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28 May 2019

Dear Chris,

Five Year Review of the Capacity Market Rules – First Policy Consultation

EDF Energy is one of the UK's largest energy companies with activities throughout the energy chain. Our interests include nuclear, coal and gas-fired electricity generation, renewables, storage and energy supply to end users. We have around five million electricity and gas customer accounts in the UK, including residential and business users.

EDF Energy welcomes the opportunity to respond to Ofgem's Five Year Review of the Capacity Market Rules - First Policy Consultation. Our detailed responses are set out in the attachment to this letter, however we would like to highlight the following key issues:

- While Ofgem's consultation is focussed on specific aspects of the Capacity Market operation, it is important to recognise that the Capacity Market operates as part of a wider market framework. We support the operation of a technology neutral Capacity Market, which does not discriminate between capacity providers on the basis of carbon intensity. This should be complemented by a consistent carbon pricing signal to drive the decarbonisation of the power sector, which must be maintained despite the uncertainties over the UK's continuing participation in the EU ETS.
- It is also important that market distortions in the framework for charging arrangements are corrected and that more generally, regulatory efforts to deliver a level playing field between different forms of capacity continue to be prioritised and progressed.
- The current Capacity Market Rules for secondary trading should be re-written to set out a clear route and set of principles for secondary trading. The lack of liquidity of secondary trading, largely due to the complexity and inconsistency of the Capacity Market Rules, hampers the efficient delivery of capacity, which would benefit both market participants and consumers.
- We believe that improvements are required in the interaction between the rules on secondary trading and satisfactory performance day (SPD) testing. A fairer and more effective testing regime should be introduced, including requirements to prove that capacity can be delivered at peak times of day and can be delivered for extended durations.

- Ofgem should ensure that the Capacity Market Rules and all associated documentation are accessible to all stakeholders and are in one location. This will ensure that capacity providers can identify the obligations on their Capacity Market Units from the time that they acquire Capacity Agreements. In addition, official consolidated Capacity Regulations and Capacity Market Rules and Regulations should be available to participants. Ofgem should work with Government to review the Capacity Regulations and Capacity Market Rules to determine whether these could be rationalised and whether any elements of the Regulations could be more effectively managed within the Capacity Market Rules by Ofgem.
- We have observed instances where the Delivery Partners do not apply the Capacity Market Rules as they are written and have implemented alternative procedures that are not strictly consistent with the Capacity Market Rules. Where the Delivery Partners identify that there are better ways to deliver the policy intent of the Capacity Market Rules, they should raise a Capacity Market Rule change proposal to set out the issue and propose alternative procedures.

Should you wish to discuss any of the issues raised in our response or have any queries, please contact Natasha Ranatunga on 07875 112 981, or me. I confirm that this letter and its attachment may be published on Ofgem's website.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Guy Buckenham".

Guy Buckenham

Head of Generation Policy and Regulation

Attachment

Five Year Review of the Capacity Market Rules – First Policy Consultation

EDF Energy's responses to your questions

Q1. Do you have any views on the interactions between the CM and other wholesale markets; such as forward markets, the balancing market, and markets for ancillary services?

We recognise that the effectiveness of the Capacity Market (CM) also depends on the wider market framework. We believe that it is right to distinguish between the procurement of capacity, which is the role of the CM and the procurement of various forms of flexibility, which is carried out through other routes such as ancillary services markets and the Balancing Mechanism. We believe it is important that National Grid ESO continues its work to improve the procurement of ancillary services.

Our other key points relate to the importance of delivering a level playing field between different forms of capacity provider bidding into the CM.

EU Emissions Trading System

Over the past ~ 18 months, the value of the ETS has increased significantly and the materiality of the benefit to small thermal generators of exemption from the EU ETS has correspondingly increased. While the UK's Carbon Price Support tax applies to any generator above 2MWth (around 1MWe), the EU ETS only applies above 20MWth (around 10MWe). There is an increasing amount of capacity in the CM that may benefit from not being required to purchase EU Allowances for its emissions.

Charging arrangements

Ofgem has acted to remove the market distortion arising from embedded benefits and implementation is being phased in through to 2020. Further network charging distortions which impact the CM have been considered by Ofgem through its Targeted Charging Review (TCR): avoidance of TNUoS by behind-the-meter generation and avoidance of BSUoS charges by embedded generators. We welcome Ofgem's efforts to tackle these network charging distortions that affect competition in the CM.

