The voice of the energy industry

Energy UK response to the Ofgem Five-Year Review of the CM Rules – First Policy Consultation

30th May 2019

About Energy UK

Energy UK is the trade association for the GB energy industry with a membership of over 100 suppliers, generators, and stakeholders with a business interest in the production and supply of electricity and gas for domestic and business consumers. Our membership encompasses the truly diverse nature of the UK's energy industry – from established FTSE 100 companies right through to new, growing suppliers and generators, which now make up over half of our membership.

Our members turn renewable energy sources as well as nuclear, gas and coal into electricity for over 27 million homes and every business in Britain. Over 730,000 people in every corner of the country rely on the sector for their jobs, with many of our members providing lifelong employment as well as quality apprenticeships and training for those starting their careers. Annually, the energy industry invests over £11bn, delivers £88bn in economic activity through its supply chain and interaction with other sectors, and pays £6bn in tax to HMT.

Executive Summary

Energy UK welcomes the opportunity to respond to Ofgem's Five-Year Review of the Capacity Market Rules – Frist Policy Consultation. We recognise that when originally written, the Capacity Market Rules ("the Rules") aimed to minimise burden and maintain simplicity, however, we are of the view that this is no longer the case. The energy sector has evolved significantly since 2014, and we encourage continuous re-evaluation of the Rules to reflect these changes.

We are supportive of the proposals to introduce the Capacity Market Advisory Group ("CMAG") to oversee and recommend Rule changes. Increased industry engagement from relevant experts is welcomed and will connect the policy makers with stakeholder views. The membership of the CMAG must be representative of the diversity of capacity providers engaging in the Capacity Market ("CM") and those materially impacted by the Rules without being disproportionate to a particular technology. We would encourage the additional use of a forum, similar to the Transmission Charging Methodologies Forum ("TCMF"), that would provide an opportunity for updates, collaboration, issues, but also solutions to the Rule issues identified.

Energy UK believes that changes proposed to Prequalification should go further. We see no reason as to why there must be a predetermined period in the year for Prequalification to take place. Energy UK are supportive of a Prequalification window to occur for an indeterminate period, only closing shortly before a CM auction taking place. The Prequalification burden should be further eased by only requiring a Capacity Market Unit ("CMU") to prequalify once, and when a material change has been processed. Following Prequalification, a declaration of no change could be submitted, putting the legal onus on the Capacity Provider. This reduced burden may raise concerns that the increased participation in the CM could cause unfavourable consequences through speculative bidders, possibly unable to meet the requirements of the CM, and this should be considered. Importantly, termination fees should be reflective of the reduced burden seen in the pre-auction stages to ensure that the auction is not distorted by speculative bidders.

The current Rules present a significant barrier to secondary trading, and we would find it prudent for these to be rewritten engaging with industry stakeholders through workshops. These barriers are due to deterrents to trade obligations and avoid penalties. We encourage Ofgem to ensure that the Rules enable secondary trades to act as a mechanism to ensure the continued performance of the CM. Energy UK would encourage that Satisfactory Performance Day ("SPD") requirements become more fluid in time, to allow for reassurances to be gained on Transferee's ability to meet obligations.

We recognise the role of National Grid Delivery Body ("Delivery Body") and welcome the review of its incentive framework, as we believe that its performance should improve. The incentives should act to encourage the Delivery Body to excel in its performance for its core functions. We would welcome the performance review to mimic that of the ESO Incentives Framework, with a call for evidence for stakeholder views to be shared on the entirety of their performance criteria. We also believe that following the legal separation of National Grid ESO ("the ESO"), there are less restrictions in plane and therefore, the Delivery Body to reallocate resourcing from the ESO to the Delivery Body at peak workload periods, and for appropriate communication channels to be allowed across the divide.

General comments

Energy UK encourages Ofgem to make all CM related documentation easily accessible to all stakeholders. We recognise that historically; all CM documentation has been located in a single repository on the Ofgem website and accessible to all. This good practice should continue with all past and future CM documentation. This should be coupled with a regular consolidated version of the Rules being published whenever amendments are made, as well as providing a 'track changed' version. This would significantly ease the burden of industry participants when trying to identify the Rules that apply to their CMU (in force at the time of awarding an agreement), why amendments have been made (through the consultation period), and how the proposals have been enacted. Consolidation inconsistencies of the Rules are currently causing significant interpretation issues for all parties; including Delivery Partners.

