK Limited	Yes	In order to keep the arrangements simple, this seems appropriate.
Utilita Energy	Yes	If this Modification is to be approved by the Panel then this approach would seem to be appropriate. However, Utilita reject the Modification as it supports a process which has been forced to cease operating as the ECJ deemed it against EU law.

Question 12: Do you agree that interest on the funds should be used by ELEXON to defray BSC costs?

Summary

Yes	No	Neutral/No Comment	Other
17	4	0	1

Responses

Respondent	Response	Rationale
Centrica	No	We believe the interest should be paid to whomever the ultimate recipients of the payments are be it capacity providers or suppliers. We do not believe this will be too complex to calculate.
Drax Group PLC	Only costs of administering the scheme	We believe interest on the funds should firstly be used to defray BSC costs directly attributable to administering the scheme. Then, if there is any excess interest, this should be passed on to Generators or Suppliers: · In the event that the CM is reinstated, any interest should be paid to Generators, this would have been the case if the CM wasn't placed in standstill. · If the scheme isn't reinstated, then the money belongs to the Supplier and interested should be passed back.
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	None Provided
ENGIE Power Limited	Yes	None Provided
EP UK Investments	Yes	This would benefit all BSC parties.
ESB	Yes	This is the simplest and quickest solution. The interest on the funds should cover the costs of implementing this modification as ESB would not like to see additional costs of paying into this fund.
Flexible Generation Group	Yes	This is a pragmatic way to deal with the minimal interest that will arise. The cost of trying to reallocate the interest between the Suppliers will not be worth it. The money can also offset some of the administrative costs which will have to be covered by Elexon in running the fund. Furthermore, the Suppliers will receive an indirect

Respondent	Response	Rationale
		benefit from any reduction in Elexon costs as all Suppliers are BSC parties.
Flexitricity Limited	Yes	This seems fair and reasonable.
Green Network Energy	Yes	ELEXON should be able to reclaim costs and we believe it is the most efficient way of doing so. However, this needs to transparent in terms of the funds held, interest earnt, cost to defray BSC costs and how ELEXON will use any remaining amounts.
InterGen	Yes	This will limit complexity and provides an opportunity to distribute the potential upside across the industry.
National Grid Electricity System Operator	Yes	Although any amounts above BSC costs should be returned to consumers.
Npower Group Limited	Yes	This seems the most pragmatic solution and would support ELEXON's cost to administer the Fund.
RWE Supply & Trading GmbH	Yes	The use of interest by ELEXON to defray costs would ensure that other BSC Parties do not end up footing the bill for these arrangements.
ScottishPower	Yes	Ultimately, the BSC is funded by those for which it holds funds.
SmartestEnergy	No	As previously stated, these arrangements have nothing to do with the BSC. We believe that any interest should be shared amongst generators when payments restart. After all, generators will have had to wait for their money. If payments to generators do not restart the interest should be returned to Suppliers.
SSE PLC	Yes	SSE are comfortable that interest earned on the fund will be used to offset future costs and reduce our BSC Section D liabilities.
TOTO Energy Limited	No	If the fund is based on historic supplier forecasts (which existing schedules of CM payments are) then interest should be paid to Suppliers to avoid penalising Suppliers who have forecast prudently to the benefit of Suppliers who have under-forecast their obligations. Should the Fund better reflect suppliers actual CM obligations through the use of actual Settlement data rather than payments based on historic supplier forecasts then the interest should be passed to ESC to defray CM costs.

Respondent	Response	Rationale
Triton Power Limited	Yes	We believe this is a simple and fair solution.
UK Power Reserve	Yes	This seems a sensible route for using the interested that is accumulated.
Uniper UK Limited	Yes	Interest would not be payable under the ESC arrangements and if no explicit charges are made to cover the cost of operating these arrangements, it seems appropriate that the accrued interest is used to contribute to this.
Utilita Energy	No	Interest should be refunded back to Suppliers. However, Utilita reject the Modification as it supports a process which has been forced to cease operating as the ECJ deemed it against EU law.

Question 13: Do your accounting practices include adequate provisions for the proposed new charge?

Summary

Yes	No	Neutral/No Comment	Other
13	0	9	0

Responses

Respondent	Response	Rationale
Centrica	Yes	Centrica will take prudent steps to ensure that monies continue to be collected from customers relating to CM payments.
Drax Group PLC	Yes	N/A
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	None Provided
ENGIE Power Limited	Yes	None Provided
EP UK Investments	-	No Comment
ESB	No Comment	None Provided
Flexible Generation Group	N/A	As we are not impacted directly by this we have not commented.
Flexitricity Limited	Yes	None Provided
Green Network Energy	Yes	None Provided
InterGen	N/A	N/A
National Grid Electricity System Operator	N/A	None Provided
Npower Group Limited	Yes	We have accrued the charge as a liability (see question 5). It will be necessary to use an internal accrual mechanism to cater for the lack of reconciliation, mutualisation and credit cover under the BSC Fund. There is a high risk associated to this accrual process as the period of time this needs to be accounted for is unknown i.e. we do not yet know when charging through the ESC would be reinstated.