Even with implementation of Ofgem's TCR proposals there is still a need to address similar distortions in respect of the impacts of behind-the-meter generation on the recovery of policy costs such as Renewables Obligation, Feed in Tariffs and Contracts for Difference (CfD) costs.

Interconnectors

There are material differences in the cost stack of generation capacity overseas compared to GB generation. With the level of interconnection competing in the CM auction expected to grow materially over the coming few years the impact of these inconsistencies will increase. One key difference is the level of transmission charges borne by GB generators which generally are higher than in continental Europe. Changes should be made to GB network charging rules to help harmonise these arrangements.

Q2. Do you have any evidence that design choices in the CM are driving inefficient outcomes in other markets?

In general, we believe that the CM works well in conjunction with other elements of the market framework. However, we do have some concerns about the interaction between the CM and the provision of flexibility services, which typically can only access shorter contracts than the 15-year agreements available to new build capacity in the CM. We believe it is important that the market framework puts a proper value on services such as inertia, firm frequency response and constraint management, that benefit the management of the whole system.

Q3. Do you have suggestions for how these markets can be better aligned and how any inefficiencies can be mitigated?

We believe that the ancillary services markets need to become more efficient and provide a clear signal to the market on the value of flexibility so that assets are able to stack their revenues and have multiple revenue sources. In addition, we believe that the Relevant Balancing Services set out in the CM Rules are appropriate and should be maintained. We would welcome greater transparency as to how National Grid ESO accounts for these services appropriately in its forecast assessments across all relevant markets or whether these assets are sterilised.

We believe that inefficiencies in the ancillary services markets can be reduced through simplification of ancillary services and by providing greater visibility of the costs of managing specific system issues so that the market can value them correctly and respond accordingly.

We believe that moving to shorter CM capacity agreement lengths could be considered, in particular whether a better balance between different types of capacity provider could be achieved if the maximum capacity agreement length were reduced.

Q4. Do you have any views on whether the proposed membership of the CM Advisory Group is appropriate, the form of participation from industry, along with any further points regarding meeting frequency and function?

We note Ofgem's concern that "the revised process should not favour parties with increased resource availability and market experience"; however, it is essential that the members of the proposed CM Advisory Group have the relevant market experience and skill set to effectively participate and contribute to the development of the CM. If not, the process will work poorly if many important issues are identified only through industry consultation after review by the CM Advisory Group.

While it is important that smaller participants are represented, larger companies with well-established operations, covering significant amounts of capacity from a range of technologies, will provide expertise that will benefit the market as a whole. It is also important to recognise that the EMR Settlement Body (ESC) and the Delivery Body are service providers for the CM and therefore their roles in the CM Advisory Group should only be as technical advisors.

Unrestricted access to all relevant CM documentation will enable the CM Advisory Group and other stakeholders to effectively evaluate any submitted CM proposals or proactively consider amendments. Therefore, it is critical that Ofgem continues to facilitate the efficient operation and administration of the CM by publishing all relevant CM documentation in a dedicated part of its website in order to provide clarity on the process and to reduce the risk of duplication. The relevant CM documentation includes: official consolidated CM Rules, Ofgem open letters, consultations, decisions and all CM rule change proposals. Recently, accessing this information has become more challenging and less transparent as CM related documentation is no longer published on the dedicated CM section on Ofgem's website.

Q5. Do you believe the proposed framework and function of the CM Advisory Group is appropriate and would better facilitate the efficient operation of the CM Rules change process?

We believe that a revised CM Rule change process needs to be an accessible and open process that provides all CM participants with the opportunity to engage and participate in the facilitation of CM Rule changes. The CM Advisory Group is an opportunity for industry to guide implementation of changes more appropriately. We believe that it is important to clearly set out the role that Ofgem as the chair will undertake in overseeing the CM rule change process and enabling the delivery of key changes to the CM.

We have noted that National Grid ESO has set out its ambition¹ for the ESO to take over responsibility for the development and management of the CM Rules. We do not support this ambition; it is right for Ofgem to manage rules within the framework of government policy, for the ESO to administer the operation of these rules and for Ofgem to monitor the ESO's performance in this role. An expanded role for the ESO in the CM would also create further potential conflicts of interest with National Grid's interconnectors business which is a significant beneficiary of the CM.

Q6. Do you have any feedback on our proposal to move to an 18-month implementation timescale; consulting on rule amendments which would subsequently be implemented the following Delivery Year?