Question 1: 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.

Energy UK is aware of a number of balancing services that have interactions with CM obligations. It is the opinion of Energy UK that balancing services that a CMU is not able to bid into should be stipulated in the Rules. The current relevant balancing services seem appropriate, and therefore it is Energy UK's view that they should be maintained.

Question 2: 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, some of our members have expressed 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.

It is Energy UK's view that the operational needs of the electricity system must take precedent. Any instruction given by the ESO to a capacity provider outside of the scope of the CM must be prioritised without penalty. The appropriate action from any energy resource when instructed by the ESO is critical to system security. Therefore, a CMU being available, is being at the disposal of the ESO to maintain statutory limits, and this should be recognised as providing security of supply and not incur penalties. Further requirements on capacity providers under the Grid Code and Distribution code that are to ensure system security should also be exempt from the penalty regime.

Question 3: Do you have suggestions for how these markets can be better aligned and how any inefficiencies can be mitigated?

Energy UK 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. Energy UK recognises ongoing workstreams by the ESO to provide this. 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 the ESO accounts for these services appropriately in its forecast assessments across all relevant markets or whether these assets are sterilised.

Question 4: 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?

It is Energy UK's view that the CMAG should be formed of industry representatives with relevant and appropriate experience and skills in the CM. The CMAG must be representative of all capacity providers, appropriately reflecting the diversity of capacity technologies who are holding agreements. The CMAG should also represent those technologies that may not have successfully obtained a capacity agreement yet, however, entry is possible for these technologies, as well as those parties that are materially impacted by the CM Rules. For example, intermittent generation technologies such as wind and solar.

It is also important to ensure that all stakeholders, including those not on the CMAG, have unrestricted access to all relevant CM documentation to allow the effective evaluation of any submitted CM proposals or to 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

Question 5: 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 the CMAG would provide a useful body to guide delivery partners on how industry participants would experience the most value from implemented amendments and alterations, and how this should be done. Energy UK is mindful that the CMAG must act as a useful tool to ease the Rule change process, making them fit for purpose and appropriate for the future. There is a concern that the CMAG may act as a further, unnecessary, layer of bureaucracy, further delaying the Rule change process. These delays must not be inherent with the CMAG and efforts in its design should be focused on prevention of this.

We are also aware of increasing resource intensive activities currently ongoing across the energy industry, which are requiring input from stakeholders. There is a concern that the application of resourcing will need to be dependent on the frequency and length of meetings. Industry would need a full Terms of Reference for the CMAG to allow for the understanding of the resource dedication required and for appropriate preparation and also feedback on whether it is appropriate. Many industry stakeholders would see value in less frequent but longer CMAG meetings.

We advocate the use of a competitive tendering process to secure the services of a dedicate secretariat for the CMAG. The secretariat must be an appropriate provider, that can successfully meet the needs of industry stakeholders. Such a secretariat must be set clear, ambitious Key Performance Indicators (KPI's) to meet stakeholders' needs, such as publishing meeting papers online within 10 working days of the meeting.

We would recommend the additional use of a CM Rules Forum. This forum could replicate the format of the Transmission Charging Methodologies Forum (TCMF), that would be used as an opportunity for those industry stakeholders to attend, that are not necessarily members of the CMAG, to receive an update on the CM Rules, discuss CM Rules issues and collaborate on potential solutions.

Question 6: 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?

Energy UK supports a suitable timeframe of implementation of the Rule changes to allow for a consolidated Rule set to be available before the following pre-qualification. Some members of Energy UK are of the view that 18-months is arbitrary, and reflects the resourcing issues of Delivery Partners

rather than allowing for a more flexible and agile change process for all affected parties. However, we do note that other members are welcoming of a longer implementation timeframe before the start of Prequalification due to the knock-on impact to further processes such as securing directors' signatures of assets that they do not necessarily own. Energy UK supports the implementation of Rule changes earlier than pre-qualification. However, the criteria for urgent Rule changes should reflect *Ofgem's guidance on Code Modification Urgency Criteria*[1], and the timeframe for approval and implementation set as appropriate. This stipulates that an urgent modification should:

- Be linked to an imminent issue or a current issue that if not urgently addressed may cause:
    a. A significant commercial impact on parties, consumers or other stakeholder(s); or
    b. A significant impact on the safety and security of the electricity and/or gas systems; or
    c. A party to be in breach of any relevant legal requirements.

Question 7: 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?