Respondent	Response	Rationale
RWE Supply & Trading GmbH	-	We do not have a view on this at this time.
ScottishPower	Yes	Yes, we have been operating on the basis that all outstanding charges will eventually be paid.
SmartestEnergy	Yes	None Provided
SSE PLC	Yes	None Provided
TOTO Energy Limited	Yes	None Provided
Triton Power Limited	N/A	This is not applicable to Triton Power Ltd.
UK Power Reserve	N/A	None Provided
Uniper UK Limited	N/A	We do not anticipate becoming liable for this charge.
Utilita Energy	Yes	None Provided

Question 14: Do you agree with the Panel that P378 does better facilitate Applicable BSC Objectives b, c d and f than the current baseline and should be approved?

Summary

Yes	No	Neutral/No Comment	Other
17	4	1	0

Responses

Respondent	Response	Rationale
Centrica	No	We do not believe P378 would better facilitate any of the Applicable BSC Objectives. We do not believe that collecting the Capacity Market Supplier Charge and holding in escrow at the BSC until the Capacity Market is reinstated would provide any additional assurances to capacity providers. Until the legality of such payments is established, such payments would be inappropriate, as well as inefficient. Therefore, we do not believe that the CM Supplier Charge should be collected from suppliers, until there is necessary clarity on when State Aid Clearance will be re-granted for the Capacity Market
Drax Group PLC	Yes	Our preference is that the ESC continues to collect supplier CM monies. This route maintains continuity with existing arrangements and will be quicker to implement than the BSC route. Additionally, the ESC route gives greater credibility to the collection of CM costs from customers as it is based on legislation rather than industry codes. The code route may be perceived as weaker by consumers and there is a possibility that some larger consumers could test their contract terms to avoid payment. However, we support this BSC method as a contingency arrangement if BEIS conclude it's not appropriate for the ESC to continue collecting money from suppliers. We agree with the panel that P378 does better facilitate the Applicable BSC Objectives and should be approved. Applicable BSC Objective (b) – Positive Providing industry with the certainty that funds will be available to capacity providers if the standstill is lifted will encourage participants to continue normal

Respondent	Response	Rationale
		operations and fulfil their CM obligations, thus protecting security of supply and efficient operation of the Transmission System. Applicable BSC Objective (c) – Positive Having the funds available for efficient restarting of CM payments will reassure investors to continue normal operations. The continued collection will also help Suppliers protect their customers against a price shock upon the restarting of the CM. By requiring all suppliers to continue paying into a fund, this will ensure a level playing field. P378 will remove the risk that prudent Suppliers will pay more in the event that any shortfall is mutualised. Applicable BSC Objective (d) – Positive Through introducing a BSC CM charge, there is less risk of Parties paying BSC Default Funding Shares on BSC Defaulting Parties liabilities as a result of shock CM charges. P378 will mitigate the risk of Suppliers defaulting on payments upon the restarting of the CM. Applicable BSC Objective (f) – Positive If the CM standstill is lifted, the existence of a fund will aid the efficient and economic return to normal CM operations.
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	We believe that the P378 proposal sets out how it does better facilitate the Applicable BSC Objectives b, c d and f than the current baseline.
ENGIE Power Limited	Yes	The implementation of P378 would provide a backstop process to collect the supplier CM levy until the necessary amendments to the CM payment regulations can be made as intended by Government. This process improves efficiency and allows for a continued collection which provides certainty for both suppliers and consumers. Providing interim arrangements for the collection of the levy improves the incentives for security of supply in the short term by providing confidence to investors and CM participants that funds are available to underpin their commitments. Maintaining a continued collection of CM payments continues to provide a level playing field for all Suppliers in relation to policy costs. This promotes

Respondent	Response	Rationale
		competition because the absence of a collection mechanism may incentivise some Suppliers to undercharge consumers in the first instance which could either lead to confusion and back-billing for consumers or increased Supplier insolvency and an increased risk of mutualisation.
EP UK Investments	Yes	None Provided
ESB	Yes	None Provided
Flexible Generation Group	Yes	FGG are grateful to the proposers for trying to find a pragmatic way to let the industry plan for the reinstatement of the CM, in line with Government policy. FGG agree that this would help with the economic and efficient operation of the transmission network as it will help facilitate the maintenance of the CM and help secure generation, and thus maintain the plant margin the ESO will need to secure supplies, notably next winter. It will also help secure competition in all sectors of the market. For the CM providers seeing that the money to repay them will be there should help them encourage investors to maintain the investments they have made in generation. All Suppliers will be able to collect levy money from customers, planning for the CM to come back. Were the payments to resume with one substantial invoice for levy back-payments in the future then the Suppliers will face having to try and get the cash from the wrong customers, or seek out customers with whom they had, but no longer have a contract. There is a risk that the price shock will cause more Suppliers to default and run the risk of a price shock to customers creating defaults amongst them as well. Any such defaults will result in mutualisation, potentially with further defaults as a result. Keeping the whole regime running on as close to a business as usual regime as we can will make the competitive market more equitable and efficient. We note that competition will not be helped if some Suppliers do not collect the CM money and save it in a prudent manner, making them able to undercut their competitors, but then going out of business at the point the CM is reinstated. These companies will then have the larger customer base and could create a bigger price shock due to default and