We recognise the timescale challenges to the Delivery Partners to delivering CM changes. However, the proposed timeline appears to be solely driven by the Delivery Partner's resourcing issues which we do not consider to be appropriate. Furthermore, we understand that the delivery of Delivery Partners' system changes for the CM has been constrained historically by National Grid IT (DB) and Elexon system change programmes. This has meant that other system changes (non-CM) have been prioritised over CM changes. This issue has been highlighted previously in Ofgem's 2018 Annual Report²; where it is stated that National Grid ESO's "IT system arrangements have slowed down implementation".

The timeline for change implementation should allow for more flexible and agile implementation; Ofgem's proposed timescale does not appear to facilitate this – it is dragging implementation out and prevents 'as and when' implementation. Ofgem should explore what can be done to expedite more timely delivery of improvements to the CM, where appropriate, by minimising the delays arising from Delivery Partner systems development.

Furthermore, the proposed non-urgent consultation period overlaps with the current prequalification window, which may cause difficulties for participants.

Q7. Do you have any views on the proposed process, the implications of the change to the Prequalification procedure and whether it would be a positive change in removing an administrative burden?

¹<https://www.nationalgrideso.com/document/141256/download>

²https://www.ofgem.gov.uk/system/files/docs/2018/06/annual_report_on_the_delivery_bodys_performance_of_its_functions_in_relation_to_the_capacity_market.pdf

We do not believe that Ofgem's proposals offer any significant changes to the prequalification procedure currently in place. It is already possible to copy data for an existing CMU to a new application and provide updates where applicable.

We believe that existing CMUs should only prequalify once; we do not consider it necessary for mandatory CMUs to have to prequalify on an annual basis. The minimum information required for delivery assurance for these CMUs is that capacity providers should demonstrate they have an existing asset; the asset is capable of generation and that the asset has an appropriate export agreement. Capacity providers would then be required to provide relevant parameter updates and/or declarations for the relevant delivery year.

We understand that this approach may require a fundamental change to the Delivery Body's systems as this means allowing CMUs to have different data (e.g. connection capacity) for different delivery years. In principle there appears to be no reason why appropriately designed software could not handle this requirement; we consider that this would align with National Grid ESO's commitment to improve its performance and evolve its core role.

Q8. Do you believe the current length of the Prequalification window is appropriate and if allowing Prequalification submissions to take place throughout the year would be beneficial?

We believe that prequalification should be permitted at any point during the year; this would reduce the burden of prequalification and risk of failure for applicants. We would expect the Delivery Body to be incentivised to process the prequalification applications within a defined timeline.

Q9. Do you have any feedback on the options presented in relation to the submission of planning consents and if there are any alternative options that we have not yet considered?

We do not support Ofgem's leading option. There needs to be a level of confidence that a CMU that partakes in a T-4 auction will be able to provide capacity in the relevant delivery year. Ofgem's leading option would also enable a project with no planning permission to acquire a capacity agreement and carry a risk that it may not get planning permission.

We have identified some risks with Ofgem's leading option, including:

- In the event that planning permission is not granted or delayed – where would the missing capacity come from?

- Could it encourage speculative bidding?
- What is the risk that projects with planning permission are priced out of the CM by projects without planning permission.

We prefer Option 2 as it is a relaxation of the original intent but minimises risk of projects with planning permission being priced out by speculative bidding by projects with no planning permission. Furthermore, it reduces the risk of sourcing 'missing capacity'.

We also believe that consideration needs to be given to the planning requirements required to deliver different types of assets due the differing lead-times. During the development of the CM it was envisaged that CCGTs, which may take a minimum of 4 years to build, would be the main providers of new capacity. However, other forms of capacity (e.g. small gas engines) can be delivered in shorter timescales.

Q10. Do you have any feedback on the amendments to the Prequalification data items listed in Table 1?

We agree that Secondary Trading details are not required at Prequalification. Failure to submit these should not lead to rejection by the Delivery Body. However, they will be required once the Secondary Trading window opens which Ofgem has proposed will be from the T-4 auction results day. Therefore, it is important that these details should be provided by this time. Failure to provide this information should not be a termination event which would be a disproportionate penalty. Instead the failure should trigger a requirement to provide an explanation to the Authority as to why this relatively simple administrative step was not carried out in the required timescales. This explanation and the Authority's view on the matter should be published on the Authority's website.