As these proposals do not pose any significant amendments to the Rules, we are unaware of any implications to the Prequalification procedure. We believe that all existing CMUs should only be required to prequalify once. Existing CMUs should be required to provide declarations of amendments to relevant parameters, and/or declarations of no change.

The requirements for specific authorising signatures should be reconsidered. Resubmitting a directors' signature for an asset where the applicant is not the legal owner on an annual basis, within an eight-week window seems unnecessarily burdensome. Also, as prequalification occurs over the summer period, directors' availability can be low. We also note that some capacity providers believe that annual signatures from the Legal Owners are unnecessary and that it should be sufficient for Ofgem to have an annual commitment from the company that is taking over dispatch control of such an asset. Therefore, for assets pre-qualified in the Capacity Market by an entity acting as a 'Despatch controller' and not 'Legal Owner', we believe that directors' signatures should be required from the Despatch controller, rather than the Legal Owner. If further assurance is required by Ofgem, we could also provide the submission of a valid document stating the arrangement, would provide supplementary information to further provide Ofgem with reassurance.

Question 8: 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?

Energy UK is of the position that the window for Prequalification should be indeterminate, only closing for a period of time prior to the CM auctions, with the Delivery Body Processing Prequalification applications within a defined timeframe on a rolling basis.

Question 9: 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?

Any agreements awarded with planning consent yet to be provided to a CMU must be supported with significant confidence of its ability to provide capacity in the relevant delivery year. Any ability for a CMU to be awarded a CM agreement without planning consent must be done so with consideration of the ability for the capacity to be replaced in the scenario of failure to deliver. This raises concerns over the appropriateness of Secondary Trading rules that would allow for this.

Question 10: Do you have any feedback on the amendments to the Prequalification data items listed in Table 1?

The delay proposed to the Rules 3.4.3(a)(iii) and 3.4.3(a) (iii) raise concerns around how the Delivery Body will be able to appropriately and effectively check historical metered output of existing CMUs.

[1] https://www.ofgem.gov.uk/publications-and-updates/ofgem-guidance-code-modification-urgency-criteria-0

Consideration should be made into whether this amendment would restrict the Capacity providers ability to undertake a secondary trade for a T-4 auction capacity agreement to three years before the delivery year as opposed to following results day of T-4 auction for the Delivery Year.

Question 11: 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?

Although we recognise that the removal of progress reports and the associated ITE assessments would remove regulatory and administrative burden, consideration should be made to the Substantial Completion Milestone (SCM). The SCM currently occurs following the T-1 capacity Auction for the relevant delivery year. It is the view of Energy UK that any assurance obtained should be in advance of the T-1 capacity Auction.

Question 12: 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?

Energy UK notes that Rule 9.2.6 is not fit for purpose and needs to be addressed. We encourage Ofgem to further consult with industry stakeholders through workshops and other engagement opportunities to create appropriate Rules for secondary trading, that is suitable for its purpose. Energy UK would commit to providing such a facility to Ofgem, to provide industry experience and expertise in the design of such a replacement Rule.

Question 13: 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?

Energy UK sees no reason as to why all prequalified parties should not be considered for secondary trading suitability, so long as regulatory checks are appropriately satisfied. The experience of many Capacity Providers has been that Delivery Body undertakes additional compliance checks, and this working practice should be reviewed, and published to aid transparency and liquidity in the market.

Question 14: What form should a register of Acceptable Transferees take? How should it be populated? And who should be responsible for maintaining it?

We would be supportive of the Delivery Body publishing its requirement to carry out additional, suitable checks for secondary trades to aid transparency and liquidity. We would expect that it would the responsibility of the Delivery Body to update the existing CM Register to include secondary trading details and allow Capacity Providers to outline the capacity that they desire to trade. We would expect the Delivery Body to be responsible for ensuring that the CM Register is maintained, and it should be the responsibility of the Capacity Provider to ensure that accurate data is provided to the Delivery Body.

Question 15: 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?

Energy UK is supportive of a minimum threshold of 0.5MW of obligations to be traded between parties. This would ease trading liquidity by allowing a wider range of CMUs to trade obligations, but also to accept smaller portions of obligations that can be more easily delivered. This proposal opens up the option of secondary trading to a higher number of CMU's with capability to meet smaller portions of obligations that the CMUs with the existing obligation cannot meet. This would work to the benefit of the principles of the CM.

Question 16: 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?