Respondent	Response	Rationale
		mutualisation. The final relevant objective is (f) under which it is clear that the BSC should help implement and administer both the CM and CfDs, giving it a direct role in supporting Government policy. The Government has been very clear it wants the CM reinstated and back-payments made. This modification will make achieving that in a timely manner, with less disruption to the market, easier and more efficient to achieve.
Flexitricity Limited	Yes	The reasoning outlined by the Proposer and the Panel in the consultation document is sound.
Green Network Energy	Yes	None Provided
InterGen	Yes	None Provided
National Grid Electricity System Operator	Yes	None Provided
Npower Group Limited	Abstain	We recognise the points made by the Panel, but not under the vires of the BSC.
RWE Supply & Trading GmbH	Yes	We agree that the proposal better meets the BSC objectives as set out in the Consultation Document.
ScottishPower	Yes	None Provided
SmartestEnergy	No	Collection of the CM payments has nothing to do with the BSC.
SSE PLC	Yes	SSE would prefer for BEIS to reinstate ESC CM Supplier Charges via the Capacity Market Regulatory Framework, rather than having to introduce a compromise solution via the Balancing & Settlement Regulatory Framework. However, in the absence of such reinstatement, SSE agree that P378 provides a helpful backup mechanism to assist in the orderly running of the market in the interim, for the reasons set out by the Proposer. Objective b) – SSE agree that CM Providers are more likely to continue operating if they believe that CM payments will be backdated and adequately funded, which in turn should assist the GBSO to secure supplies at a more efficient price; thereby assisting the economic and co-ordinated operation of the National Electricity Transmission System. Objective c) – SSE agree that requiring Suppliers to pay into the fund will ensure a continued level

Respondent	Response	Rationale
		playing field, secure funds to meet liabilities upon reinstatement of the CM (if retrospective) and minimise the risk of future price shocks to consumers; thereby promoting effective competition in the generation and supply of electricity. Objective d) – SSE agree that BSC Default Funding costs will be minimised by reducing the risk that Suppliers, exposed to both sets of costs, default on BSC payments when faced with the significant costs of reinstating CM payments; thereby promoting efficiency of the Balancing and Settlement arrangements. SSE remain neutral on all other objectives.
TOTO Energy Limited	No	P378 is adverse against BSC Objective c, as it gives competitive advantage to Suppliers who have under-forecast their peak supply. It is also adverse against BSC Objective e, as it acts contrary to the legally binding decision of the European Commission. Should P378 be amended to better reflect Supplier's actual CM obligations through the use of actual Settlement data rather than payments based on historic Supplier forecasts then it would become positive against BSC Objective C. Furthermore the use of actual Settlement data would provide a degree of independence from BEIS/ESC and mitigate the impact on BSC Objective e.
Triton Power Limited	Yes	P378 provides a scheme to convey the clear intention of BEIS to pay the missing months' capacity payment once State Aid approval is reinstated, and enables Suppliers to demonstrate to customers that the continued invoicing of the Supplier Charge element is just and necessary. This is essential to prevent a future price shock to consumers and to restore some of the damage done to investor confidence
UK Power Reserve	Yes	Firstly, the Modification can be considered most relevant in the context of objective (f) – implementing and administrating the arrangements for the operation of CfDs and arrangements that facilitate the operation of a capacity market pursuant to EMR legislation. UKPR believes that the reinstatement of CM payments will better facilitate the operation of the Capacity Market in its current form, and as such see the Modification proposal as an improvement upon

Respondent	Response	Rationale
		the current baseline. Government has been very clear that the reinstatement of the CM is their preferred course of action, with back-payments forming a part of the solution. This Modification will increase the likelihood of achieving this target in a timely and efficient manner, with minimal disruption to the market.
Uniper UK Limited	Yes	The rationale provided by the Panel seems correct.
Utilita Energy	No	Objective B – This is a neutral impact. Whilst it provides some certainty that funds will be made available should the ECJ ruling be quashed it is BEIS that need to provide the resolution to the issue and should they fail to do so this fund will not provide any benefit to the NETS. Objective C – this fund has no bearing on the competitiveness of Generators nor Suppliers. Ofgem's decision on the price cap will determine whether Suppliers can continue to collect CM payments or not. Objective D – Suppliers are operating in difficult market conditions at present and the opportunity to reduce the cost of releasing capital to this fund is likely to aid Suppliers financially and therefore likely to reduce the risk of default. Therefore Utilita conclude that Objective D will be negatively impacted. Objective F – We believe this objective will be neutral.