It is unclear to us why it is necessary to make changes to the requirement to submit details of Metering Arrangements. Rule 3.6.4 (b) already allows an applicant to defer submitting the details until after the auction. However, for some applicants it is convenient to submit these details at Prequalification. Doing so means that this process can be signed off as completed at an early stage and reduces the ongoing administrative burden. We would not therefore welcome the option of submission at prequalification being removed. However, prequalification should not fail if these submissions are judged incomplete or inaccurate, the applicant should simply be informed that they are still liable to provide the information by the deadline applicable to those applicants who did not make a submission.

At Prequalification applicants for an Existing Generating CMU are required to provide historical metered output figures, Rule 3.6.1 (a). During the Prequalification Assessment process, the Delivery Body then checks these figures and ensures that the CMU's de-rated capacity is not

greater than the figures provided, Rule 4.3.2. If this is not the case the CMU is rejected. If the Applicant does not also provide the Meter IDs (MPAN or MSID), currently required by Rule 3.4.3 (a) (ii) and where applicable, the relevant BMU IDs at Prequalification the Delivery Body will not be able to independently carry out the required check. The removal of the requirement to provide Meter IDs and BMU IDs should therefore only apply to Prospective Generating CMUs or that existing CMUs should only be required to provide this data where it has changed.

We recognise that Ofgem are keen to simplify the prequalification process and we welcome this. However, the issues we raise in our response to Q10 highlights the need for the Delivery Partners in consultation with stakeholders, to consider more holistically the impact of changes to prequalification. Essentially, prequalification should require capacity providers to provide the minimum information required by the Delivery Partners that provides assurance that there is an asset (or one will be built); the asset is or will be capable of generation and that the asset has or will have an appropriate export agreement.

Q11. Do you believe that removing progress reports and the associated ITE assessments in all cases except those outlined, alleviates the regulatory and administrative burden, while still providing the necessary levels of assurance?

The benefit of the ITE assessment process is clear as the Delivery Body is provided with an independent overview of the progress of all new and refurbishing CMUs. This is critical to understanding the Capacity Target for the T-1 auction and in general, will considerably assist National Grid ESO with network planning. Our experience is that given the overall cost of even a small project the cost of an ITE would appear to be relatively small in comparison, only a few thousand pounds per report. In comparison the minimum spend for a New Build project, as laid out in the CM Regulations and the CM Rules is now in excess of £250,000/MW as a result of the Qualifying £/kW Capital Expenditure. A small 20 MW site must therefore cost at least £5million. In addition, small projects tend to be completed in shorter timescales compared to large ones. This further reduces the overall cost to a small project as fewer reports are needed.

To allow this CM rule change proposal to be understood the evidence on costs, in particular the balance between the cost of procuring the ITE reports relative to the overall cost of a project should be published to demonstrate the case for the change.

If changes are to be made, the timing for obtaining assurance should be in advance of the T-1 auction. The Substantial Completion Milestone (SCM) is after the T-1 auction but the Delivery Body needs assurance before the T-1 auction as to what assets are able to deliver.

Q12. Do you have a view on which of the sub paragraphs of Rule 9.2.6(d)(i) – (ix) should only apply to Eligible Secondary Trading Entrants and which to the other categories of Acceptable Transferees?

We do not believe it is appropriate for the Delivery Body to subject Acceptable Transferees to the same process as for Eligible Secondary Trading Entrants. Acceptable Transferees will already have been pre-qualified, therefore the only requirements the Delivery Body would need to verify are that the aggregate capacity obligations do not exceed the maximum capacity obligation and that the party has not been terminated.

Q13. Is it appropriate to allow all parties who have prequalified for the CM for that year to become prequalified for secondary trading? Are there any unintended consequences?

Yes, we believe that it is appropriate to allow all parties who have prequalified for the CM for that year to become prequalified for secondary trading following relevant checks by the Delivery Body.

Q14. What form should a register of Acceptable Transferees take? How should it be populated? And who should be responsible for maintaining it?

The existing CM Register should include secondary trading details and allow capacity providers to provide details on how much capacity they wish to trade. The Delivery Body would be responsible for maintaining it; Capacity Providers would be responsible for ensuring that it provides the Delivery Body with the right data.

Q15. Do you agree that it would be desirable to allow obligations to be traded between parties in amounts greater than or equal to 0.5MW?

Yes, it is appropriate to permit obligations to be traded in smaller amounts.