Energy UK supports the position that a period of time is required between the date of which a trade should be requested to the date of a trade being actioned. However, it would prove prudent to shorten

these timeframes from five-Working Days. This action would allow more scope for capacity obligations to be maintained at shorter notice.

Question 17: 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?

Energy UK does not consider the suggestions of reducing the Delivery Body's timeframe to notify a Secondary Trading Entrant of the Prequalification decision to six weeks is justified; we believe that the Delivery Body should provide its reasoning to all stakeholders as to why this cannot be achieved to shorter timeframes.

In its consultation, Ofgem states 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 be undertake and the associated timeframe.

Question 18: Do you agree with adding a provision for the time frame over which NGESO must respond to requests for a trade?

Energy UK supports the revision of timeframes from five-working days to respond to secondary trade requests down to two working days. However, we would encourage the Delivery Body to respond to trade requests as soon as possible and not treat these timeframes as targets.

Question 19: 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?

Energy UK does believe it to be appropriate to extend the defined trading window to the results day of the T-4 Auction for the relevant delivery year. It will also provide greater liquidity for Secondary Trading as there will be more prospective offtakers 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.

Question 20: Does it continue to be appropriate for Transferors to be required to meet their SCM prior to engaging in trading?

In the event of a CMU (the Transferor) being unable to meet its requirement, it is appropriate that the opportunity is available to trade its obligation to a Transferee. The Transferor should have to continue to meet its obligations until a moment in time in which the trade to a transferee is complete, after this point, the Transferor should not have to continue to meet its SCM until obligations return.

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.

Question 21: Does it continue to be appropriate for Transferees to be required to meet their SCM prior to engaging in trading?

We are of the position that the SCM requirement should be maintained for transferee's prior to engaging in secondary trades. Regardless, it is crucial that assurances given that a CMU can deliver on its obligation obtained from the Transferor.

Question 22: How should we address the risk of a trade being withdrawn where a Transferor is terminated after a trade has been registered?

Energy UK agrees that it would prove inefficient to terminate a transfer due to Transferor termination. Although we recognise that it would not be deemed appropriate to encourage trading of obligations due

to impending termination, we do not feel that this is not inappropriate to the CM, so long as the Capacity obligation is met.

Energy UK do not deem there to be a material concern to the functioning of the CM in the scenario where a Transferor has traded the obligation to avoid termination fees. This action would prove to be pragmatic of a Capacity Provider to ensure the continued functioning of the CM. The action of placing penalties onto a Transferor intending to terminate, and secondary trading its obligation, could result in an unfavourable, and less market fluid outcome. We deem that the utilisation of trading an obligation when there is a risk to a CMU not being able to meet that obligation is a prudent and appropriate step to ensuring that the CM's requirements are met.

Question 23: 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?

We recognise the necessity to provide assurances that a transferee is able to meet the obligation accepted. Therefore, to minimise the risk of failure to deliver capacity in a stress event following a secondary trade, Energy UK would deem it appropriate for SPDs to be fluid, and for the requirement to be met in a timeframe suitable to the period traded, not at set intervals in the delivery year. Further, Prequalification considerations should be made to Transferee's of obligations, to provide assurances on its ability to deliver.

In regards to SPDs, capacity providers have experienced in the past penalties that have been wrongly allocated. This has been due to administrative timeframes exceeding those of the penalty decision being take, so conformity has not been proven in time. These Rules should be revisited to acknowledge that a CMU could have proven its compliance, however, the timeframes have been elongated.

Ultimately, 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 terminating fees' by transferring its obligation. This also depends on the terms of transfer (full or partial transfer) and SPD requirements. Overall, it is in the best interest of CM that capacity obligation can be met by a capacity provider.

Question 24: Are there any amendments that could be made to the SPD framework following a secondary trade, specifically relating to partial agreement trades? E.g. SPD obligations applying to trading parties in aggregate following a trade, specifically relating to partial agreement trades? E.g. SPD obligations applying to trading parties in aggregate following a trade

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 the obligation on. 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.

Energy UK does not see value in the SPD framework following a secondary trade if a trade is complete for the entirety of the remainder of the delivery year. For example, there should not be a necessity for SPDs to be adhered to if a secondary trade for a period through to October of the Delivery Year is implemented (e.g. December to October). However, if a secondary trade is for a period that is prior to October of a delivery year (e.g. December to January) then the SPD framework should be satisfied. This would provide scope for a Capacity Provider to carry out essential maintenance without penalty or termination, and be in a more secure financial position to deliver at a later time or delivery year. This would also act as an incentive for developers to complete plant early to be available to secure obligations from distressed parties looking to trade their obligations.