Question 15: Do you agree that the draft redlining delivers the intention of P378?

Summary

Yes	No	Neutral/No Comment	Other
18	0	4	0

Responses

Respondent	Response	Rationale
Centrica	Yes	Subject to our responses to other questions in this consultation we agree that the relined drafting delivers the intention of P378.
Drax Group PLC	Yes	We agree the draft legal text delivers the intention of P378.
E.ON Energy Solutions	Yes	None Provided
EFF Energy	Yes	None Provided
ENGIE Power Limited	Yes	None Provided
EP UK Investments	Yes	None Provided
ESB	Yes	None Provided
Flexible Generation Group	Yes	None Provided
Flexitricity Limited	Yes	The redlining delivers the intention.
Green Network Energy	Yes	None Provided
InterGen	Yes	None Provided
National Grid Electricity System Operator	Yes	None Provided
Npower Group Limited	Yes	We believe that the draft text delivers the intention of P378, however we would like to make certain that a situation could not occur where there is a risk of duplication of charging under the BSC and ESC.
RWE Supply & Trading GmbH	-	We have been unable to review that redlining in sufficient detail at this time.
ScottishPower	-	We have not carried out a legal review of the

Respondent	Response	Rationale
		drafting (as yet).
SmartestEnergy	-	No comment
SSE PLC	Yes	None Provided
TOTO Energy Limited	-	None Provided
Triton Power Limited	Yes	None Provided
UK Power Reserve	Yes	No further comment.
Uniper UK Limited	Yes	None Provided
Utilita Energy	Yes	None Provided

Question 16: Will P378 impact your organisation?

Summary

Yes	No	Neutral/No Comment	Other
13	5	2	2

Responses

Respondent	Response	Rationale
Centrica	Yes	As a Supplier we will be required to implement processes to enable us the make payments to Elexon in line with the existing provisional payment schedule.
Drax Group PLC	No	Apart from the on-going Supplier charge, we have not identified any other impacts as a result of implementation.
E.ON Energy Solutions	***CONFIDENTIAL RESPONSE***	***CONFIDENTIAL RESPONSE***
EDF Energy	Yes	We will need to recover monies lodged with the Electricity Settlements Company (ESC) for October and November 2018.
ENGIE Power Limited	Yes	There will be some implementation impacts but these are likely to be minor.
EP UK Investments	Yes	We consider that P378 would have a positive impact on our business by providing certainty that Supplier payments will be collected during the capacity market standstill and will be used for making deferred payments to capacity providers. This will increase the incentive on us to continue business as usual operations during the standstill period.
ESB	Yes	ESB believes that this Modification will provide a level of certainty to generators with existing CM contracts, on whether the funds are available for payment at a later date.
Flexible Generation Group	No	While it will have no direct impact, this Modification will help boost investor confidence during the CM standstill and that will help maintain the UK as an investment worthy country.
Flexitricity Limited	Yes	As a supplier, Flexitricity will be required to pay the new CM interim charge.
Green Network	-	While there will be short term financial planning impacts, it makes longer term planning more

Respondent	Response	Rationale
Energy		certain.
InterGen	Yes	We strongly agree that the collection of the Supplier Charges should be re-started as soon as is practically possible as this will provide the market, including investors, with the confidence that the funds for making the missed payments are available. It is also in the best interest of Suppliers and consumers as the charges are most likely already factored in to suppliers' tariffs which in practice could be difficult to decouple at short notice. It will also avoid any sharp increases to future bills in case of making up missed charges at a later date. Whilst we prefer that the existing ESC route is utilised for collecting missed payments, we believe that it is important to progress P348 as an alternative. This will provide the market with greater confidence that the collection of CM payments will re-start at the earliest possible date.
National Grid Electricity System Operator	No	None Provided
Npower Group Limited	Yes	(Suppler role) There will be impacts to npower in the following areas (not exhaustive): - Customer communications and training for customer facing staff - Possible billing system changes, depending on the approach to invoicing of the'new' charge - Accounting and reporting that supports the necessary accruals processes
RWE Supply & Trading GmbH	No	None Provided
ScottishPower	No	Based on the assumption that the invoice received will be payable based on the BSC standard terms, we have not identified any issues. It is likely that we will have some limited analytical costs to trace what our actual costs will be if the CM is reinstated.
SmartestEnergy	Yes	None Provided
SSE PLC	***CONFIDENTIAL RESPONSE***	***CONFIDENTIAL RESPONSE***

Respondent	Response	Rationale
TOTO Energy Limited	-	None Provided
Triton Power Limited	Yes	Implementation of P378 will provide confidence that the required monies to pay the missing capacity payments to generators will be available when State Aid approval is reinstated. This confidence may prevent Triton Power having to postpone maintenance activities or cancel improvement programmes and therefore enable our assets to maintain their excellent availability and reliability record.
UK Power Reserve	Yes	See response to Question 5 – whilst there is no direct impact, the Modification (and wider Capacity Market suspension) has a national impact. The reinstatement of supplier payments will help ease the detrimental effects on all of industry.
Uniper UK Limited	Yes	As mentioned in the response to question 5 above, whilst we are not directly impacted by the new arrangements in terms of having to make payments, as a capacity provider it is important that we have assurance that missing payments will be recovered. This Modification would have a positive impact.
Utilita Energy	Yes	See question 5

Question 17: Will your organisation incur any costs in implementing P378?