Q16. Do you believe the current time period of five Working Days before the date of the trade by which applicants must submit a request to trade is appropriate or should this period be reduced? Do you have any suggestions on a revised length of this period?

Yes, we believe the current time period of five Working Days before the date of the trade by which applicants must submit a request to trade should be reduced to two Working Days. This timeline should correspond with the requirement for the Delivery Body to respond to requests for a trade within two Working Days.

Q17. Do you believe that the current period of three months in which NGESO have to notify a Secondary Trading Entrant of the Prequalification decision is appropriate or do you feel this should be shortened? Do you have any suggestions on a revised length of this period?

We would support a shortened period. In its consultation, Ofgem state that it will monitor the flow of applications over time with a view to reducing the length of the Secondary Trading Entrant process. Since July 2018, the Delivery Body has provided Ofgem with this data; we would welcome clarification as to what additional monitoring Ofgem will undertake and the associated timeframe.

At Ofgem's secondary trading workshop in November 2018, the Delivery Body agreed it could process these applications in less than 3 months; the Delivery Body also agreed to review its requirements and propose a reduced application timeline. We believe that up to 6 weeks should be sufficient for the Delivery Body to complete the same process it undertakes for pre-qualification.

Q18. Do you agree with adding a provision for the time frame over which NGESO must respond to requests for a trade?

We believe that it is appropriate to reduce the time periods for registering proposed trades to 2 days from 5 days. Furthermore, we believe that the CM Rules place a requirement for the Delivery Body to respond to requests for a trade in a much shorter timescale than the five days it has set out in its guidance document³³.

Q19. Do you think it is appropriate to extend the defined trading window to the results day of the T-4 Auction for the relevant Delivery Year?

Yes, we support the extension of the defined trading window for Secondary Trading to the results day of the T-4 Auction for the relevant Delivery Year. This would allow capacity providers a longer timescale to manage unforeseen circumstances following a T-4 auction such as plant issues that

³³<https://www.emrdeliverybody.com/Prequalification/Secondary%20trading%20guidance%20v2.0.pdf>

may prevent the capacity provider delivering all or part of its agreement. It will also provide greater liquidity for Secondary Trading as there will be more prospective off-takers of capacity agreements prior to the T-1 auction than after the T-1 auction. We believe that there may be a need for a short “closed period” during the T-1 auction.

We believe that in implementing any change, the rules for Secondary Trading following prequalification for T-1 auction and prior to the T-1 auction itself, need greater detail/definition than those which were put in place for the T-1 replacement auction. Some examples of the further detail required are:

- The CM Rules for the T-1 replacement auction did not cover how prequalified T-1 units that had acquired capacity obligations through secondary trading would be removed from the T-1 auction.
- The CM Rules did not cover any periods in which secondary trades would not be accepted in the lead up to the T-1 auction.
- The CM Rules did not clarify how a unit prequalified for the T-1 auction that acquired a secondary trade for part of its volume could remain eligible to do further secondary trading following the auction, but not participate in the T-1 auction.

Q20. Does it continue to be appropriate for Transferors to be required to meet their SCM prior to engaging in trading?

We believe that it is appropriate that Transferors are given the opportunity to trade if they cannot meet their SCM. Therefore, this requirement should be removed. This will mean allowing multi-year trades i.e. one new project taking on an agreement from another. This may also mean however allowing trading for years prior to the T-4 auction and may require a new form of secondary trading.

Q21. Does it continue to be appropriate for Transferees to be required to meet their SCM prior to engaging in trading?

We do not believe it is appropriate for the requirement to meet SCMs to be removed from Transferees as there needs to be assurance that the CMU can deliver on the obligation.

Q22. How should we address the risk of a trade being withdrawn where a Transferor is terminated after a trade has been registered?

We believe that it is the best interest of the CM for capacity providers to be able to deliver capacity irrespective as to whether the obligation was acquired in the original auction or through a secondary trade. Therefore, we believe that when a Transferor is terminated after a trade has been registered, the trade should not be withdrawn.

Q23. How should we address the transfer termination risk where a partial or full Capacity Agreement is traded for part of, or the entire duration of a Delivery Year?

Where a residual termination risk remains for a capacity provider taking on a partial or full obligation for part of, or the entire duration of, a Delivery Year then it will continue to affect the liquidity of the secondary trading market.

