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

Uniper SE is a leading international energy company with around 12,000 employees and operations in 40 countries. Uniper SE provides a reliable supply of energy and related services in the markets in which it operates. Its main operations include power generation in Europe and Russia, and global energy trading. Its headquarters are in Düsseldorf, Germany.

Uniper SE operates in the UK through a number of local entities, principally Uniper UK Limited ("Uniper"). Uniper operates a flexible and diverse generation portfolio, sufficient to power around six million homes. Our seven power stations support the energy transition and make an important contribution to Britain's energy supply security.

We are generally supportive of the changes proposed in the above consultation:

- We believe that the CM provides an effective market for the provision of capacity which supports competition in electricity wholesale and ancillary services markets.
- The proposed introduction of a CM Advisory Group seems sensible, but we have some reservations on the proposal to change the timing of the rule change process.
- The ideas around prequalification may be of some benefit to participants.
- Some relaxation of reporting requirements seems appropriate, but not to the extent as currently suggested.
- Changes are needed to promote secondary trading. Some relaxation of eligibility criteria, of SPD requirements, and the rules around termination and transfers would seem to be appropriate.
- NGESO's incentive arrangements could be changed to be more consistent with other arrangements it is subject to elsewhere in its business.

Our specific comments on the questions raised in the consultation are as follows:

The objectives of the Rules

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?

The Capacity Market is an integral element of the overall wholesale market structure. It is important to remember that it was put in place because the energy only market was not recompensing parties for the provision of capacity, as market prices could not be relied to peak to the level required to recover the fixed capital costs involved without some form of regulatory or government intervention. Therefore, there should be an interaction with other markets in that parties with capacity contracts will not expect to recover those costs through energy prices. The CM allows for easier financing, especially for smaller players with less solid balance sheets, and so has increased competition in wholesale and ancillary services markets by attracting new entrants.

However, the introduction of a marginal cash out price with prices tending towards the Value of Lost Load when margins are tight will still ensure that incentives to balance are not undermined as a consequence. Therefore, the CM complements the Energy Market by providing longer terms system security whilst still allowing it to send short term scarcity signals.

Question 2: Do you have any evidence that design choices in the CM are driving inefficient outcomes in other markets?

No.

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

There may be scope to ensure that the appropriate range of balancing services are taken into account when calculating a capacity provider's obligation during a stress event. We note that instructions from the System Operator arising under the TERRE replacement reserves process are not treated in the same way as equivalent actions taken in the balancing mechanism, which would seem to be an omission which should be rectified, particularly as these arrangements could be used by NGESO to meet a significant proportion of its balancing requirements.

Ofgem's Rules change process

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?

We can see some benefit in the creation of a CM advisory group, possibly carrying out similar functions to industry panels to ensure that stakeholder views are better taken into account when prioritising and assessing change proposals. The group membership should be kept to a manageable level while also ensuring that there is participation from a range of different types of stakeholder. To ensure a wider participation in the process, it may be appropriate to hold a less frequent user forum,

similar to the Transmission Charging Methodology Forum, where a greater number of interested parties can attend.

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?

This seems appropriate. Ensuring that the benefits of change proposals are identified in the proposal form would seem sensible, as would formally requiring the advisory group to assess changes against those objectives, plus putting in place a workplan to ensure resources are being used efficiently. This should be regularly reviewed by the advisory group in response to changing circumstances and to reprioritise changes where appropriate.

Ideally, we believe some of the detail could be removed from the Regulations and put into the Rules which would be under a more open and flexible governance. This would reduce the current circular interaction, with two separate processes, between changing Rules and Regulations and vice versa.

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?

Whilst we accept that some changes to the rules will need longer lead times, due to complexity of the issue or due to significant changes being required to processes or systems, we are concerned that this process could result in less complex changes being delayed unnecessarily. We would be more supportive of a flexible approach whereby rule change proposals are prioritised based on characteristics such as materiality, urgency and ease of implementation of the change concerned, with a view to implementing in time for next appropriate period. This implementation period may be some 18months hence or sooner depending on the nature of the change concerned.

Regulatory burden – Prequalification

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?