Summary

Yes	No	Neutral/No Comment	Other
6	13	1	2

Responses

Respondent	Response	Rationale
Centrica	Yes	We will incur minimal administration costs to implement P378.
Drax Group PLC	No	N/A
E.ON Energy Solutions	Yes	Minimal system routing.
EDF Energy	Yes	These are not material.
ENGIE Power Limited	Yes	Yes, although cost impacts are likely to be minimal.
EP UK Investments	No	Although EPUKI would not incur any costs in implementing this Modification, the capacity market suspension has affected cash flow and costs for most Generators. If collection of Supplier payments is not restarted until the capacity market standstill period has ended, this would increase the problems faced by Generators and we therefore consider that any costs faced in implementation of this Modification would be offset by the benefits it brings to the industry as a whole.
ESB	No Comment	None Provided
Flexible Generation Group	No	None Provided
Flexitricity Limited	No	Flexitricity believe there will not be any costs above those that the organisation already would incur due to the CM Levy Process.
Green Network Energy	No	None Provided
InterGen	No	Not that we are aware of at this point.
National Grid Electricity System Operator	No	None Provided

Respondent	Response	Rationale
Npower Group Limited	Yes	There are likely to be one-off costs for the operational implementation of P378, with similar operational costs possible at the reinstatement of invoicing under the ESC.
RWE Supply and Trading GmbH	No	None Provided
ScottishPower	Limited Costs	It is likely that we will have some limited ongoing analytical costs to trace what our actual costs will be if the CM is reinstated.
SmartestEnergy	No	There are no costs of any significance.
SSE PLC	***CONFIDENTIAL RESPONSE***	***CONFIDENTIAL RESPONSE***
TOTO Energy Limited	No	None Provided
Triton Power Limited	No	None Provided
UK Power Reserve	No	No further comment.
Uniper UK Limited	No	None Provided
Utilita Energy	Yes	See question 5

Question 18: Do you agree with the proposed implementation approach for P378?

Summary

Yes	No	Neutral/No Comment	Other
20	2	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	Suppliers will require adequate time to set up any new bank account details to enable timely payments to be made to Elexon. Provided the relevant documentation is provided in a timely manner we agree with the proposed implementation approach.
Drax Group PLC	Yes	We support the proposed implementation approach.
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	We agree that P378 should be implemented 5WD following an Authority decision.
ENGIE Power Limited	Yes	None Provided
EP UK Investments	Yes	We support implementation as soon as possible following Ofgem approval.
ESB	Yes	ESB supports the ESC being allowed to continue collecting funds, however, given the timelines for when this might happen, and the uncertainty over the legalities, P378 should be implemented as soon as possible as an interim solution.
Flexible Generation Group	Yes	We welcome Ofgem's understanding that this is an urgent issue which needs to be resolved. The sooner we try to get the market back onto a business as usual footing, with a plan for the reinstatement of the CM the better for investors and customers alike.
Flexitricity Limited	Yes	The approach seems reasonable in that it emphasises urgency of implementation.
Green Network Energy	Yes	Subject to previous points raised.
InterGen	Yes	Yes, we believe that implementing the Modification as soon as possible following Ofgem's decision is in the interest of the whole industry.

Respondent	Response	Rationale
National Grid Electricity System Operator	Yes	None Provided
Npower Group Limited	Yes	We agree with proposed implementation 5WDs after Ofgem approval. However, we note the desire to start collecting monies under this arrangement as soon as possible and therefore the specific arrangement for the first invoice. On page 10 of ELEXON's consultation document, a scenario is outlined where payment of the first invoice would be required within 2WD. We believe payment terms should be 5WD and under the current draft legal text, do not believe payment could be requested within 2WD.
RWE Supply & Trading GmbH	Yes	None Provided
ScottishPower	Yes	None Provided
SmartestEnergy	No	None Provided
SSE PLC	Yes	SSE reiterate its preference for BEIS to reinstate ESC CM Supplier Charges, thus avoiding the need to utilise this Modification. In the absence of a clear decision to do so however, SSE agree that the proposal should be implemented as soon as reasonably possible following an Authority decision (noting the retrospective coverage of payments).
TOTO Energy Limited	No	A firm date for implementation should be given to enable suppliers to better plan for payments.
Triton Power Limited	Yes	We believe P378 should be progressed and implemented without delay.
UK Power Reserve	Yes	UKPR are supportive of an approach that reinstates payments in the most efficient manner, in order to eliminate future risks and reduce additional burdens on the industry.
Uniper UK Limited	Yes	The arrangements need to be implemented as soon as possible in order to provide continuity of billing for suppliers and customers, and to provide greater assurance to capacity providers that missing payments will be recovered in the event of a positive State Aid decision being received.
Utilita Energy	Yes	None Provided

Question 19: Do you agree with the Panel that P378 should **not** be treated as Self-Governance?