BEIS and Ofgem should provide clarification on whether they believe capacity providers should be able to undertake partial trades. We would welcome an assessment on the impact on the capacity market and its objectives if a capacity provider 'avoids termination fees' by transferring its obligation. This also depends on the terms of transfer (full or partial transfer) and SPD requirements. Overall, we believe that it is in the best interests of customers that the CM framework should facilitate the transfer of capacity obligations to parties who are able to deliver capacity wherever possible.

Q24. Are there any amendments that could be made to the SPD framework following a secondary trade, specifically relating to partial agreement trades?

We believe that currently, there is little incentive on capacity providers to ensure that if they can no longer meet their obligations that they should seek others to take on the obligation. We do not believe that this restriction helps to meet CM objectives. The most important requirement to address this is to ensure that once capacity is traded onto a different CMU the trade cannot be revoked as a result of termination of the original capacity provider. We also believe that it is essential that partial termination is permitted as a remedy for partial failure to meet SPD requirements.

We believe that changes to the SPD regime should not be limited to secondary trading. We believe that a fairer and more effective testing regime should be introduced, including requirements to prove that capacity can be delivered at peak times of day and can be delivered for extended durations. In order to deliver this, we recommend:

- Testing should be based on the full connection capacity (not the de-rated capacity); this would be consistent with Ofgem's Of15 proposals on connection capacity. This becomes particularly important when intermittent renewable capacity is included in the CM.
- Testing should be carried out at (or near) the peak time of day, measured in terms of the net requirement from CM capacity. With an increasing proportion of capacity provided by sources other than firm generation capacity, there is an increasing possibility that the capacity contribution from some assets will not be the same at all times of day and may be lower when it is most needed.
- Consideration should be given as to whether it would be beneficial to require more frequent testing. Under current arrangements, it is possible for a capacity provider to meet SPD requirements in the first four months of the Delivery Year and then to continue to receive capacity revenue for the remainder of the Delivery Year, whether they are available or not. A balance must be struck between the level of assurance obtained and the cost to capacity providers; however, a regime which required testing on, say, a quarterly basis, might provide stronger assurance that capacity will be provided when required. Although system stress events are more likely in the mid-winter months, it would not be impossible for them to occur at any time of year.
- Improve the interaction between the SPD and secondary trading arrangements so that when a capacity obligation is transferred for a significant period, say three months, the SPD requirement is transferred with it. At present, the SPD requirement is only transferred when the entire capacity obligation is transferred for the entire Delivery Year. This limits the scope for the systematic use of secondary trading to cover major outages to ensure that adequate capacity is available when required throughout the year.
- Introduce partial termination as a remedy for partial failure to meet SPD requirements, consistent with the approach to pre-T-1 auction testing in Ofgem's Of15 proposals on connection capacity.
- Consider whether to require all CMUs to perform one extended duration SPD test annually to show that they can deliver capacity for four hours. This recognises that concerns over duration could potentially apply to technologies other than storage.

Q25. Do you believe the options presented related to SPD data submission are suitable and are there any options we may not have considered in order to help mitigate the impact on capacity providers?

We welcome the ESC's initiative to have an automated process in place that allows capacity providers to self-validate their metered data for DY 2020/21 onwards. We believe that the ESC should consult industry during the development of this automated process to ensure that the end process meets the needs of all capacity providers.

We disagree with Ofgem's statement that 'participants can submit metering data to EMRS more frequently if they so wish'; this only applies to CMUs with bespoke metering and not to CMRS CMUs who do not have control over timings of data submissions. We would welcome further clarification from Ofgem and the EMRS on how the proposed short-term solution alleviates the issue for CMRS CMUs.

Q26. Which aspects of a CMU configuration do you think should not be able to be amended following Prequalification?

We agree with Ofgem that Generating Technology Class and De-rated capacity should not be amended following prequalification. We believe the CM Rule should be amended to make it clear that the physical configuration of the primary Generating Units making up a CMU should not be changed following prequalification but that, where necessary to meet other industry requirements, appropriate secondary arrangements can be changed.

There must be a greater level of flexibility to allow certain elements of a CMU configuration to change. In particular, without changing the primary generating units, there should be flexibility to change the secondary arrangements such as the number of BMU IDs and control systems so that capacity providers are able to meet the requirements of other elements of the market framework such as the BSC, CUSC or Grid Code, which may change over the lifetime of a Capacity Agreement.

Q27. Is there any other data that would be useful to add to the CMR and why?