Question 25: 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?

Energy UK welcomes the Electricity Settlements Company's ("ESC") plans to introduce an automated process to allow Capacity Providers to self-validate metered data from delivery year 2020-21. We

strongly encourage the ESC to engage with industry throughout the development and design of the project, to ensure that it meets the needs of Capacity Providers, as well as the Rules.

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.

Question 26: Which aspects of a CMU configuration do you think should not be able to be amended following Prequalification?

Energy UK sees no reason as to why all aspects of the CMU configuration could not be amended following the Prequalification process, other than those that would pose a material impact on the ability for a CMU to meet its obligation, or it has unduly impacted on the competition of the auction process.

Question 27: Is there any other data that would be useful to add to the CMR and why?

Energy UK supports the inclusion of further locational data. For example, the inclusion of address and metering point location would align provision requirements for all types of Capacity Providers irrespective of technology. 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. It would also better align the CM with Ofgem's overall objectives on developing and promoting competition. Both the Renewables and CHP register and the Central Feed-in Tariff 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 (MPAN). We would welcome visibility of the proposed legal text drafting to provide the necessary clarification as to what would change.

Question 28: How should the ALFCO formula be adjusted for Interconnectors when their output is affected by actions by NGESO?

Energy UK agree that it seems appropriate to review the ALFCO formula to reflect actions by the ESO. As with other capacity technologies, all System Operator actions should take precedent and be free from penalty.

Question 29: 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? Do system to generator intertrips provide a similar parallel benefit to the system as other RBS do.

As discussed in Energy UK's answer to question 2, a capacity provider should not be penalised due to its inability to provide capacity against its obligation due to a signal from the System Operator, or the networks inability to accommodate the capacity in a given delivery period. In the scenario of an intertrip scenario, it should be noted that due to the CMUs inability to provide capacity to the system, they would already naturally be penalised economically during that period.

Question 30: How should we differentiate between firm and non-firm connection agreements at the Distribution level?

It is Energy UK's view that the topic of firm and non-firm connections require consideration further to this consultation. Any conclusions should take into account the multiple workstreams seeking to form resolutions to access issues. This is to ensure consistency across the industry. In particular, considerations should be made to Ofgem's Significant Code Review (SCR) on access rights, and also the Open Networks Project.

Energy UK would urge consistency across network boundaries of connection agreements, creating a conformity of the legalities of such agreements. This would significantly ease bringing to market Capacity Providers nationally, reducing the burden of understanding the legalities of a different contract, despite providing the same service as elsewhere in Great Britain.

We would welcome the increased visibility of distributed connected CMUs participating in the CM, as is currently provided with transmission connected CMUs. As a higher proportion of distributed capacity is brought to market through the CM, this is greatly needed for transparency.

Question 31: How should Distribution-connected generators with non-firm connection agreements be de-rated to accurately account for their contribution in a stress event?

As stated in question 30, we would deem it appropriate for this to be further consulted on following engagement with related workstreams and projects further to the CM. This is to ensure consistency across the industry and prevent the CM becoming siloed in its approach to firm and non-firm agreements.

Question 32: 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?

Although Energy UK recognises that the incentive framework offered to the Delivery Body was designed to encourage the stakeholder satisfaction and to meet the needs of market participants, this has not been the case, and therefore, this framework should be reviewed. Industry have experienced increasing failure to meet its needs to participate effectively in the CM.

Industry have experienced that the processes, and ability to formally respond to queries are slow and do not necessarily always provide a sufficient response. This should be reviewed in the incentive framework, and is perceived to be reliant on the resourcing available to the Delivery Body.

There is a perceived culture that does not help through burdensome processes. Although we appreciate that the Delivery Body cannot tell a market participant how to comply, we would would welcome assistance with processes. For example, Prequalification errors that are returned to prospective Capacity Providers are done so from a purely compliance perspective. We would encourage the culture in the Delivery Body to advise the participant on the errors found, and how these should be corrected. This should also be done in a holistic way, reviewing the entirety of the application, rather then finding one error so ceasing the review.

Question 33: Do the financial incentives listed above remain fit for purpose?