Summary

Yes	No	Neutral/No Comment	Other
22	0	0	0

Responses

Respondent	Response	Rationale
Centrica	Yes	We agree that P378 should not be treated as self-governance.
Drax Group PLC	Yes	This Modification has a material impact on electricity consumers and competition in the supply of electricity. As such, we agree with the panel that Self-Governance Criteria (a)(i) and (a)(ii) are not satisfied.
E.ON Energy Solutions	Yes	None Provided
EDF Energy	Yes	P378 will a material impact on consumers and suppliers as collection of Capacity Market payments will be restarted during the standstill period.
ENGIE Power Limited	Yes	Yes, P378 is not suitable for Self-Governance route because of the commercial impacts on BSC Parties.
EP UK Investments	Yes	None Provided
ESB	Yes	This is a material change and therefore the Authority should determine whether this is implemented or not.
Flexible Generation Group	Yes	None Provided
Flexitricity Limited	Yes	The Modification has a material effect on consumers, and therefore does not meet the criteria for Self-Governance.
Green Network Energy	Yes	None Provided
InterGen	Yes	Given the criteria for Self-Governance, we agree that P378 should not be treated as Self-Governance.
National Grid Electricity System Operator	Yes	None Provided

Respondent	Response	Rationale
Npower Group Limited	Yes	We agree with the views and rationale expressed by the Panel.
RWE Supply & Trading GmbH	Yes	None Provided
ScottishPower	Yes	This proposal has a significant value, and it is likely that in the event that funds need to be returned to consumers that Ofgem will be required to intervene.
SmartestEnergy	Yes	None Provided
SSE PLC	Yes	The proposal self-evidently will have a material impact on both consumers by requiring Suppliers to continue to collect payments from customers; and competition by ensuring that a level playing field is maintained for Suppliers during CM suspension.
TOTO Energy Limited	Yes	None Provided
Triton Power Limited	Yes	None Provided
UK Power Reserve	Yes	This route is logical in order to reduce time frames.
Uniper UK Limited	Yes	The impact of the change is too high to be considered under Self-Governance.
Utilita Energy	Yes	None Provided

Question 20: Do you have any further comments?

Summary

Yes	No
7	15

Responses

Respondent	Response	Comments
Centrica	No	-
Drax Group PLC	No	-
E.ON Energy Solutions	Yes	Although we agree with the current Modification and understand its need for a simple and quick implementation, we would like to recommend additional consideration for a reconciliation at the end of the first year. Our unease is that parties that are rapidly growing their portfolios may not be covering the additional costs associated with their portfolio in the CM and that a materiality threshold may be an addition where once the threshold is reached a reconciliation takes place.
EDF Energy	Yes	We believe that supplier payments should be restarted as soon as possible. As a major capacity provider and a major supplier, we believe that this is essential to provide confidence to capacity providers that they will be paid after the end of the standstill period and to ensure that suppliers and customers are clear about their liabilities. It is preferable that supplier payments are collected through existing processes operated by the ESC; this should provide the most robust solution, incorporating the protections provided by requirements for supplier credit cover and mutualisation and enforcement arrangements. We do support the development of P378 to provide a possible back-up solution if necessary.
ENGIE Power Limited	No	-
EP UK Investments	No	-
ESB	Yes	ESB's preference is that the ESC is allowed to continue collecting the charges from Suppliers as it was prior to the ECJ judgement. While BEIS has

Respondent	Response	Comments
		indicated that it prefers for the ESC to start collecting charges, this is not guaranteed, nor is it clearly defined when it would restart. ESB believes that it is important for the collection of funds to start as soon as possible, to prevent steeper charges for Suppliers later in the year and to mitigate the risk of non-payment to Generators and therefore we believe that it is necessary for this Modification to be implemented as soon as possible. This Modification should provide provision for recovering CM charges not collected from Suppliers from October 2018 – September 2019. ESB would like an indication as early as possible, whether or not a subsequent Modification should be raised to extend this timeline. ESB supports the timely transference of funds to the ESC as soon as practically possible in the instance whereby the ESC collection route is able to recommence, or a positive decision on the CM review. In addition, if there is a negative decision on the CM review, all collected charge contributions must be returned to Suppliers in full as soon as practically possible.
Flexible Generation Group	No	-
Flexitricity Limited	No	-
Green Network Energy	Yes	We broadly agree with this proposal. There is a clear need to be actively collecting these payments to reduce the likelihood of Suppliers defaulting and adding costs to the industry as whole. While we'll experience some price shock in the short-term, this will ultimately be beneficial in the long-term.
InterGen	No	-
National Grid Electricity System Operator	No	-
Npower Group Limited	Yes	npower's preference is for CM charging to resume under the ESC arrangements as soon as possible, but we recognise the weight of opinion to continue payments in the absence of progress on this, which the P378 solution facilitates. If P378 is approved, it is only appropriate as a short term, backstop measure. The introduction of a charge under the BSC presents suppliers with increased financial risk compared to the reinstatement of an existing