We welcome Ofgem's intention to implement CP270 and CP271 following completion of system changes to facilitate DSR reallocation which is due before prequalification in 2019 and we would like clarity as to when these changes will be incorporated

However, we do not support Ofgem's proposal to exclude the address and metering point location from being published on the CMR. This information should be provided in order to align information provision requirements for all types of capacity providers irrespective of technology and unit size. This would support the efficient operation of the CM by improving market transparency and providing a better understanding of the capacity operating in the CM to market participants and to policy makers. Furthermore, it would better align the CM with Ofgem's overall objectives on developing and promoting competition.

Both the Renewables and CHP⁴ register and the Central Feed-in Tariff⁵ register hold this level of detail; including 'confidential information' such as geographical information.

National Grid ESO's recommended additional fields for inclusion in the CM Register are confusing as some of these are already in the CM Rule 7.4 including: secondary trading details and Meter Point Administration Number. We would welcome visibility of the proposed legal text drafting to provide the necessary clarification as to what would change.

Q28. How should the ALFCO formula be adjusted for Interconnectors when their output is affected by actions by NGESO?

We believe that it is appropriate to adjust the Interconnector CMU's obligation proportionally with the magnitude of the ESO action rather than removing it entirely. We believe that addition of a 'min' to the equation would address this issue.

Q29. Should system to generator intertrips be included as a RBS in Schedule 4 to relieve providers of their obligations when affected by such an intertrip?

Yes, we agree that for compliant and firm generator connections it is appropriate to modify the capacity obligation proportionately to the level of generator intertrip service provided.

Q30. How should we differentiate between firm and non-firm connection agreements at the Distribution level?

There is a much greater range of generator network connection firmness at distribution level compared to transmission generator connections. This means that it is not possible to provide simple rules to determine de-rating capacity factors that distinguish between firm and non-firm capacity. We believe it is essential that further progress is made to improve the visibility to National Grid of detailed information at site level on distribution-connected capacity so that its contribution to security of supply can be more accurately assessed.

One option is to prospectively establish a 'firm' connection standard at distribution level, at a similar level to firm transmission connections. This would enable parties to secure firm connection agreements if requested and have a clear status under the CM Rules and equivalent treatment.

⁴ <https://www.renewablesandchp.ofgem.gov.uk/>

⁵ <https://cfr.ofgem.gov.uk/#/>

Q31. How should Distribution-connected generators with non-firm connection agreements be de-rated to accurately account for their contribution in a stress event?

As we set out in our response to Q30, there is a wider range of generator network connection firmness at distribution level compared with transmission. To determine suitable de-rating factors for non-firm connections suggests that either very bespoke de-rating factors will be needed to reflect individual CM provider circumstances, or a low de-rating factor will be needed to reflect the likely average effective capacity amongst these non-firm connections.

We also believe that there needs to be greater consistency and conformity across distribution-level agreements.

Q32. Do NGESO's current financial incentives on demand forecasting accuracy, dispute resolution, DSR Prequalification, and customer and stakeholder satisfaction drive the intended behaviours by NGESO?

We do not believe that the current financial incentives drive the intended behaviours by NG ESO which is to deliver the core services well. The burden on participants in pre-qualification is significantly greater than is necessary and the existing portal platform falls some way short of what the market requires.

We believe that a key area of focus should be to ensure that the Delivery Body is appropriately resourced and that their systems and processes operate effectively. We have encountered some challenges in the processes to administer pre-qualification, delivery and payments. Where roles and responsibilities are not clear, it has left gaps in processes and procedures which has meant that some CMUs have not been able to participate in the CM.

Q33. Do the financial incentives listed above remain fit for purpose?

No, we do not believe that the financial incentives remain fit for purpose.

Q34. What behaviours and outcomes should NGESO's financial incentives drive? What form should these incentives take?

The National Grid ESO financial incentives must incentivise the Delivery Body to deliver excellent performance for its core activities. We would welcome the opportunity to explore with Ofgem and industry whether more objective measures need to be in place.

Q35. Do you agree that a demand forecasting accuracy incentive remains appropriate?

We would strongly support improvements to the publication of accurate long-term demand forecasts; we have noted that revisions to demand forecasts have been larger than expected. We therefore agree that a demand forecasting accuracy incentive remains appropriate. We also agree that it may be more efficient in the long term to include this within the ESO's wider package of demand forecasting accuracy incentives.

Q36. Do you agree that the dispute resolution incentive should be based on a proportion of Prequalification or Reconsidered Decisions overturned by the Authority rather than on the absolute number?