The proposal to introduce evergreen prequalification instinctively would appear to be beneficial in reducing administrative burden on parties. However, it is already possible to roll forwards certain aspects of previous qualifications, so the additional flexibility may in reality be limited in the benefit it provides.

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?

This could help some parties. We would find it of limited benefit, particularly as we would need to be certain what rules were in place for the relevant prequalification period prior to making our submission.

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?

We understand the risks around planning and it is unclear to us that there is a specific issue to address in respect of DCOs compared with any other regime such as Town and Country planning requirements. We are concerned that relaxing the requirements to the extent suggested in option 1 would be excessive and would encourage highly speculative applications. We would suggest that planning permission should be in place before the relevant auction window. The current deadline of 22 working days prior to the auction window seems too long and should be replaced by something shorter.

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

The changes proposed seem appropriate.

Regulatory burden – Reporting requirements

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?

We believe that the current requirements are unduly onerous and expensive, but would be concerned about their full removal. We believe that sufficient assurance on new capacity should be provided prior to the T-1 auction to ensure that that National Grid has the necessary information to accurately determine the target capacity. Therefore, a report with an ITE assessment should be provided at that point. Otherwise, it would seem sensible to require a report and ITE assessment, as proposed for any remedial plan associated with an SCM and with the FCM, plus an declaration from a Company Director when a material change is likely to occur to the project.

Secondary trading arrangements

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?

Given that Secondary Trading Entrants can be an Existing Generating CMU, an Existing Interconnector CMU or a Proven DSR CMU, then it would seem appropriate that a number of provisions in 9.2.6 (i) to (ix) should apply to Eligible Secondary Trading Entrants, as well as other types of Acceptable Transferee. Our comments on the specific sub paragraphs are:

- The following sub-paragraphs would appear to apply to all categories of Acceptable Transferee: (i), (ii), (iii), (v) and (ix).
- As mentioned in the consultation document, sub-paragraphs (iv) and (vi) are now redundant.

- As sub-paragraph (vii) refers to the requirement to meet the Substantial Completion Milestone, it would not seem to apply to the categories described in 9.2.6 b) and d) who by definition should have met these.
- As only Proven DSR CMUs can be Eligible Secondary Trading Entrants, sub-paragraph (viii) cannot apply as it refers to requirements for Unproven DSR participants.

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?

This would seem sensible. However, when the same physical assets are contained in two different CMUs then only the most recently prequalified should be accepted. This could occur when assets which formed part of a CMU which was unsuccessful in the T-4 auction, form part of a new CMU which participates in the T-1 auction for the same delivery year.

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

This should essentially be a Capacity Market Register, aggregating CMU information by Delivery Year instead of by Auction. We believe National Grid ESO in their role as delivery body is best placed to prepare, publish and maintain such a register.

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?

If some participants would find this beneficial then it seems a good idea.

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?

No, this seems unduly long. We would suggest that the trade should be submitted by the close of the day two working days prior to the date of the trade. For instance, if the date of the trade was a Wednesday it should be submitted by close of business on the Monday.

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?

Yes, it should be shortened. This should be consistent with the time that NGESO has to deliver the its initial decision in the Auction Prequalification process, something closer to six weeks.

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

Yes. Consistent with our suggestion on the deadline for submitting the trade in question 16, we believe that NGESO should have one working day to respond. In the example above, following a

request by close of business Monday, NGESO would have until close of business on the Tuesday to confirm that the trade was accepted.

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?

Yes, this seems appropriate, although we would expect the demand to trade at such an early point to be negligible.

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

Yes. This would prevent highly speculative applications, particularly if the secondary trading window were to be increased.

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

Yes it would. There needs to be some assurance that acceptable transferee is able to deliver on the obligations it picks up.

Question 22: 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 in these circumstances the obligation and right to payment should be retained by the Transferee.

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?

Again, the trade should be honoured in respect of the Transferee.

Question 24: Are there any amendments that could be made to the SPD framework following a secondary trade, specifically relating to partial agreement trades?