Respondent	Response	Comments
		supplier charge under existing ESC processes. Npower's Industrial and Commercial (I&C) customers recognise the capacity market (supplier charge element) as a legitimate part of their invoice, and we will continue to work with these customers to alleviate the significant uncertainty around a cost that BEIS state will be recovered eventually. The absence of any credit cover provision under P378 further increases the risk of financial exposure (compared to ESC arrangements) for suppliers in a supplier default situation. npower requests that Elexon make provision for invoiced amounts to be paid via Direct Debit. This would minimise the risk of non-payment through any administrative issues in a scenario where we believe it appropriate to impose swift measures for defaulting against this charge. How the BSC charge features in the price cap is critical, and we strongly believe that Ofgem should clarify that all BSC charges will be recovered in the cap. BEIS has made it clear that CM payments will be recovered and so we do not believe there is any scope for the cap to be reduced. npower would like to commend Elexon for taking leadership in a situation where understanding the political and regulatory landscape has been, and continues to be challenging. The misaligned approach of BEIS and Ofgem has made it difficult for us to provide any clarity to our customers in relation to the Capacity Market.
RWE Supply & Trading GmbH	No	-
ScottishPower	Yes	We support the Government's proposal to facilitate arrangements for the collection of charges from suppliers during the CM 'standstill period' for the purpose of funding deferred payments to capacity providers upon State Aid re-approval. Subject to BEIS completing the due diligence on any outstanding legal questions and the detailed practicalities, we agree that this is a sensible step. We consider that the collection of the Supplier Charge should be resumed as soon as practicable so as to provide reassurance to capacity providers. Such a resumption of the collection of charges from suppliers during the 'standstill period' would also

Respondent	Response	Comments
		ensure that: • the customer (I&C) conversation relating to charges is more straight-forward • future market cost impacts are minimised, and • there is a more certain basis going forward into the next period of the Default Tariff Cap setting process to be undertaken by Ofgem. Our preference would be to see the resumption of the collection of the Supplier Charge by the Electricity Settlements Company (ESC) in line with the existing arrangements under the Supplier Payment Regulations. Such sums should be held in an escrow account solely for the purpose of funding deferred capacity payments to capacity providers (upon State Aid re-approval) and where a provider has continued to meet the terms of its CM agreement. We consider that the ESC option would be likely to be quicker to implement and provide greater continuity for suppliers than the alternative option of an industry-led BSC Code Modification. Nonetheless, we welcome and support the work under the BSC Code Modification process, pending the outcome of decision-making under the BEIS consultation process. We hope that a timely decision from BEIS on its "minded-to" position under its consultation will clarify matters ahead of 7 February 2019. However, in the meantime we support this BSC Code Modification being taken forward.
SmartestEnergy	No	-
SSE PLC	Yes	SSE are concerned that the BSC Panel, via their request for Urgency to the Authority, have given themselves the right to change the Original solution, via an Alternative, without further consultation. SSE believe that this is detrimental in terms of good governance practice and should be avoided in the future. We appreciate that the Panel intend to limit any Alternative Modification to address necessary changes; however, assessing what may be necessary in this context is very subjective. For a change of this magnitude being progressed over a very short timeline, this has inappropriately

Respondent	Response	Comments
		removed the necessary checks and balances (that apply to the BSC and other Industry Codes) in our view. All responses provided therefore pertain solely to the Original solution as set out and consulted upon and should not be relied upon to represent SSE's view, should the Panel introduce material changes to the Original proposal within any Alternative formulated.
TOTO Energy Limited	No	-
Triton Power Limited	No	-
UK Power Reserve	No	-
Uniper UK Limited	No	-
Utilita Energy	No	-

Email Reponses

In addition to the above consultation responses, we also received three email responses to the P378 Modification Consultation.