Energy UK supports the approach of maintaining an incentives scheme for the functions of the Delivery Body. This is critical to encourage the Delivery Body to perform to expectations and needs of industry stakeholders as well as to the mechanism. In addition to a Customer and Stakeholder Satisfaction survey, we would strongly encourage the engagement of wider views on all aspects set out in Special Condition 4L. This could be provided in the form of a Call for Evidence. This would be reflecting the process already in place for the ESO Regulatory Performance Incentives Framework that Energy UK would welcome. This would take into account all stakeholders that have been impacted or have a view on the Delivery Body's performance.

Question 34: What behaviours and outcomes should NGESO's financial incentives drive? What form should these incentives take?

The incentives framework of the Delivery Body should focus on incentivising the excellence of its core function role. Although the Delivery Body going beyond and delivering projects that are additional to this core function are useful and welcomed, there is a necessity to prioritise it's day-to-day, business as usual function, and we believe that this should be the focus of its incentives.

Question 35: Do you agree that a demand forecasting accuracy incentive remains appropriate?

Energy UK notes that the number of revisions to the Demand Forecasts by the Delivery Body has been higher than what would be expected. We would encourage an accuracy benchmark to be in place through the incentives framework. This is a crucial activity in the CM operations, as it feeds into the forecasting of capacity that is required to be secured through the CM auctions. This in turn ensures value for money for consumers.

Question 36: 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?

Energy UK agrees with the proposals that it would be appropriate for the incentive to be based on the increased proportionality of Prequalification and Reconsidered Decisions reviews. However, it should be ambitious, and there should be a clear set of KPI's to quantify performance in a timeframe agreeable to industry stakeholders.

Question 37: 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?

Many of Energy UK's members have had positive experiences of the Delivery Body's incentive to aid Demand Side Response (DSR) to navigate entry to the CM. We, however, are of the position that there should not be preferential treatment to any Capacity Provider. The incentive should therefore be encompassing of all Capacity Providers regardless of size or technology, and the assistance and service that the Delivery Body provides. Providing bias to a sub-set of generation would be inappropriate in a competitive auctioning process.

Question 38: Do you agree that an incentive on NGESO's customer service and stakeholder engagement remains appropriate? What form should this incentive take?

We are not of the opinion that the incentive for customer service, and stakeholder engagement necessarily remains appropriate. Although we are strongly supportive of the Delivery Body being incentivised to perform against customer service and its satisfactory engagement with stakeholders, it does not appear to be delivering appropriately on this, suggesting that the incentive is inappropriate.

It is the view of Energy UK's members with experience of the Delivery Body's customer service that this has not been as good as it could be, and the incentive framework should be revisited to encourage its improvement. It has been noted that other bodies within the EMR (such as the ESC/LCCC) excel at stakeholder engagement, and usually provide query answers in a timely fashion, with formal responses and guidance. This is not necessarily the case with the Delivery Body.

Although draft guidance, and final guidance documents have been forthcoming when committed to, industry stakeholders have often reflected that there is an absence of these documents appropriately addressing the concern raised, and its original need. Energy UK and industry participants are committed to assisting the Delivery Body to deliver on what is required of it.

Question 39: 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?

Although there are elements of the ESO's incentive process that should be mimicked (such as the call for evidence on performance), we do not feel it appropriate to combine the Delivery Body's incentives into the ESO Performance incentives. The Delivery Body's role should remain distinct from the rest of the ESO's activities, as this should remain footloose to be tendered to the most appropriate body that offers performance and value for money (National Grid or otherwise).

Question 40: 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?

The role of the EMR Delivery Body is viewed by industry as a distinctly separate role, and is not necessarily the responsibility of a System Operator. Energy UK is of the position that the EMR Delivery Body should be separate from the ESO. This would further seem appropriate, as it would give greater scope for this role to be tendered to a party (National Grid or otherwise) that can provide the most appropriate service at least cost. This possibility in itself would act as an incentive to perform well against requirements of industry stakeholders and the CM.

The separation of the ESO from National Grid Electricity Transmission plc (NGET) does, however, provide an opportunity for communication and resourcing between the Delivery Body and the ESO to be reassessed. As there is no longer an internal conflict of interest between the commercial department of NGET and the Delivery Body (due to ESO separation), synergies between the ESO and the Delivery Body should now be exploited. Any Chinese Walls that were once apparent should now be removed, and communications between relevant teams encouraged, particularly in regards to resource distribution at peak times for the Delivery Body.

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