Yes, we agree the dispute resolution incentive should be based on a proportion of Prequalification or Reconsidered Decisions overturned by the Authority rather than on the absolute number. Ultimately, the Delivery Body should be incentivised to get it right first time.

The Delivery Body is not necessarily responsible for the number of disputes. What matters is that the number of incorrect decisions should be reduced. Hence decisions overturned at both Tier 1 and Tier 2 should be counted. However, the Delivery Body should be incentivised to overturn their decisions at Tier 1 if on reflection they believe that the original decision was incorrect. Hence if the matter goes to the Authority then an overturn at Tier 2 should count more heavily against them.

Q37. Do you agree that the DSR Prequalification incentive should be replaced by an incentive intended to drive NGESO to aid smaller providers, new entrants, and innovators navigate the CM?

The Delivery Body is a service provider to all CM participants and we believe that it should provide support to all parties. Many DSR providers are now well established in the market and do not require a targeted bespoke service. The Delivery Body should be able to help any capacity provider (new or established, large or small) who is dealing with new or unusual requirements. This requires that the Delivery Body operates a transparent and responsive approach to stakeholder management. This is discussed further in our response to Q 38.

Q38. Do you agree that an incentive on NGESO's customer service and stakeholder engagement remains appropriate? What form should this incentive take?

The Delivery Body's performance to date has not met our expectations. Therefore, we consider there still is a requirement to have an incentive on NGESO's customer service and stakeholder engagement. We would welcome a clearer stakeholder engagement process, with greater transparency about timeframes, processes for responding to queries and assurance that customers' needs have been fully met.

Q39. Do you agree that the incentives on NGESO for delivering the CM should be aligned with NGESO's incentive framework? Should the CM incentives be incorporated into NGESO's incentive framework in the longer term?

We believe that the Delivery Body must deliver excellent performance against stretching targets for its core capacity market activities before considering alignment with NG ESO's incentive framework.

Q40. Does the separation of the EMR Delivery Body from NGESO continue to remain appropriate given the separation of NGESO from the rest of NGESO plc?

We do not believe that the Delivery Body has taken full advantage of the synergies within National Grid ESO, its strict application of business separation and interpretation of conflict of interests has led to problems. This includes the Delivery Body's inability to access relevant data across systems for prequalification verification purposes as well as ensuring its staff have a good understanding of industry issues. Therefore, recognising the separation of National Grid ESO from the rest of National Grid plc, we believe there would be a good case for considering whether the separation of the EMR Delivery Body from the rest of National Grid ESO should be relaxed or even removed entirely.

Other comments

Other changes: Continuous improvements to CM Rules

We do not understand why Ofgem requires that each signature by a relevant person or director must be dated in a prescribed format. We understand that it could lead to a rejection at pre-qualification if it is not adhered to. We do not believe it is necessary to be so prescriptive.

Clarification of provisions relating to opting out at Prequalification: CP293

CP293 allows Existing CMUs which opted out of the T-4 auction for a Delivery Year on the basis that they would be closed down by the start of the Delivery Year to no longer be excluded from participating in the T-1 auction for that Delivery Year. EDF Energy raised a 'follow-up' change proposal in September 2018 to refine these CM rules as it currently stands a capacity provider that has submitted an Opt-out Notification in the T-4 auction and provides electricity from that CMU during the Winter for the specific Delivery Year following participation in the T1 auction will then be subject to the Termination rules. We have reviewed Ofgem's proposed changes and we believe there is still a termination risk.

Ofgem did not implement CP293 in full in 2018; full implementation of CP293 combined with Ofgem's proposed changes will rectify the issue.

OF34: Technical amendments to ALFCO (formerly CP279, CP289, CP290)

We have sought further clarification from both the Delivery Body and EMR Settlements Body on OF34. It is apparent that the Delivery Partners do not intend to implement the CM Rules exactly as written.

Rule 14.4.2 clearly states that it is the **System Operator** that supplies information. This is not necessarily the same entity as the **Delivery Body** although the Regulations do imply that the System Operator is the first choice for that role. If the Delivery Partners intend to apply a different interpretation, we would suggest the following additional CM rule amendment:

14.4.2 The ~~System Operator~~ **Delivery Body** must provide to the CM Settlement Body in respect of each Settlement Period in which a System Stress Event occurs, for each Capacity Committed CMU which is a Generating CMU ~~not~~ (comprised of BM Units ~~or not~~):

EDF Energy
May 2019