Respondent	Response
Energy UK	I am writing in response to the consultation published on 16th January 2019 on the proposed Balancing and Settlements Code (BSC) Modification P378 'Introduction of a CM Supplier Interim Charge'. (Note that one member of Energy UK does not support the views reflected in this letter.) With the current suspension of the Capacity Market (CM), many of Energy UK members (and other CM participants) are experiencing an increased level of uncertainty over what is the loss of a major income stream. The Department of Business, Energy and Industrial Strategy (BEIS) have expressed on numerous occasions their anticipation of a positive outcome from the European Commission's (EC) review of the CM. Upon a positive outcome, BEIS has signalled that it would be appropriate that those capacity providers who have met the obligations stipulated in their capacity agreements in the Standstill Period be remunerated in accordance with their agreed payments. Energy UK strongly supports the resumption of the CM Supplier Charge and note that this has been confirmed as admissible by the EC. The continued collection of the Supplier Charge would provide a welcome level of certainty to CM participants that, in the expected event of a positive decision on the CM review, Standstill Period payments are available and can be paid to capacity providers promptly. The continued collection of the CM Supplier Charge would also mitigate the financial shock to suppliers in the expected scenario of a positive decision by the EC when back payments are requested by the Electricity Settlements Company (ESC). In addition, the continuation of the Supplier Charge collection would minimise the amount required to be mutualised in the event of a supply company ceasing to trade. As noted in Energy UK's response to BEIS's Consultation on 'Proposals for Technical Amendments to the CM', we strongly prefer maintaining the existing ESC route for collection of the CM Supplier Charge. However, we acknowledge that the feasibility of this option is pending final decision from BEIS. Taking this into account, we are supportive of the option to recover the CM Supplier Charge through the introduction of the P378 modification on an interim basis until either the ESC charge route is made possible, or the EC comes to a final decision on the CM. We recommend that this Modification actions the collection of the CM Supplier Charge from the 1st October 2018 and makes allowances to cover the entire period until either the ESC collection route can be reapproved, or the Standstill Period comes to an end. In the scenario of the ESC collection route being able to recommence, or a positive decision on the CM review, all collected charges, accurately accounted for in regards to Supplier

Respondent	Response
	contributions must be transferred to the ESC as soon as practically possible. Likewise, in the unlikely event of a negative decision on the CM review, all collected charge contributions must be returned to suppliers in full as soon as practically possible. Taking into account these conditions, Energy UK supports BSC Modification P378 covering charge collection for Delivery Year 2019/20. Energy UK welcomes the joint efforts of industry and ELEXON in shortening the timeframes of the modification process as much as possible. If approved by the Authority, the implementation of this Modification is expected in the coming weeks, but will likely be escalated to the Authority for approval shortly before 7th February 2019. The short lead time raises concerns around how this Modification would be factored in to the Price Cap Period 2 calculation (announcement due 7th February 2019). We strongly recommend that communication channels remain open with Ofgem to allow them to make an informed and appropriate decision, and Energy UK remain committed to assisting this through our regular forum with key stakeholders, BEIS, Ofgem, ELEXON and the ESC. Energy UK have made further representations on how the CM Supplier Charge should be accounted for in a letter to Ofgem dated 23/01/2019 in response to its open letter on 'Capacity market allowance in the default tariff cap'.
Gazprom Marketing & Trading Retail Limited	Gazprom Marketing & Trading Retail Limited's response to P378 'Introduction of a CM Supplier Interim Charge' Urgent Modification Consultation Gazprom Marketing & Trading Retail Limited (T/A Gazprom Energy) is a fully Licenced Gas and Power supplier in the GB non-domestic market. Thank you for providing the opportunity to comment on the proposal to introduce a new interim monthly BSC charge on Suppliers (to be known as the CM Supplier Interim Charge) which will cover the annual amount that Suppliers would have expected to pay under the CM regulations before the standstill in respect of the CM year October 2018 to September 2019. In replying to this Consultation we have chosen to make a consolidated response to the questions set out. We agree that there is a strong case for re-starting the collection of Supplier Charges for the Capacity Market. The Department of Business, Energy and Industry Strategy (BEIS) have stated their intention is to recommence the Capacity Market as soon as practicable. Therefore, in light of recent issues elsewhere leading to mutualisation, we believe it prudent to resume and continue collecting the Supplier Charge of the Capacity Market as this will alleviate the impact of any 'shock' payments suppliers and customers could otherwise face. Our preference would be for the Electricity Settlements Company

Respondent	Response
	(ESC) to resume and continue to collect the payments. This is because we believe it would cause the least disruption and would take less time than amending the BSC as required under this Modification proposal. The framework for collecting these payments via the ESC is already in place and therefore would not require any changes to internal processes, however minor they might otherwise be. However, were this not possible to accomplish we believe implementation of the proposed change in this Consultation would be beneficial in addressing the concerns of 'shock' payments for Suppliers and their consumers. We agree with the proposed implementation approach outlined in the Consultation document. Given the number of recent Supplier defaults we would reiterate the preference for reinstating the Supplier Charges as soon as reasonably practicable given the risk of mutualisation.
Ørsted	Ørsted supports P378 proposed solution on the basis that it will help prevent unintended changes to customers' Capacity Market (CM) bills, should CM be reinstated in the future. We believe the criteria to release the fund are sensible and therefore would like to see the collection scheme covering both the current CM year and 2019/20. This will reduce industry effort should the standstill situation remains in 2019/20. We would welcome further clarifications around how the charges collected shall be reconciled by the ESC should CM be reinstated. In our view, customers would require this certainty to make informed decisions to effectively manage their consumption during the CM chargeable hours.