The SPD rules around transferred obligations should be proportionate. Short term trades should not attract onerous SPD obligations covering the period of the trade. Given that the SPDs requirements are split between two windows, October to December inclusive and January to April inclusive, it would seem appropriate to structure SPD obligations for transfers around these periods too. If a "significant" obligation is picked up during this period then SPDs should be required. A suggested approach could be as follows, but the timescales could be adjusted to make them more or less stringent:

- If a transferor or transferee has a cumulative obligation of one month or greater, but less than two months, during the period of October to December, then it should provide one SPD

to the highest cumulative level that exists at any time in that period. If the cumulative obligation is two months or over, then two SPDs should be provided.

- If a transferor or transferee has a cumulative obligation of one month or greater during the period of January to April, then it should provide one SPD to the highest cumulative level that exists at any time in that period.

Other changes to the Rules

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?

They seem appropriate.

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

Capacity providers should not be able to change plant type or de-rated capacity provided. Also, we believe it would be difficult in principle to change the site, as the necessary connection agreements and planning consents would not be consistent with those provided for prequalification.

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

We believe information on whether SPDs are achieved would be helpful.

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

This should be treated in the same manner as any other CMU. There is no reason why a partial action taken by NGESO should result in an adjustment of total obligated capacity.

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?

The Grid Code specifies four categories of intertripping scheme. Two of these, Categories 2 and 4, are requested by the System Operator to cover conditions on the network such as system outages. We believe that these are in effect providing balancing services and that it would be appropriate to include these categories of intertrip as Relevant Balancing Services (RBSs) for the purposes of calculating ALFCO. However, two categories of intertrip, Categories 1 and 3, are effectively customer choices used for connection designs changes and where intertrips are chosen as alternatives to reinforcing distribution systems. Given that these essentially represent the customer concerned choosing a non-firm access right, then it does not seem appropriate to include them as RBSs.

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

In a similar manner to how intertripping schemes should be treated, where capacity providers have connection arrangements which are in accordance with the relevant network standards, then it would seem to make sense that DNO instigated interruptions should be regarded as Relevant Balancing Services. However, where the customer has opted for a lower level of connection, such as to achieve an earlier connection date or a cheaper connection solution, then these should not be included as the customer has effectively chosen a non-firm connection or access right.

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?

We do not believe that the de-rating process should be used to reflect non-firm connections. This is likely to complicate the de-rating methodology. Instead, these should be dealt with through the RBSs arrangements.

NGESO's incentives and role in the CM

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?

We generally have doubts about too many financial incentives being placed on NGESO to carry out its licence requirements. However, if incentives are seen as necessary they should be consistent with those adopted in respect of other duties such as the procurement of balancing services. Therefore, it would seem sensible for these incentives as a whole to be aligned with the other incentives on NGESO.

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

Please see the answer to question 32.

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

What capacity providers are looking for is accuracy and robust analysis in setting parameters, efficient and timely administration of the CM processes such as prequalification. This should be carried out cost effectively for the benefit of customers.

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

The demand forecast is important. However, please see our response to question 32 regarding financial incentives as a whole.

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?

This seems sensible if such an incentive remains in place.

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?

It should be replaced, but the proposed incentive is too narrow in scope. We believe that this should be replaced by a general obligation on NGESO to support all capacity providers. This would be similar to the Critical Friend concept in code administration. There appears to be a misconception that only smaller participants and new entrants are resource restricted. This is not the case and a wider variety of parties need support navigating the CM arrangements and processes. Therefore, only targeting resource at assisting a subset of participants would represent undue discrimination and distort competition.

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

This is an important area for NGESO to get right. However, telephone interviews with participants are not the way to assess whether or not NGESO has performed adequately as it tends to force parties into quick, less considered answers. Also, people are less likely to be critical as it could seem impolite. We believe that an online, anonymous 360 degree feedback process would be more likely to provide accurate results.

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?

Yes, please see our answer to question 32 above.

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 concerns that capacity providers initially had about NGESO being designated as the delivery body still exist to some extent. Many capacity providers also provide balancing services to NGESO, who is effectively a monopsony purchaser with a significant information imbalance benefit. The existing separation arrangements were in part put in place to alleviate concerns that information that NGESO acquires as the delivery body could be used to further exacerbate that imbalance.